

Course Name – Artificial Intelligence, Law and Justice
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Artificial Intelligence, Law and Justice

Session 21

AI Ethics and Law and Justice

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Artificial Intelligence, Law and Justice, Session 21: AI Ethics and Law and Justice. This is a continuation of the earlier session, but with the specific context of AI Ethics, Law, and Justice.

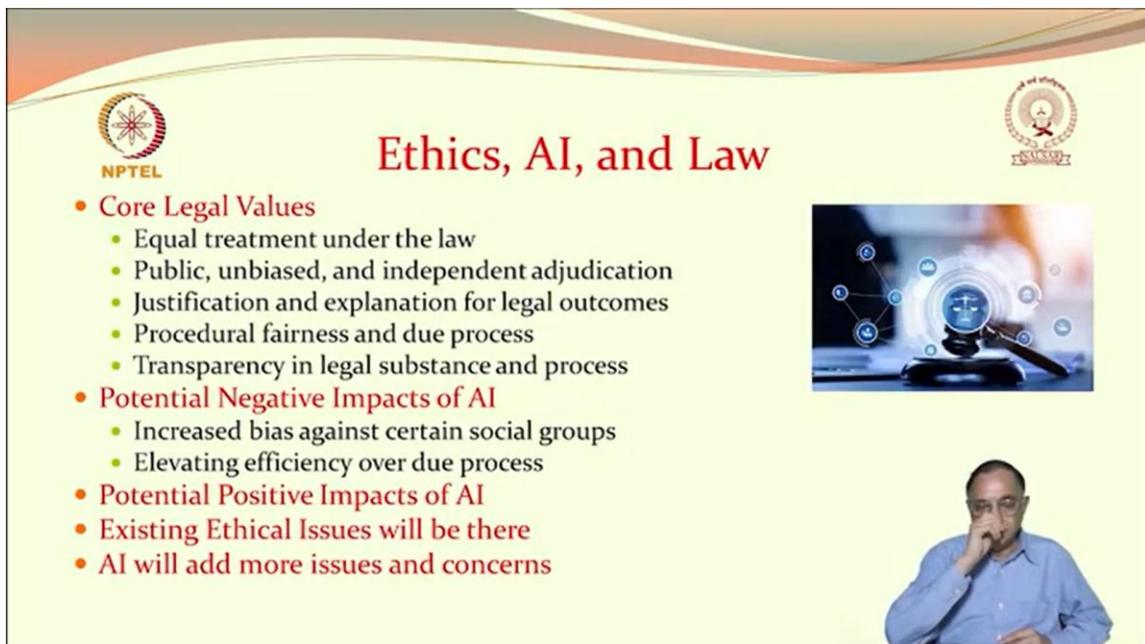


Recap

- In the previous session we discussed AI ethics,
- why it is necessary and how to implement it
- We also discussed various perspectives on AI ethics including those questioning the universal values vs. the reality of diverse perspectives
- We introduced UNESCO's Principles of Ethics and the view that AI ethics has become a matter Of ticking boxes



So, we can do a quick recap here. In the previous session, we discussed AI Ethics in general, looked into why it is necessary, and then how to implement it. We also discussed the various perspectives on AI Ethics, including those questioning the universal values versus the relatively diverse perspectives. Then we went into UNESCO's principles of ethics, which have been universally accepted. But then we also looked into some of the issues in translating UNESCO's principles of ethics or AI ethics into specific country-level arrangements, rules, regulations, or governance. Finally, we also went through some of the ideas that suggest that AI ethics has become a matter of ticking boxes. AI ethics is still caught in the dilemma of being either too general or too vague, which could not be translated, or if translated, not being very relevant or appropriate. So, in this session, we will extend what we have discussed about AI ethics in the very specific context of law and justice.



The slide features the NPTEL logo on the top left and the Indian Institute of Technology (IIT) logo on the top right. The title 'Ethics, AI, and Law' is centered in red. Below the title is a bulleted list of points. To the right of the list is a small image of a scale of justice with a glowing blue circle around it. In the bottom right corner, there is a small inset image of a man in a blue shirt, likely the speaker, resting his chin on his hand.

- **Core Legal Values**
 - Equal treatment under the law
 - Public, unbiased, and independent adjudication
 - Justification and explanation for legal outcomes
 - Procedural fairness and due process
 - Transparency in legal substance and process
- **Potential Negative Impacts of AI**
 - Increased bias against certain social groups
 - Elevating efficiency over due process
- **Potential Positive Impacts of AI**
- **Existing Ethical Issues will be there**
- **AI will add more issues and concerns**

When we say that, we should also bear in mind AI ethics in the context of law and justice, it will raise its own unique questions, unique issues, and unique challenges, but the same is equally applicable when we talk about AI ethics in medicine, AI ethics in finance, AI ethics in education, AI ethics in healthcare, AI ethics in science, and AI ethics in any of the fields. For example, many of the human services, including education, health, nursing, and not to speak of other things like psychological counselling, also raise a whole lot of ethics when AI is being deployed there. It's also important to understand that AI ethics is not something that is being thrust upon us or put forth as something that is important. No, because these AI ethics become part and parcel of the larger discussion, larger discourse on how AI will impact society or from the perspective of those who are the users, the creators, as well as stakeholders in that particular specific sector or specific domain. So, when it comes to AI, law, and ethics, we need to reiterate some common things that we all know, but it's better to say them again so that we don't forget them or

try to understand them in this specific context. There are some key legal values that can never be compromised or given up in part or in full to meet any objective. First, we all know about equal treatment under the law; we discussed this elaborately in the principle of the rule of law. Then, public, unbiased, independent adjudication comes under the rule of law, again guaranteed by the constitution. And whenever there is a legal outcome, whether by a court, a forum, a tribunal, or any appellate authority, there has to be a justification, there has to be an explanation, and there should be what they call a speaking order from the person or authority that makes the decision and gives the judgment. So procedural fairness and due process have to be observed, irrespective of the agency.

