Course Name – Artificial Intelligence, Law and Justice
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Institute Name – NALSAR University of Law
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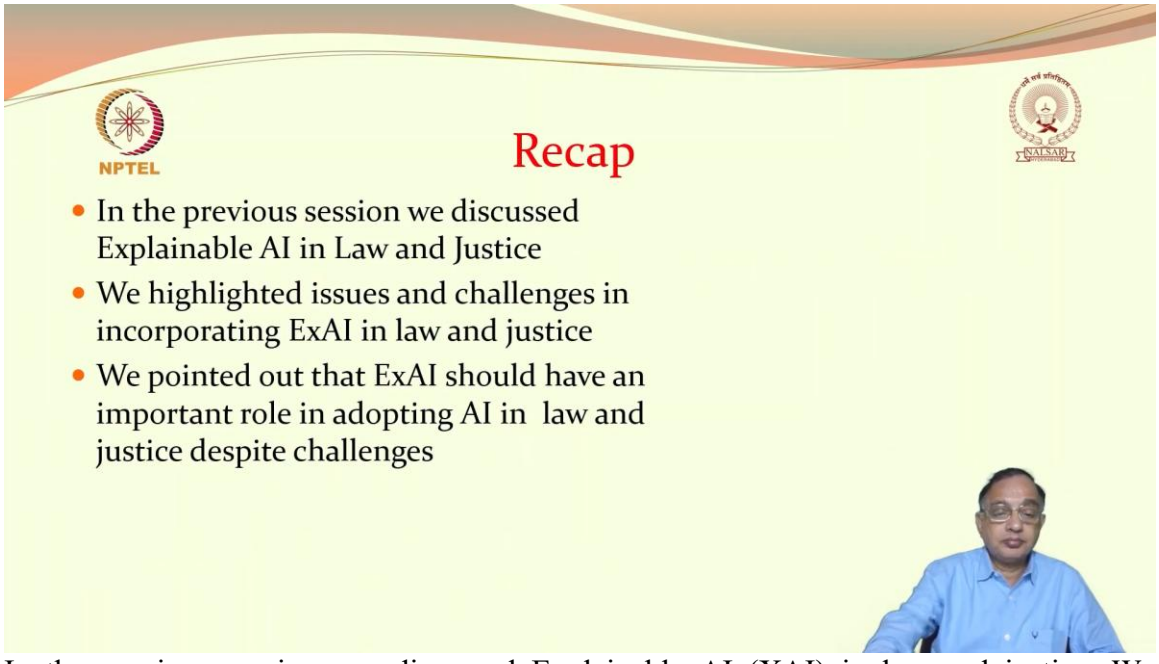
Artificial Intelligence, Law, and Justice, Session 27. This session is about the impact of AI on labour law.



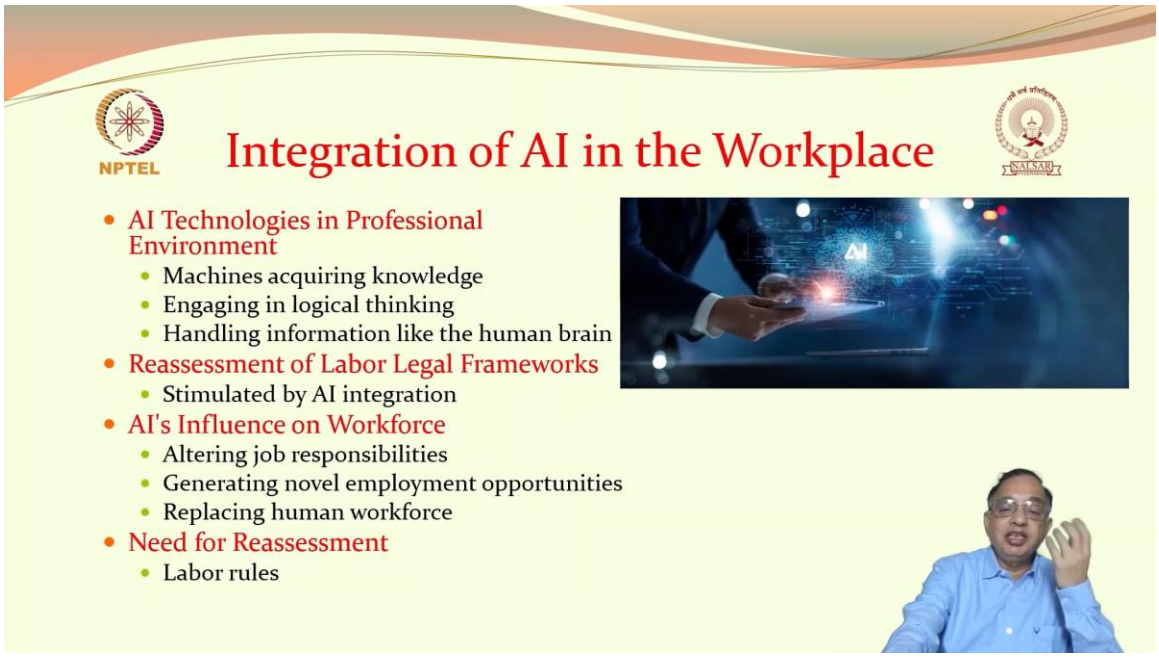
In the previous session, we discussed Explainable AI (XAI) in law and justice. We