Again, transparency in any legal substantive process is important. So, these core legal values flow from the rule of law, flow from fundamental rights guaranteed, and also flow from various things that are part and parcel of administrative law's core principles. Now, the potential impact of AI creating negative effects on those core values is something which we need to be seriously looking into. For example, AI, when used indiscriminately or without an understanding that it could create some harm, can result in bias against certain groups. Similarly, the problem of elevating efficiency over due process, which we discussed briefly in another context, is that if we decide we need to find quick solutions, let us quickly use AI for all the pending cases.

We use AI systems right, left, and centre; they decide and give judgments, some judges oversee them, and then we are done with that. We cannot take such a stand because elevating efficiency over due process may be an efficient solution and may be a cost-viable solution, but that again will vitiate the whole idea of the rule of law and will also go against the constitutional principles. Then there are a whole lot of positive impacts of AI that we have discussed. So, the ethical issues that are already present, particularly in the context of law and justice, will remain, and AI is going to add more to them and create additional concerns. It doesn't mean that the ones that could arise on account of AI are not new. They are going to be novel, but we need to put two boxes here: one for the already existing issues in terms of ethical issues in law and justice and the new ones that could arise on account of AI; then we try to correspond or counterpose them and then try to understand whether AI makes sense in the light of the former or how AI is going to affect some of the core legal values; then it will be easy to assess what sort of ethical perspective we should take on using AI in law and justice.

Definition and Examples




- **Definition of Artificial Intelligence**
 - No universally agreed-upon definition
 - Useful working description: technology automating tasks requiring human intelligence
- **Examples of AI Outside Law**
 - Playing chess
 - Driving cars
- **AI in Legal Domain**
 - Prediction of legal outcomes
 - Legal analysis of factual situations
- **Human Cognitive Activities**
 - Reasoning
 - Judgment




We know about the legal definition and the problems in that description. Then, in the legal domain, we know that AI could be predictive; it could be a legal analysis of factual situations. Then, AI can enhance the human reasoning. AI can enhance judgment capability. We all know this.

Criminal Justice, AI and Ethics



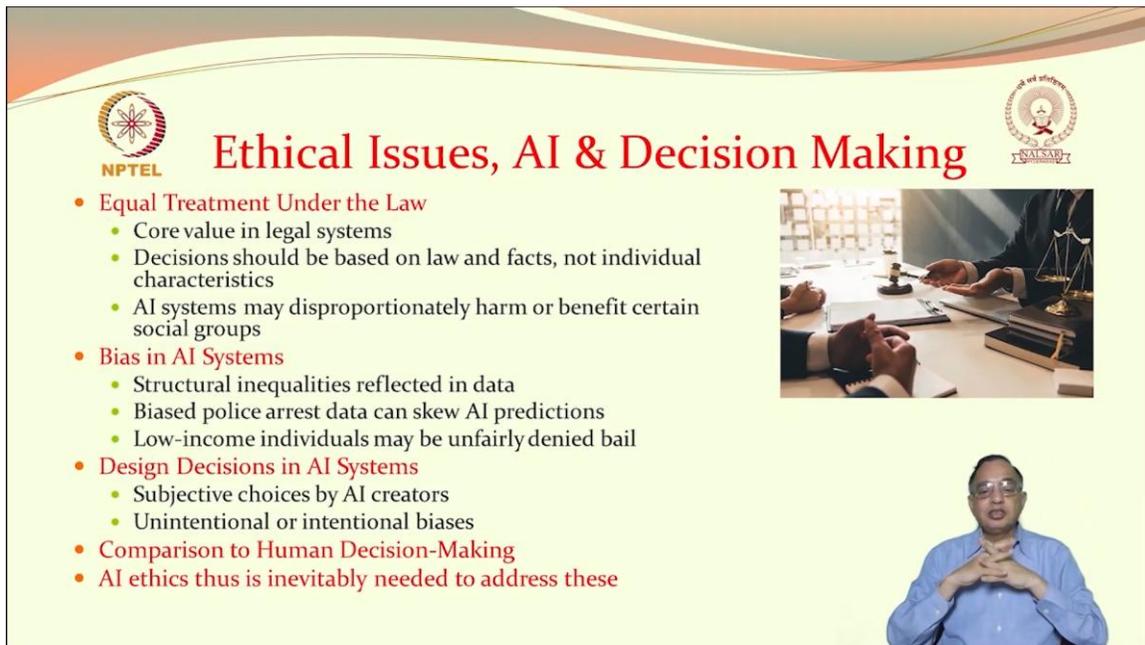

- **Role of AI in Criminal Justice**
 - Judges use AI to assess likelihood of reoffending
 - AI assists in bail and sentencing decisions
- **Traditional vs. AI-Assisted Assessments**
 - Judges traditionally rely on witness testimony, criminal history, and intuition
 - AI uses machine learning algorithms to predict reoffending
- **Creation of AI Prediction Software**
 - Data scientists use historical data to identify predictive factors
 - Private companies develop and license software to the government
- **Data Sources and Predictive Factors**
- **AI Model and Risk Scores**
- **Judgment and Subjectivity in AI Development**
- **Ethical Issues are inevitable and have to be considered**




On the other hand, when it comes to criminal justice, we have repeatedly seen that there are some specific issues regarding AI and the ethical dimension, which makes it all the more challenging and important. When judges use AI to assess the likelihood of repeated offense, AI assists in bail and sentencing decisions; the role of AI is permissible or not permissible is not the thing we are going into. We are going to discuss how AI will

impact the fundamental principles of criminal justice. See, traditionally, judges rely on witness testimony, criminal history, intuition, and a broader contextual understanding, as well as their own understanding of earlier cases and the larger social perspective they bring in. So, they don't look at, as we saw in the earlier one, persons as statistical numbers or the potential or probabilities of this and that. They look at people as individuals with agency, with rights, with responsibility, and with fundamental rights. But the problem is that when we translate AI or when we use AI for these purposes, AI is based on algorithms, and then algorithmic understanding is very different from human understanding. Although we can say that algorithmic understanding resembles human understanding in many contexts or in more than one way, they are not the equivalents. For example, data scientists predict based on past experience, past data, and what they identify as predictive factors.