highlighted the issues and challenges of incorporating XAI in law and justice. We also pointed out that XAI should play an important role in adopting AI in law and justice despite challenges. In this session, we will look into how AI is impacting labour law, which is a discipline or a field of law, and then why the relationship between AI and labour law should be understood for the simple reason that labour law, although it has been dealing with technological developments and the technological impact on labour for a long time, sees AI not just as a threat but also as a technology that can provide opportunities; AI also comes as a major game changer in employment, the nature of employment, and much more. As we move towards the digital economy and the digital society, AI is going to have a much larger role in all sorts of jobs, not just the permanent or manufacturing jobs, but also in gig work, for people who work from home or who do remote work. So, we need to pay more attention to the intricacies of the impact of AI on labour law, particularly when AI is both feared and looked at with wonder.

So, broadly speaking, labour law deals with rules governing legal relationships between employers and employees. Normally, it is the state that runs or decides on the labour law and then implements the labour law through the labour department, and then we have labour courts/tribunals and other forums for adjudication and contesting decisions. So, there are two levels of things that can be discussed here: one is the collective level, where trade unions are very active in the sense of collective rights, collective responsibilities, as well as collective decision-making, in that the law itself authorizes a collective way of dealing with the employers. Then there are individual levels of people who work not as part of the collective but in a different way, in the sense that gig workers, people who work remotely, or people who are on a contract basis are governed by some law, but they are not unified or coming together as members of a trade union or an association of other workers or employees. So, labour law basically covers employees, employers, and then

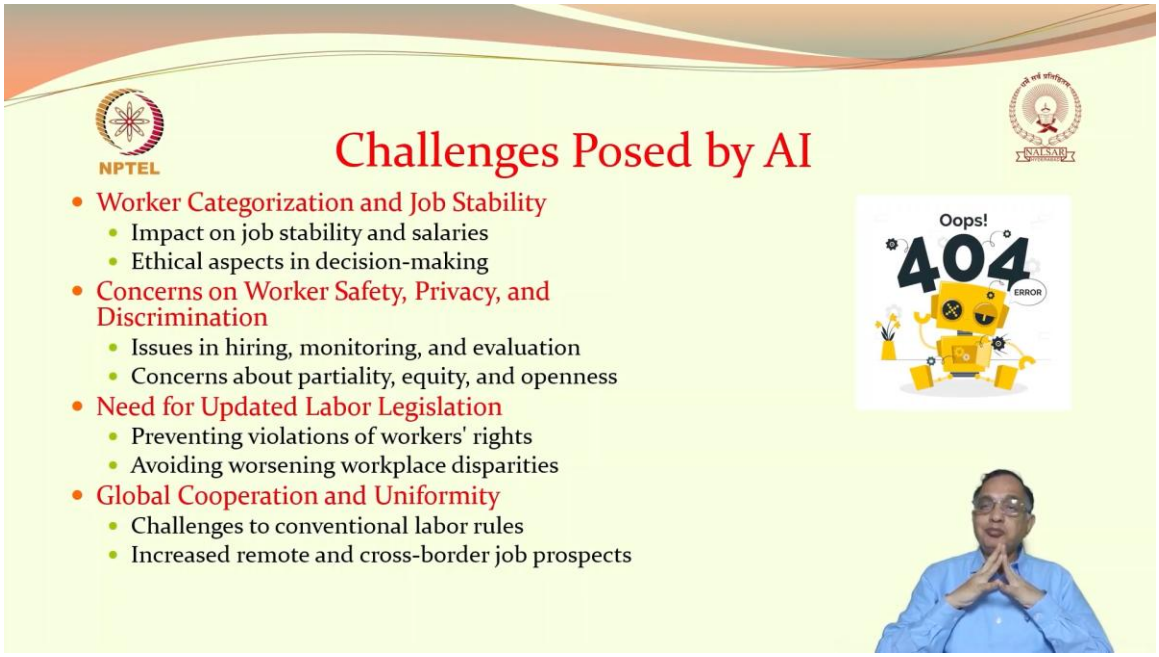
states how they interact, what sort of mechanisms they evolve so that there are fewer industrial disputes and a more harmonious development of the industrialization process. So, labour law deals primarily with employment, but not just employment; it also addresses conditions of employment, the treatment of labour, and both the entitlements and rights of workers. Similarly, it also outlines for the employers not just their obligations but also the rights they have over labour, as well as the procedures they should adopt if it is decided that a person will no longer work in an organization.