And then the judges or the juries know that the past is important. And then, past data is equally important. But then often they do not look solely at that basis and then make a decision. They look at things from a comprehensive perspective. So, the problem here is that when we have AI models with risk factors and risk scores, they tend to obliterate or overshadow the subjective element in decision making. So, when there is no subjectivity in AI development, "the objectivity," that objectivity is based on formulae, statistical reasoning, and then it's based upon algorithmic thinking. So inevitably, lots and lots of ethical issues will arise, and they need to be considered. We cannot substitute, as I said, AI for human thinking and human judgment in the name of enhancing efficiency or fostering quicker disposal of cases and giving judgments.



NPTEL **Ethical Issues, AI & Decision Making** **NALSAR**

- **Equal Treatment Under the Law**
 - Core value in legal systems
 - Decisions should be based on law and facts, not individual characteristics
 - AI systems may disproportionately harm or benefit certain social groups
- **Bias in AI Systems**
 - Structural inequalities reflected in data
 - Biased police arrest data can skew AI predictions
 - Low-income individuals may be unfairly denied bail
- **Design Decisions in AI Systems**
 - Subjective choices by AI creators
 - Unintentional or intentional biases
- **Comparison to Human Decision-Making**
- **AI ethics thus is inevitably needed to address these**

So, equal treatment under the law means that the law should be based on facts, not individual characteristics. AI systems may proportionally harm or benefit certain groups, raising the whole question of bias that we have seen, along with the issues in AI system design that we have also encountered. So, if we compare human decision-making versus AI, we need to understand that we are not comparing things that are identical. So, all the ethical issues or all the ethical dilemmas that arise when humans decide have to be factored in when we talk in terms of algorithmic decision-making or AI-based decision-making. So, AI ethics is inevitably needed here to understand and address some of these concerns, in the sense that AI ethics cannot be an afterthought. It has to be a forethought that is part and parcel of thinking about them.



Equal Treatment Under the Law

- **Core Value of Equal Treatment**
 - Legal decisions should be based on law and facts
 - Socioeconomic, political, racial, gender backgrounds should not influence decisions
- **Concerns with AI Systems**
 - AI may disproportionately harm or benefit certain social groups
 - Existing structural inequalities may be reflected in AI data
- **Example of Biased Data**
 - Police arrest data may be biased
 - AI may predict higher re-offense rates for low-income individuals
- **Subtle Biases in AI Design**
 - Design decisions can favor certain groups
- **Comparison to Human Judges**
- **So AI ethics is needed to address these issues**






Transparency and Explanation

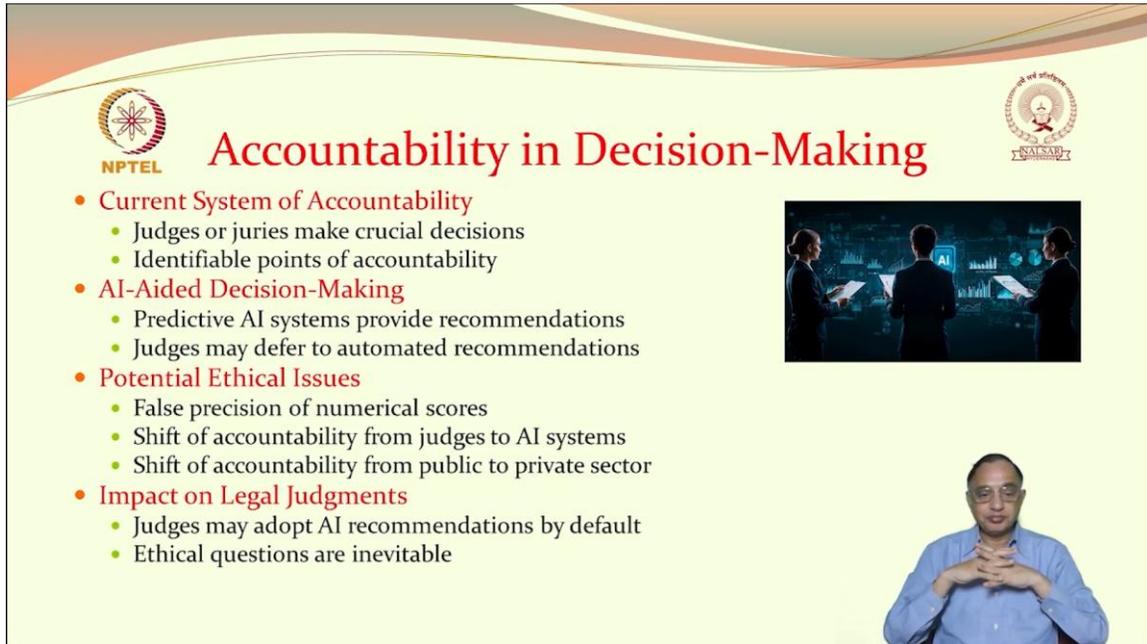
- **Interpretability Problem in AI Systems**
 - Some machine learning techniques are easy to understand (e.g., regression, decision trees)
 - Neural-network and deep learning approaches are complex and hard to interpret
 - AI models may be accurate but not understandable to humans
- **Transparency in AI Decision-Making**
 - AI systems can be deterministic and auditable
 - Private companies often keep AI models and data confidential
 - Trade secret laws and nondisclosure agreements protect AI details
- **Explanation in Legal Decisions**
 - Judges must justify decisions with socially acceptable reasons
 - AI recommendations may lack meaningful human explanations
- **Potential Benefits of AI in Transparency if it is explainable**
- **Transparency as a norm in AI ethics**




When it comes to transparency and explanation, transparency, as we have seen, is a core principle in AI ethics. The interoperability problem exists because some aspects of machine learning are easy to operate and easy to understand. But some of the ones, like neural networks and deep learning, are very complex. Even those who developed them may not be able to explain and fully understand what they tell us. So, AI models may be accurate, no doubt about that, but humans may not be able to understand them. So, in that case, transparency becomes a big zero or something that is really doubtful. So, AI systems can be deterministic and auditable. That is a good point. And what happens is that, in the case of AI models and data, they often become confidential business information. So, public information is not available. And then, trade secret layers and non-disclosure agreements are there.