So, AI in labour law is a very fast-developing field, partially because AI is present in almost all sectors now, and there are a lot of legal uncertainties, queries, doubts, and fears as well. But labour law has already dealt with many technologies in the past. In fact, labour law itself was an outcome of the industrial revolution's first phase, where there was massive employment; industrialization brought in factories where thousands and thousands were working. So, society had to come to grips with a way it had never faced before because earlier people worked in small, very scattered units, but not in units, or the industrial revolution made many things possible: centralized production, distribution, and then various ways of consuming the massive increase in production. So, labour law, if we trace its history to the ideas that emerged during the industrial revolution—and today we are talking about the fourth industrial revolution; some people even say fifth industrial revolution—has to not only adapt but also continuously interact with technological development. But whether it can influence technological development is a difficult and very different question to answer.



So, the integration of AI in the workplace happens at all levels, whether you are a contract employee, a manager, or in a supervisory role. It happens in that context, but when AI enters the job market or the workplace, it changes job responsibilities, the

division of labour also changes, and then, more importantly, it creates many new opportunities for labour. Often, it replaces human labour either directly or indirectly with robots or tools of automation. So many of the labour rules would need some reassessment so that the rules themselves are much more adaptable and agile to face the large-scale adoption of AI in the manufacturing sector, the services sector, and broadly in all sectors.



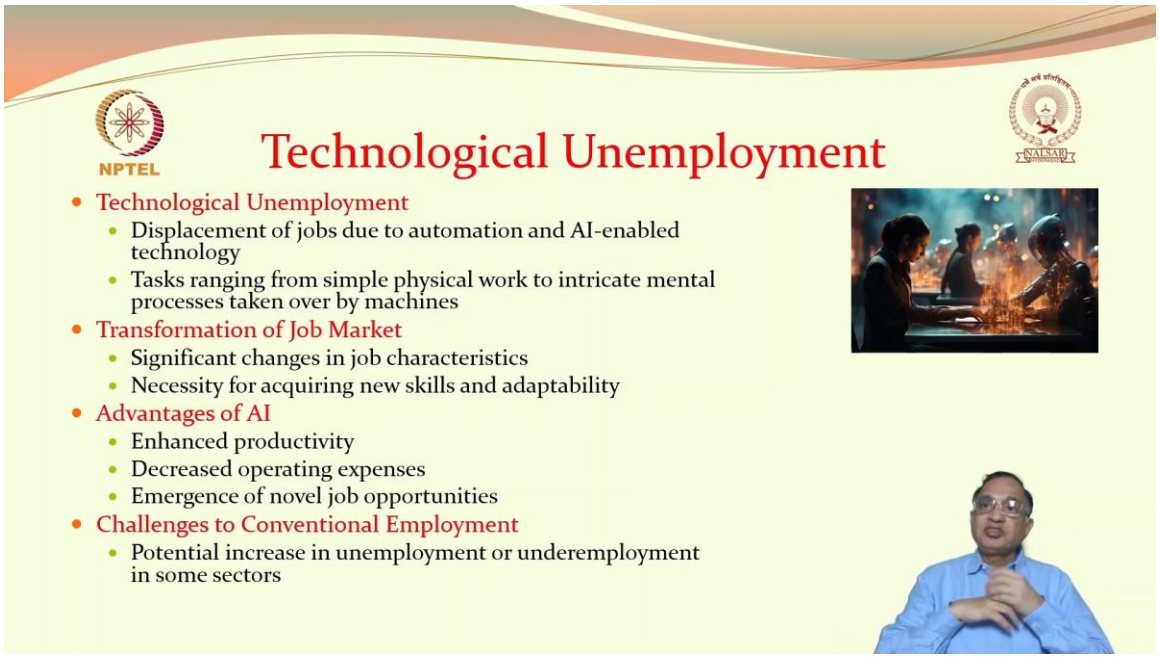
So, AI can be a major disabler or a major game changer when it comes to job stability. It can also disrupt the economic environment by ensuring that some jobs are totally eliminated or that people who are at some level of employment are not given the same remuneration as earlier because their jobs would have been downgraded or the skill set that was needed for those jobs would have been totally replaced by automation, which includes AI as well. So, there are also other issues like whether AI will impact negatively the current ongoing concerns on hiring, monitoring and evaluation. We saw how AI could be used for evaluation in the case of teachers being evaluated through algorithmic decision-making. And then monitoring is a huge thing because AI can be used for effectively monitoring the surveillance of what the employees are doing. And then there is the whole question of whether the labour legislation is in tune with the times to face the consequences of AI being used adequately in all sectors. More importantly, the idea behind labour policy and labour legislation ensures that, due to technological adoption, workplace disparities do not worsen in the sense that the technological revolution should not make things worse for labour by making them poorer or by completely replacing or displacing them. But this is a global issue where countries really need to work together to understand how they can effectively deal with the AI revolution. International unions and trade unions are trying to deal with that. International labour organizations are also trying to deal with that through their various programs and through capacity-building programs, various research initiatives, including via publications.