And there is also the whole question of IP rights being granted to them. Whereas a judge, when he or she arrives at a judgment, cannot take recourse to data confidentiality unless it is really essential, nor can he or she talk about some trade secrets or secrecy on account of professional confidentiality, but must be very explicit, must reasonably justify, and provide lengthy explanations for the decisions, arguments accepted, arguments not accepted, and legal principles. So, the human approach to justice and law is based on discourse, narrative, and storytelling; it does not ignore logic and rationality but places them within a broader legal discourse and legal thinking, leading to a decision that is then justified. On the other hand, such an explanation may not be available from the AI system that may be talking to you or talking to us in terms of statistical parameters or statistical probabilities, or the AI system may come up with a statement that says we decided this person was given bail or not given bail on account of the probability of this being this much and then the probability of this not being this much, and then based on these parameters and this criteria, this decision was made. This is very different from the

normal judgments that are being read, interpreted, and understood. To address this, we can talk in terms of explainable AI and then bring in some sort of explainable transparency into the way AI systems work. So, transparency is a norm in AI ethics, and it could be used as a guiding principle or as something to measure and assess AI systems in terms of how transparent they are and how much transparency is available from them when they make decisions.



The slide features the NPTEL logo on the left and the NALSAR logo on the right. The title 'Accountability in Decision-Making' is centered at the top in red. Below the title is a bulleted list of four main categories, each with sub-points. An inset image shows three people in a dark room looking at a screen displaying data. A small video window in the bottom right corner shows a man in a blue shirt speaking.

- **Current System of Accountability**
 - Judges or juries make crucial decisions
 - Identifiable points of accountability
- **AI-Aided Decision-Making**
 - Predictive AI systems provide recommendations
 - Judges may defer to automated recommendations
- **Potential Ethical Issues**
 - False precision of numerical scores
 - Shift of accountability from judges to AI systems
 - Shift of accountability from public to private sector
- **Impact on Legal Judgments**
 - Judges may adopt AI recommendations by default
 - Ethical questions are inevitable

Having said that, we should also look into another thing called accountability, which we have discussed even earlier. So, we also know that predictive AI systems do give recommendations. The false precision of numerical scores and the shift of accountability from AI systems again raise the fundamental question of who is accountable for what and to whom. And then accountability from the public to the private sector happens when the AI systems are developed by the private sector and then deployed in public systems. Again, judges may adopt AI recommendations by default, thinking that AI has a huge capacity to think and can never go wrong, or they may over-rely on the AI systems, believing that they may be able to do a better job, or they may think it is better to rely on AI systems because they are logical and rational, and there is a whole lot of neural network decision-making built in. In such circumstances, ethical issues are inevitable. So, if judges adopt AI recommendations without giving them a thought or going into detail, and if that becomes the default, then accountability will be a big question because ethical issues in AI arise from who is accountable to whom, and that accountability cannot be wished away, sacrificed, or compromised under any circumstances.




Ethical Concerns of AI Use Lawyers

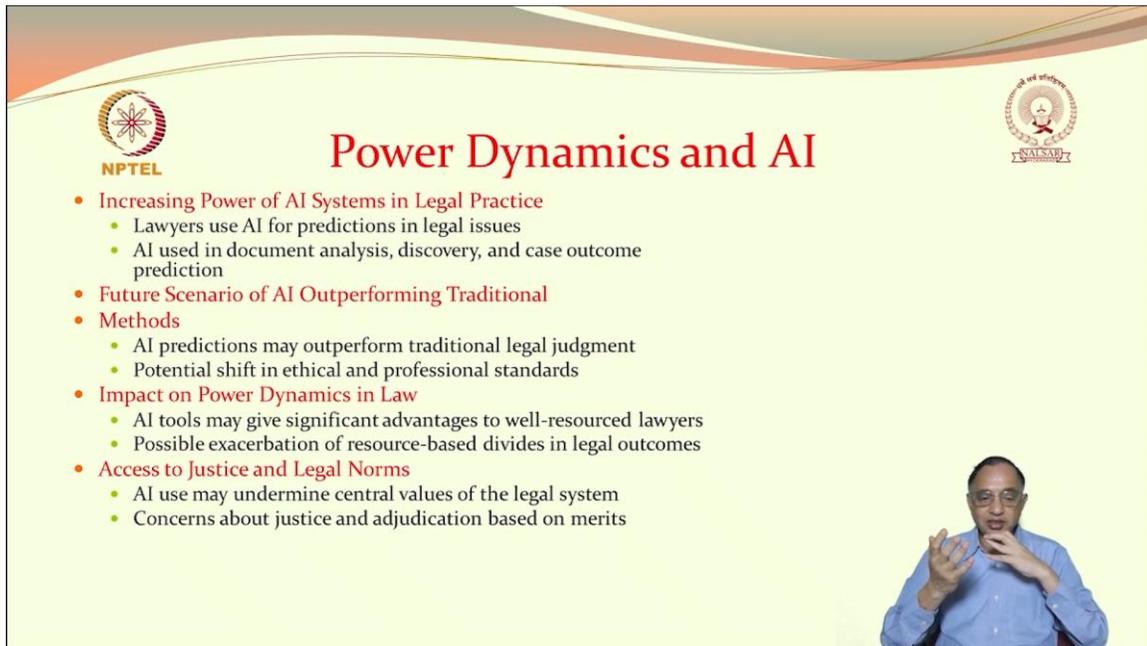
- **Increasing Power of AI Systems in Legal Predictions**
 - AI systems used for predicting legal outcomes
 - Automated document analysis and discovery
 - Legal case outcome prediction
- **Potential Shift in Ethical and Professional Standards**
 - AI outperforming traditional legal predictions
 - Possible obligation for lawyers to use AI systems
- **Impact on Power Dynamics in Law**
 - Advantage for lawyers with access to AI tools
 - Increased divide between resourced and less resourced lawyers
 - Potential undermining of access to justice and adjudication based on merits