So, one way to look at it is that we should demand a balanced approach that facilitates technological innovation, economic growth and progress, and the adoption of the latest technology for societal well-being without labour being unduly affected or resulting in mass displacement and mass unemployment, or to ensure that workers' rights are not totally eliminated or negatively impacted by AI-based systems. So, there are multiple challenges where we need to come together. And the Economic Survey 2025 has a chapter on the impact of AI on employment, particularly in the Indian context. And it comes up with many interesting suggestions and observations. Since the detailed discussion of that is beyond the scope of this course, I am mentioning it in passing. But anyone interested in knowing more about this topic, as we are talking about striking a balance between innovation and labour rights and labour welfare, would be better off reading that to gain an understanding of what is happening in India in the broader context of AI and labour.

So, Trade Unions have a major role; they should be able to negotiate, but they should also understand technology. They should be able to understand how technology can be used positively while resisting massive replacement and displacement, and they should also be able to get a fair, decent deal for labour. But that should not be at the cost of economic progress. The historical role of trade unions has been to play the vanguard of workers' rights and to empower workers even further. But in the context of AI and automation, it becomes all the more challenging for them because they seem to be marching unequally at a pace that people did not even anticipate a decade earlier.

So how to adapt to AI-driven challenges is a major challenge for organizations and

employers, but it's equally a challenge for trade unions as well as for the people on the ground, people who are working in different sectors, in factories, in the fields, who are working in various unorganized sectors, establishments, or people who are working on a contract basis, gig workers, or people who are working remotely. So, taking a broader view, we need to look at what sort of training and development can be done, and whether the employees will have a say in what sort of system should be developed, so that they are not unduly affected. And then how their rights could be safeguarded and protected if not made better, and then the job displacement should be confined to the least minimum. What should be done, whether we should go for a social protection system that guarantees that those who are displaced are entitled to some minimum benefits in terms of cash or in terms of regular salary for a limited period, or in terms of some entitlements for capacity development or skill development, and then all these things need to be looked at from a broader policy perspective and then in consultation with the stakeholders.



Technological unemployment is not the first occurrence of its kind. It happened earlier in the phases of the industrial revolution when automation replaced many jobs; automation took over many jobs that were done by humans, and that massive job unemployment was also addressed by implementing social security measures and retraining workers. However, what happened was that overall employment opportunities expanded as the economy grew, new avenues emerged, and there was a shift from agriculture to factories or industry, and then from that to services. So, while the overall employment opportunities were enlarged on account of various other developments, technological unemployment did not balloon or become too much of a problem. Although it was a problem, and still is a problem to some extent, it did not become something of a catastrophe. So how to solve that in the case of AI-related automation or digitization of

life is a different question because for the first time we are seeing a technology that could not only replace but also do a lot of creative things, and then that could also be part of a larger automation where robots will be integrated.

So, one way is to upskill and then reskill, build capacity, engage in lifelong learning, acquire new capacities, and move up the ladder from doing boring, monotonous, repetitive jobs to jobs that are much more interesting and demand more skills.

Then the digital economy transformation should be thought of as part of that because the digital economy is not something that we can discuss or think about without employers, employees, or labour. So, if AI is going to drive the digital economy, what sort of

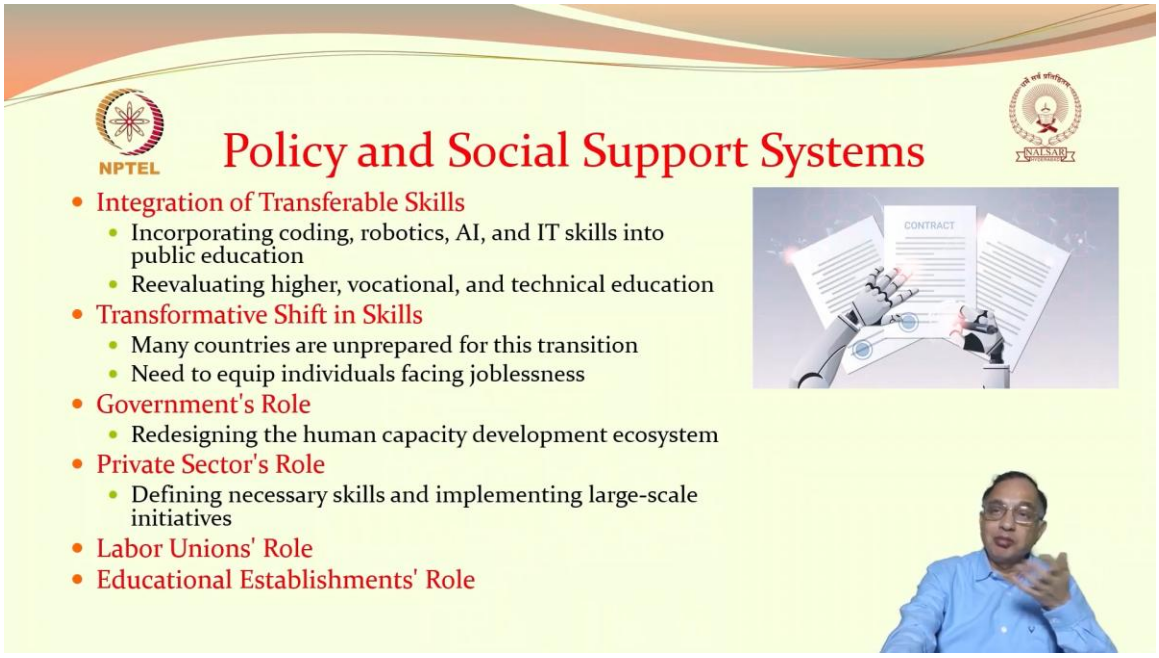
employment opportunities will rise, what sort of employment opportunities will vanish, and how it will overall affect the employment situation are things that need to be pondered upon. So, the labour law has to be sensitive to dealing with these things in an agile way.

And then, if work roles are being defined, if certain roles are going to be totally eliminated, what would happen to those people? I mean, to what level of upskilling and then reskilling can they go for getting more jobs? Or if the job displacement is going to be too much or too unbearable for society, mere upskilling and reskilling cannot be offered as a good solution for all types of jobs. The gig economy, where people are scattered or working on contractual employment, is also increasing in numbers, and there are a lot of people who work as part-time contract employees or do a lot of remote work or piecemeal work. So, how will these people be affected by AI, and what sort of livelihood options will emerge for them if the AI revolution takes a step ahead? So, these are some of the things that need to be dealt with, particularly from a labour law perspective.

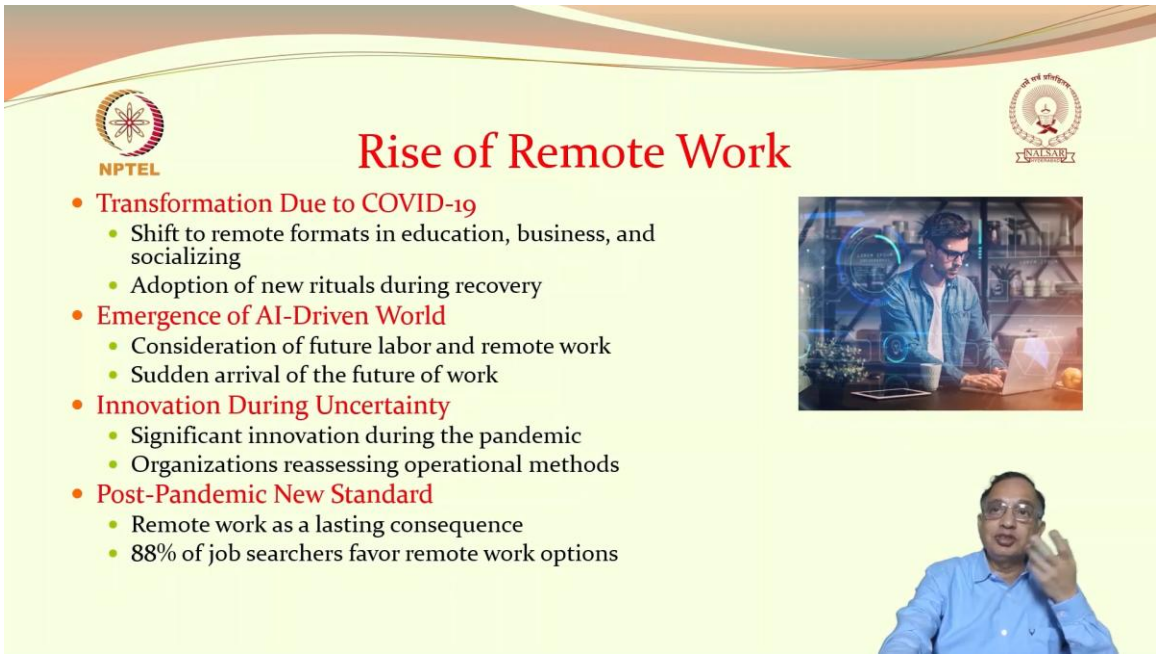
But from a labour law perspective, the counterargument could be that labour law can demand certain things from employers; labour law can make certain rights more secure. At the same time, labour law can also incorporate certain measures where it could be said that algorithmic decision-making should not be brought in, surveillance should not be part of the labour work practice, and there should be a code of conduct or specific rules where employees should have the benefit of using explainable AI mechanisms if they are going to be adversely discriminated against by the AI systems or by algorithmic decision-making.