But when lawyers use AI systems, different sets of problems or different sets of concerns arise. Lawyers may be using it for different purposes, which we have seen. And it is also possible that AI could outperform them in some aspects. And with AI systems being easily available, lawyers may be tempted to use them more frequently as a matter of convenience and as a matter of doing the job professionally. But not all lawyers will be familiar with AI; not all lawyers will have the opportunity to use AI's tools; and more importantly, not all lawyers will have access to AI's tools. So just as we discussed the digital divide, among lawyers there could be an AI divide, a very potential one; in fact, it is there.

As we know, AI tools are available only to large firms or lawyers with sufficient resources, and they are not available for public-spirited lawyers, legal service authorities, or lawyers who cannot afford them. So, as there is a digital divide, there could be an AI divide among lawyers. Lawyers who have access to AI tools, who have experienced them, who have capacity, and who have built up expertise versus lawyers who are left out of this whole AI thing and who are still trying to come to grips with the developments in law on account of AI. So, this again would mean access to judges would be undermined because if the majority of the lawyers do not have access to AI tools or are not able to use them, but a minority of the lawyers have access to AI tools, are able to use them, and are able to succeed. The poor often go to lawyers who may not have access to them, or when there are no publicly available AI tools that could be given to these lawyers, or that are accessible to these lawyers to do pro bono cases, the potential undermining of access to justice and adjudication is always there. Again, there will be a divide. The poor will have less access to justice as the system shifts more towards AI, AI-based tools, and as some lawyers become more comfortable, more conversant, and AI becomes more affordable to them. So, the ethical concerns of AI's use by lawyers are also a question of access, a

question of equity, and a question of inclusion, and more importantly, how it will impact the lawyer's profession in the long run has to be seen.



The slide features a light yellow background with a decorative orange and white wave at the top. On the left is the NPTEL logo, and on the right is the logo of the Indian Council of Legal Education (ICLE). The title 'Power Dynamics and AI' is centered in a large, bold, red font. Below the title is a bulleted list of points, with sub-points indented. In the bottom right corner, there is a small video inset showing a man in a blue shirt speaking.

- **Increasing Power of AI Systems in Legal Practice**
 - Lawyers use AI for predictions in legal issues
 - AI used in document analysis, discovery, and case outcome prediction
- **Future Scenario of AI Outperforming Traditional Methods**
- **Impact on Power Dynamics in Law**
 - AI predictions may outperform traditional legal judgment
 - Potential shift in ethical and professional standards
- **Access to Justice and Legal Norms**
 - AI tools may give significant advantages to well-resourced lawyers
 - Possible exacerbation of resource-based divides in legal outcomes
- **Concerns about justice and adjudication based on merits**

Then the power dynamics we talked about may result in predictions that outperform this; we also saw that AI use may actually undervalue some of these central core principles in the long run. If AI systems are going to be used very frequently or on a large scale, it could result in over-reliance on AI or taking AI for granted, forgetting the core legal principles or core legal values. Additionally, people may say AI will not be wrong; AI will always give the right judgment. We can rely more on AI than breaking our heads trying to understand how something works or trying to see whether we are really able to make sense of what the AI's judgment is about. So, the features of AI may subtly shift the power dynamics, if not very certainly, towards an over-reliance on AI, leading to the belief that AI is the best solution or can be relied upon to such a great extent that lawyers can focus on other things rather than doing what they would have otherwise done. So, this could again be a major issue: access to justice or the way the legal system operates.

 **Tilting the Balance?** 

- **Central Ethical Challenge**
 - Identifying how AI may shift core legal values
 - Ensuring preservation of crucial values during technological transition
- **Positive View on AI Technology**
 - AI can preserve central values
 - AI can foster and enhance values
 - Betterment of the legal system and society overall



So, the central challenge here would be how AI may or may not impact the shift in core legal values towards AI. Then how do we ensure that the crucial values are protected and preserved, even if the technological revolution transition happens and the system uses more AI, AI tools, algorithmic thinking, and algorithmic decision-making in both civil and criminal law jurisprudence? Then it is also possible that AI can be used to preserve central values, foster and enhance values, and improve the legal system and society overall. But this can happen only when this is taken as an objective, and then the relevant AI tools are developed in the sense that the AI tools which are developed adhere to the central core values; they ensure that those core values and norms are fulfilled. Similarly, they enhance human values; they respect and then enhance respect for human rights. Whether the balance will be tilted or not, we are not sure, but the potential for the balance to be tilted towards AI is very much present.




Ethical Questions Raised by GAI

- **Competency in GAI Tools**
 - Lawyers must determine the level of competency required for using GAI tools.
- **Confidentiality Concerns**
 - Ensuring client information remains confidential when inputting data into GAI tools.
- **Disclosure to Clients**
 - Lawyers need to know when to disclose the use of GAI tools to clients.
- **Review of GAI Tool Output**
 - Determining the necessary level of review for GAI tool processes and outputs.
- **Reasonable Fees and Expenses**
 - Assessing what constitutes a reasonable fee or expense when using GAI tools for legal services.
- **Rapidly Evolving Technology**
 - GAI tools are rapidly changing, making it difficult to anticipate future features and utility.

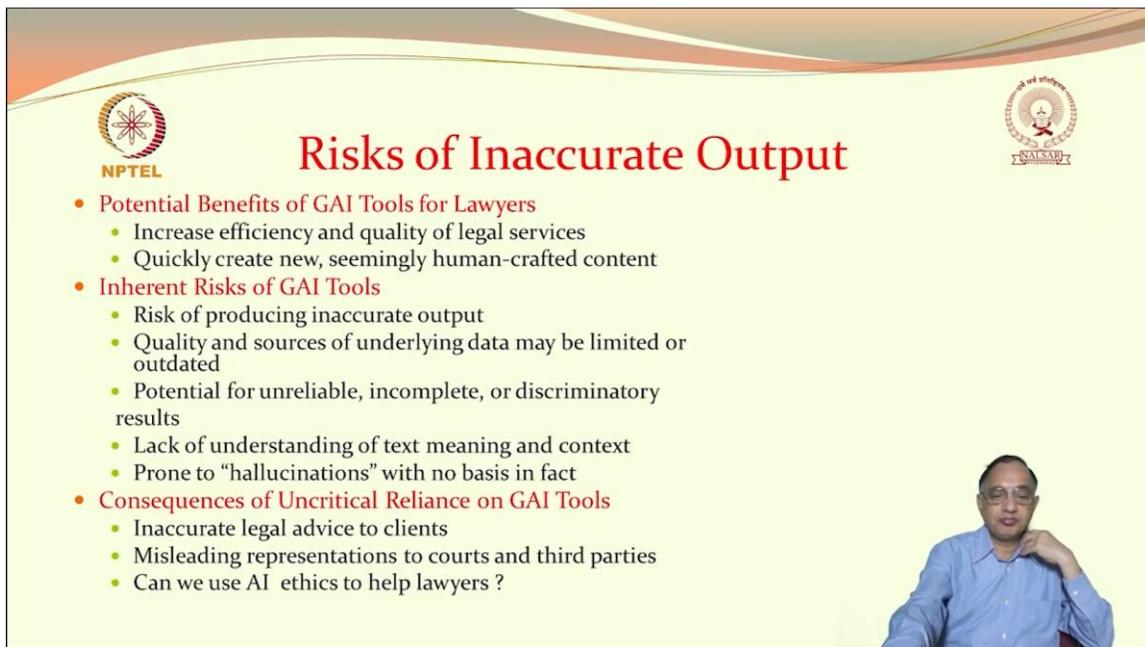



When it comes to general AI, particularly in law, there are a whole lot of ethical issues that are again very similar to what we have seen. For example, lawyers must determine what level of competency they need to use GAI tools. For one, GAI tools may be more complex and not so easy to understand. At the same time, they may be too tempting in the sense that they are generative general artificial intelligence, so people may have some naive or blind faith in them. Then confidentiality is a major issue when inputting data into GAI tools because GAI tools may themselves be vulnerable; they could be hacked, or they may have a lot of privacy issues left unaddressed, or by default, they have not paid enough attention to addressing the privacy concerns when the tools were developed. And then it is also a dilemma as to whether the lawyer should tell his client that he is a lawyer, he has expertise, but that he will be or is using generative artificial intelligence in his profession, particularly in the cases he is dealing with, i.e. his client's case. So, during the use of AI, what level of disclosure should be given by a lawyer, and then at what stage, and then to whom, and then in what capacity is also important.

For example, the lawyer can say, "I am willing to take up your case provided I give you the list of tools I am going to use, and these are the tools I am going to rely on. I assure you that I will add them to my professional ethics, professional practice, and other norms, and then I will use these AI tools. I also assure you that these are tools that are ethically acceptable." Or should the lawyer simply say, "Leave it to me. I have professional ethics; I know how best I should handle it, and I won't disclose to you what tools, AI tools, I am using as a part of my legal profession." So, what level of disclosure should be mandated is also equally important. Then, the lawyers should have the capacity and expertise to review the output from the AI tools, analyse them, and then also make the best use of them. So, what level of review they should do, what level of review they will be willing to undertake, and how much they are going to rely on the AI tools is also a questionable

matter. Because if they over rely on AI tools, it may result in them compromising their professional ethics, as they may think that AI tools are perfectly fine and, as a result, may not fulfil their accountability or supervisory role.

Then the question of fees would come, then the question of rapidly changing GAI tools, and then how the lawyers come to grips with them, how they are able to really come to understand and deal with them; that is one aspect. The second aspect is that if the technology advances, if the technological system advances, the tools that you are going to use also become obsolete, or every third month there is a whole lot of new legal AI tools coming into the market and being developed, which create some sort of obsolescence for the previous AI tools that lawyers should deal with. Therefore, the rapidly evolving technology means that lawyers will also face this dilemma as to what level of technological application and adaptation they should pursue, or what level of technical expertise they should have on one hand, and what technical tools they should have on the other hand. So, this again is the question that they need to really address if they truly want to depend on AI as a part of their profession. But dealing with this technology will be an issue not just for them; it will also be an issue for judges, the judiciary, the government, and then for other stakeholders.



The slide features the NPTEL logo on the left and the NALSAR logo on the right. The title 'Risks of Inaccurate Output' is centered in red. The content is organized into three main sections, each with a red bullet point:

- **Potential Benefits of GAI Tools for Lawyers**
 - Increase efficiency and quality of legal services
 - Quickly create new, seemingly human-crafted content
- **Inherent Risks of GAI Tools**
 - Risk of producing inaccurate output
 - Quality and sources of underlying data may be limited or outdated
 - Potential for unreliable, incomplete, or discriminatory results
 - Lack of understanding of text meaning and context
 - Prone to “hallucinations” with no basis in fact
- **Consequences of Uncritical Reliance on GAI Tools**
 - Inaccurate legal advice to clients
 - Misleading representations to courts and third parties
 - Can we use AI ethics to help lawyers ?

A small inset photo of a man in a blue shirt is located in the bottom right corner of the slide.