So, we need to bring in what we have discussed earlier in terms of rule-making, algorithmic decision-making, and explainable AI, all into this specific context of labour law, and then when we try to relook at it, we will gain a better understanding rather than looking at labour law as a law that pertains only to labour and only to a selected class of labour. So, some of the reports that talk about displacement and what would happen in 2030 or 2050 are there. But the situation is changing so fast that some of the observations made in 2020 have become obsolete now. So, we need to have an understanding that is anticipatory in nature, in the sense that we should anticipate certain things and plan without getting overwhelmed or overawed by technological developments. In the sense that we should refrain from taking too positive an approach that AI will have some minimum impact, but it can also enormously increase job and employment opportunities, or taking a negative view that AI is going to replace or displace about 80% of the workforce, and then in the future, it will be more robots than workers who will be running the factories, doing different things in different sectors like robot drivers, robot cab drivers, robots who would be delivery agents, and robots who will be sitting at cash counters in different stores. So, we need to be free from the overtly positive, and overtly

negative perspectives and look at what labour law needs to do or how labour law should be tweaked to understand and then deal with these issues.

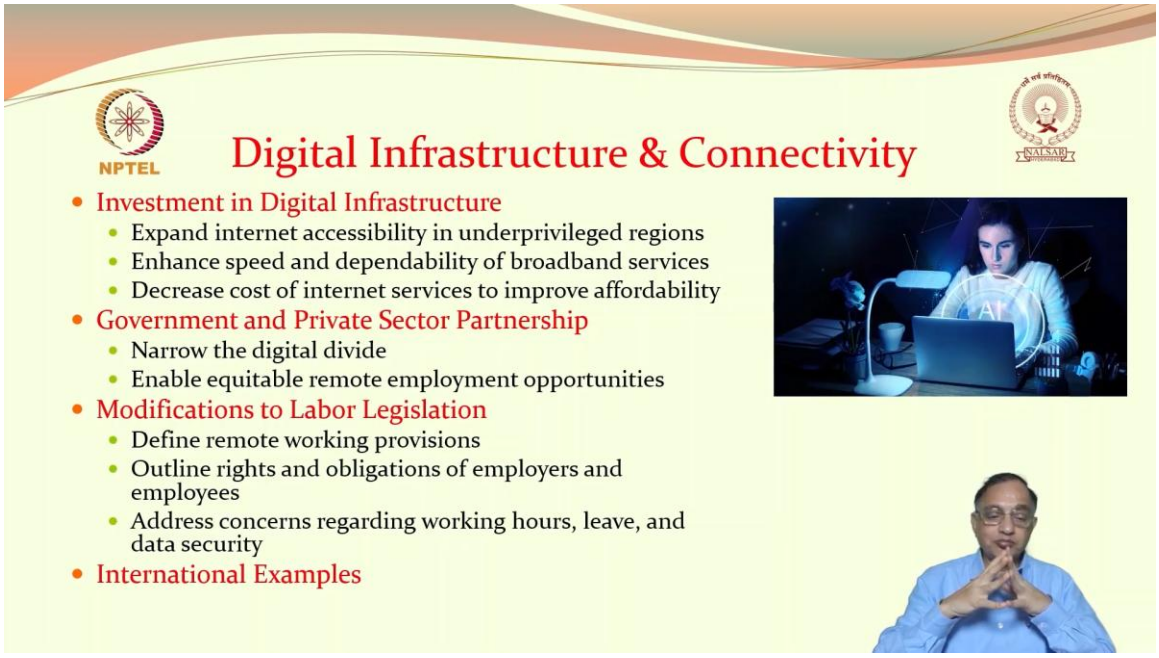


So, the policy and social support system about which the economic survey talks well in detail needs to be looked into and then policies have to be developed. And then a major role of the policy will be to strengthen and expand the scope of labour laws, as well as to bring in new systems of benefits for employees and to ensure that they receive new rights when dealing with AI and automated decision-making.