Then there is the question of the risk of inaccurate output we have already seen. So, the ethical issues also arise here. On account of the risk of these inaccurate outputs and misleading conclusions, including fake citations and hallucinations, ethical concerns arise. And then a lawyer should also be aware of some of the potential ethical concerns over here. So, if lawyers are not able to fully understand GAI tools, understand the risks, and take either insurance policies or proactive measures to deal with them, then ethically the questions would arise as to what their professional responsibilities are, whether they

have failed in them, or whether they have not fully observed them in practice, either in part or in full. So, if the lawyer ends up giving inaccurate advice or files a petition that is full of errors, which were again drafted by AI, the question of responsibility and accountability will arise. Can we use AI ethics to help lawyers? Yes, AI ethics can help lawyers because the moment lawyers are able to understand the key AI ethics principles that should be incorporated into their day-to-day work in using AI tools as well as part of their professional ethics, they will be able to know what exactly they should do when they deal with AI tools. They will be able to talk about accountability, they will be able to talk about transparency, and then their own accountability and transparency, not just to the clients but also to the whole system.



From Human to AI

- Shift from Labour-Intensive to Technology-Enhanced Legal Methods
 - AI's potential to improve access to legal services
 - Streamlining legal procedures
- Ethical Challenges of AI Integration
 - Issues of bias and transparency
 - Importance in sensitive legal areas like child custody, criminal justice, and divorce settlements
- Need for Ethical Vigilance
 - Developing AI systems with ethical integrity
 - Ensuring fairness and transparency in judicial proceedings
- Human in the Loop Strategy
 - Combining human knowledge and AI techniques
- Preserving the Human Element in Legal Practices
- AI ethics is necessary to address issues and dilemmas



So, the question here is the next level. Job displacement can happen in legal services; in fact, it is happening because many routine tasks that could be done by junior-level lawyers, interns, or people who are just new to the profession are slowly but steadily being taken over by AI systems that can integrate many tasks. We also talked about AI agents being used in legal services. So, on one hand, AI can do a whole lot of things; it can enhance legal services, increase efficiency, be quick, and do many things that humans struggle with, even as teams. On the other hand, what would happen is that it could also ensure that many lawyers may end up potentially unemployed or that they may not have any opportunities to survive as lawyers because if many of the tasks can be done by AI-based systems, what can the lawyers do? A junior lawyer, if he or she is not able to find clients or if he or she is not able to invest in AI tools, and if the situation becomes such that only those with AI tools are able to flourish and survive, what will they do? And more importantly, job displacement happens if a major firm with a whole bunch of AI tools can automate many things; it can also result in job loss or displacement for many junior-level lawyers who otherwise would have been practicing independently. So, the

question of bias and transparency comes up again. Sensitive legal areas like child custody, criminal justice, and divorce settlements require us to closely examine the extent to which we are compromising or the degree to which the question of transparency should be addressed. In the sense that certain things, which are very critical data, for example, images of children, data pertaining to children, and then some of the personal data, particularly the health data, often get integrated into legal databases or legal documents giving rise to ethical issues. Even if we say that they are not something new, they have already been there, but then when we use AI, they become all the more acute. So, how do we develop systems that are ethically sensitive with ethical integrity? Or how do we develop protocols and standard operating procedures to deal with them? The guidelines and best practices are equally important. One way to address this is that, as we have seen, humans should be in the loop, and then humans should be the ones who take the final decision. Retaining and preserving the human element in legal practice is equally important, but to what level the human element should be kept and preserved, or what level of automation can be thought of and decided upon, is something that needs to be figured out.

So, we cannot address these issues unless we pay attention to AI ethics principles and precedents in AI ethics; then this AI ethics will supplement and complement the current professional ethics. It will not replace them. Mind you, again and again, AI ethics is not something that is going to replace what a duty-bound professional lawyer should do. It is only going to add certain things to his tools in the sense that your professional guidelines will be supplemented, complemented, maybe rewritten on account of AI, but then they will never vanish. Nor will they be substituted solely by AI ethics.

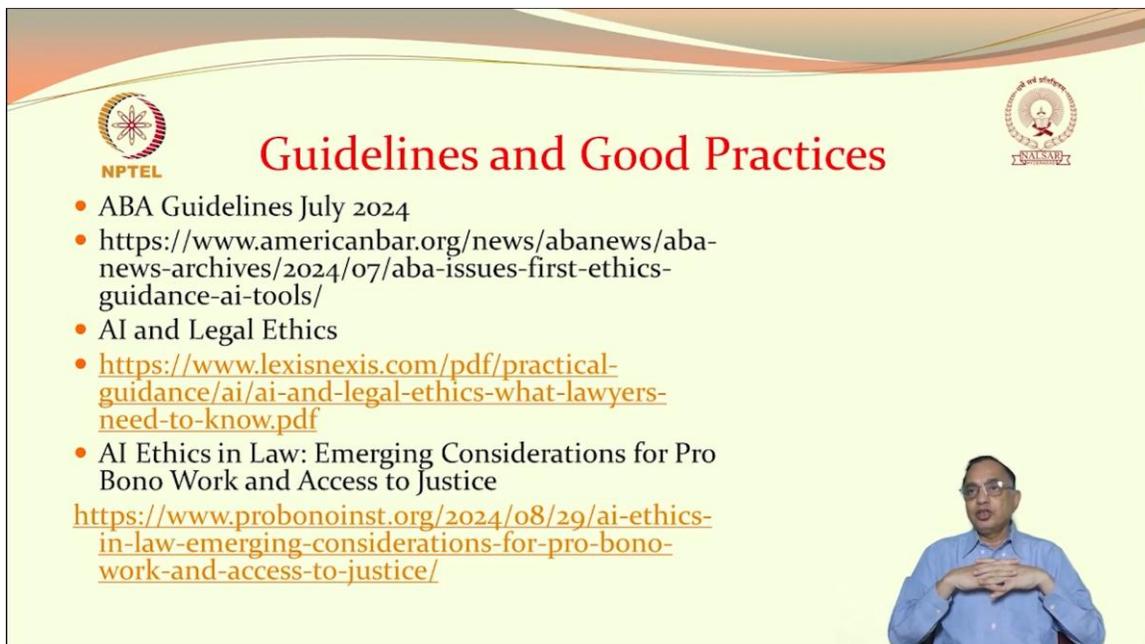
The slide features the NPTEL logo on the top left and the SALSAR logo on the top right. The title 'Evolution of AI in Legal Practice' is centered in red. The main content is a bulleted list:

- **Two Major Phases of AI Evolution in Legal Sphere**
 - First stage: Moderate-innovative stage
 - Second stage: Significant advancement in legal automation
- **Technological Tools Enhancing Legal Practices**
 - Software and technical instruments
 - Machine learning and natural language processing
 - Automated document evaluation
- **AI Integration in Legal Procedures**
 - Automation in trial courts
 - Use of complex algorithms in pre-trial and sentencing stages
 - Ethics will be more relevant as technology raises new Concerns and challenges

An inset image shows a gavel and a glowing brain with 'AI' written on it. A video inset in the bottom right shows a man in a blue shirt speaking with his hands.

So, understanding this in the context of evolution, the first stage was a moderate to

innovative stage, which has happened in the last few decades, particularly when large firms tried to automate certain things, pursued digitization, and also incorporated some sort of AI tools into them, but then they relied more on typical database access drafting at that level, rather than fully adopting AI-based systems. The second and significant advance which is happening now is this. So, technological tools that enhance the legal process are already there. And then the level of AI being integrated into the legal process is happening at different levels, which we saw particularly in India; it is present in the Supreme Court, although it has not percolated down to trial courts. And then we also know that in different countries and different contexts, complex algorithms have been used in pre-trial and certain stages of trial. As technology advances and new applications develop, the use of AI in legal practice is becoming more common and is being enhanced. Ethical issues will have to be tackled; they cannot be wished away.



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Guidelines and Good Practices

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- ABA Guidelines July 2024
- <https://www.americanbar.org/news/abanews/aba-news-archives/2024/07/aba-issues-first-ethics-guidance-ai-tools/>
- AI and Legal Ethics
- <https://www.lexisnexis.com/pdf/practical-guidance/ai/ai-and-legal-ethics-what-lawyers-need-to-know.pdf>
- AI Ethics in Law: Emerging Considerations for Pro Bono Work and Access to Justice

<https://www.probonoinst.org/2024/08/29/ai-ethics-in-law-emerging-considerations-for-pro-bono-work-and-access-to-justice/>

So, what exactly is the profession doing about it? Are they really sleeping over it, or are they saying that we will leave it to the individual lawyers, the district bars, or the state bars to decide? We will not come up with anything. No, different organizations and different institutions have come up with different things. I am providing a small list here because if you go through it, you will understand what these institutions are doing. The American Bar Association last year came up with a comprehensive guideline in which it mentioned the first ethical issues' guidelines for when they use AI tools. Similarly, LexisNexis has also come up with the ethical issues of which a lawyer should be aware when using AI. The emerging consideration for pro bono work and access to justice has been laid out by a pro bono organization.




Guidelines and Good Practices

- ABA ethical rules and Generative AI
<https://legal.thomsonreuters.com/blog/generative-ai-and-aba-ethics-rules/>
- State Legal Ethics Guidance on Artificial Intelligence (AI) in USA
<https://www.bloomberglaw.com/external/document/X2JK49QCo00000/legal-profession-comparison-table-state-legal-ethics-guidance-on>
- AI and the Legal Profession: Professional Guidance
<https://lawsociety.libguides.com/AI/professional-guidance>



Similarly, on Generative AI, the American Bar Association (ABA) came up with some specific guidelines. And then different state-level ethical lawyer organizations or bar organizations have come up with different guides. What we are talking about does not pertain to the US alone. Similar developments have happened in Ireland, as well as in different countries in Europe and the UK. So, these guidelines and good practices are now being developed so that the lawyers are comfortable dealing with AI on one hand, and on the other hand, it also guides them professionally on what they should not do or what precautions they should take when they use AI as part of their legal practice.




Conclusion

- AI ethics is much relevant for law and justice
In theory and practice
- Challenge is in translating to guidelines,
- Identifying right principle and context AI ethics is no substitute for professional Ethics or ethical practice
- It will enhance it as lawyers use more of AI Systems and tools



So, AI ethics is very relevant because it is inevitable that it will be used when concerns

arise, and ethical issues emerge due to the use of AI, many of which are very new. But the problem is translating AI ethics into specific legal guidelines. Identifying them, translating them, and putting them into practice is something that will supplement the available professional ethics and ethical practices. It will not replace them. From the lawyer's perspective, AI is going to be present, ethical issues are bound to arise, and they need to make themselves all the more aware, all the more sensitive to them, and more importantly, they need to keep on learning. In the sense that AI's ethics is not something that you can learn in one or two sessions and then forget it because new issues will arise, technology advances, new ethical principles may emerge, and many of the things have to be contextualized. In the sense that how do you reconcile professional ethics with a new dilemma that arises due to AI being put into practice in a specific system. So, these things have to be discussed by the stakeholders, particularly the lawyers, and then by the bar associations, and also with the larger legal system, including the Department of Justice, government agencies, and others.

So, the conclusion here is that AI ethics is bound to stay. In fact, it is going to play a major and larger role, particularly in the long run, in the legal profession, and it will be something that is very similar to the justice system as well.




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Next


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- Responsible AI will be discussed in the next session



In the next class, we will be discussing responsible AI. We had two sessions on AI ethics in the context of law and justice, but the responsible AI discussions will be a logical sequence of that because, from ethics to responsible AI, we will see certain things that are common and certain things that are very distinct. And why are we talking about responsible AI? Responsible AI is not a substitute for AI ethics, or vice versa. Responsible AI and AI ethics are two things that can be thought of as the right hand and the left hand when it comes to the application of AI in law and justice.