So, the remote work again, which is one of the major factors that rose in the post-COVID era, is also a major factor. Now, the AI-driven world, future labour, and remote work are

closely linked. But then future work can also be monitored and under surveillance by AI because even now a lot of the people who do remote work know well that their behaviour, the keys they strike, how many hours they spend in front of the computer, and what sort of things they look at are being monitored by AI-based tools and systems. So, it is not that remote work is not linked with AI. AI is already there. AI is there as an unseen, unseeable supervisor who is monitoring all the behaviour.



So, what sort of digital infrastructure we need to build and what sort of labour legislation we need to consider are some of the things.

And then we talked about the legal policy framework; they should comply with the law,

data protection, the right to privacy, the question of surveillance, monitoring the workers' behaviour, and also the question of power disparities between the people who are under surveillance and those who conduct surveillance. These are some of the things that we really need to look into.

Another thing we talk about regarding the right to disconnect, particularly in the age of AI, is that many jobs' people do today, whether remote-based or done after working hours, have something in common: they are being performed by computers or are always connected to the web. In this sense, you are 24 hours connected to the internet. So, when people work, they are also being monitored by AI, or they use AI tools in one way or another, meaning their work partially or fully depends on AI tools, or AI tools assist them in the backend in many ways, such as using AI agents or tools like Copilot.

Therefore, when this happens, the right to disconnect becomes very important. So, the right to disconnect comes after the regular working hours or after the specified working hours. People should have the right to disconnect, and more importantly, when they disconnect, it also means that they should not be under surveillance after the working hours. So, this will help people manage their work-life balance in a much better way, but it also ensures that they are not overtly controlled or followed by AI tools that monitor their behaviour, irrespective of whether they are online or not. Some companies are promoting good practices, while some countries are enacting legislation that allow the requirement for the right to disconnect, ensuring that no person should be forced to read and respond to official emails or to use tools that operate in the background even after working hours are over. So, the right to disconnect also means that you have the right to disconnect from AI tools and be free from AI tools surveillance on you or being used

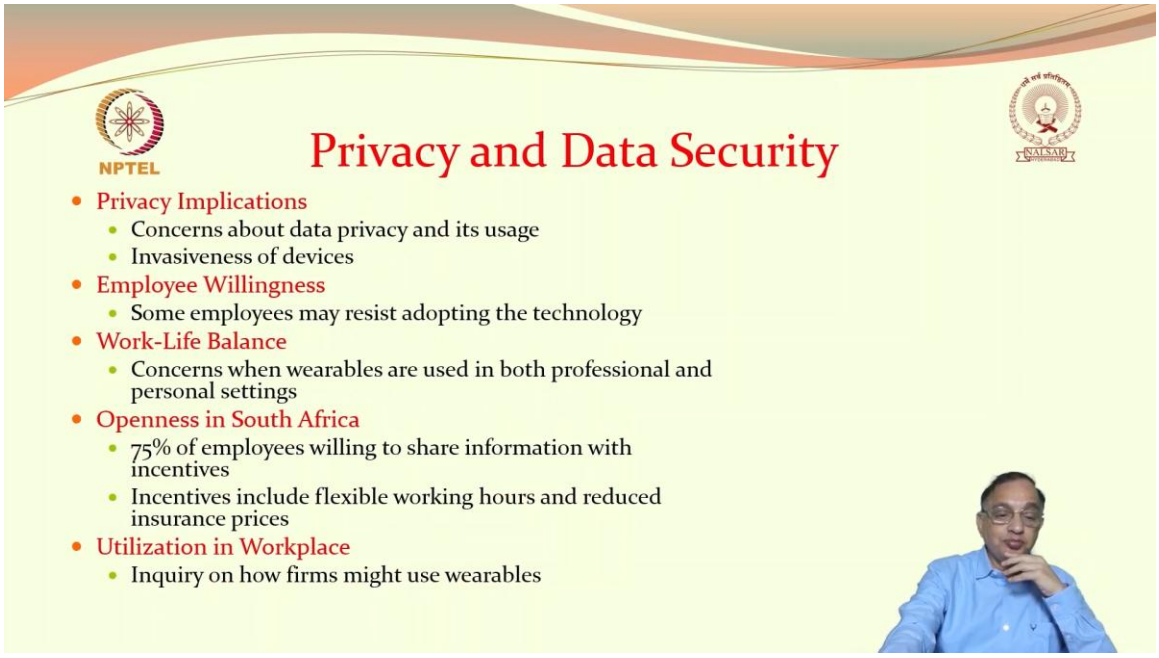
after working hours. So, this should be part of the larger framework of labour law or the labour code when it wants to deal with AI.

Then, of course, we can talk about enhancing human capacities, lifelong learning, upskilling, and learning for betterment. But some of the things of which we need to be aware, this again is something not just related to AI but also something that is related to neurotechnology and neuro wearables. Now that the wearables are here, all of us wear, in one context or another, smart watches that actually monitor our behaviour and health conditions. But there are many people doing different jobs; they perform various tasks, such as lorry drivers, hospital workers, and other types of workers, including those in sensitive operations like mining. Additionally, some people work 24 hours or do shift work, and they also use a lot of wearable devices or have devices that monitor their behaviour remotely. So, when this happens, and the way it is being used to collect information and then aggregate the information, we need to come to some decision or understanding of that, and we need to bring in labour law. The labour law should also take into account the indirect or direct surveillance that occurs through wearables or devices that are connected to a person's body or devices that monitor a person's behaviour and then their movements. So, we need to bring them in also under the context of AI's impact on labour law.

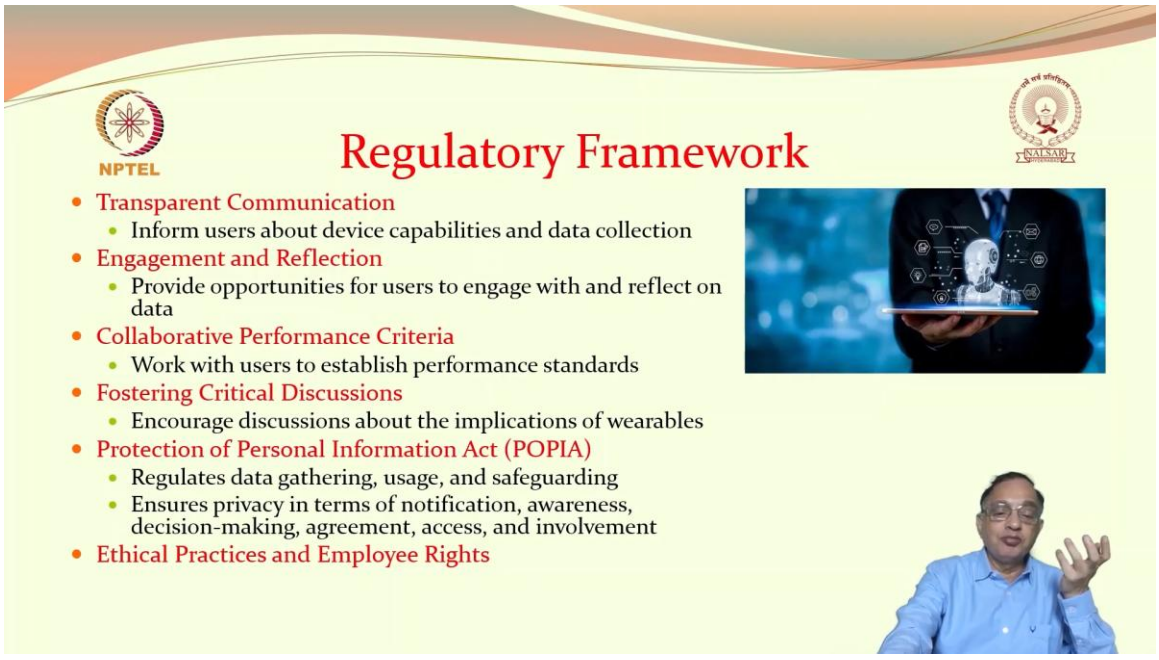
Then, of course, health and safety benefits are there; we need to look into the whole question of how a human-in-the-loop model should be built in so that humans have access to data, and decision-making.

Then the ethical considerations, which include data governance, real-world performance, and, more importantly, how labour should have access to the rights and access to the data that is collected on their behalf while they are working, as well as how it is being used by the AI systems, either against them or to arrive at larger decision-making. So, these are some of the ethical and legal considerations that need to be factored in when we talk about the impact of AI on labour law. So, if AI can be used creatively, it can do a lot of

good things in the sense that a lot of unnecessary surveillance being done by AI can be avoided.



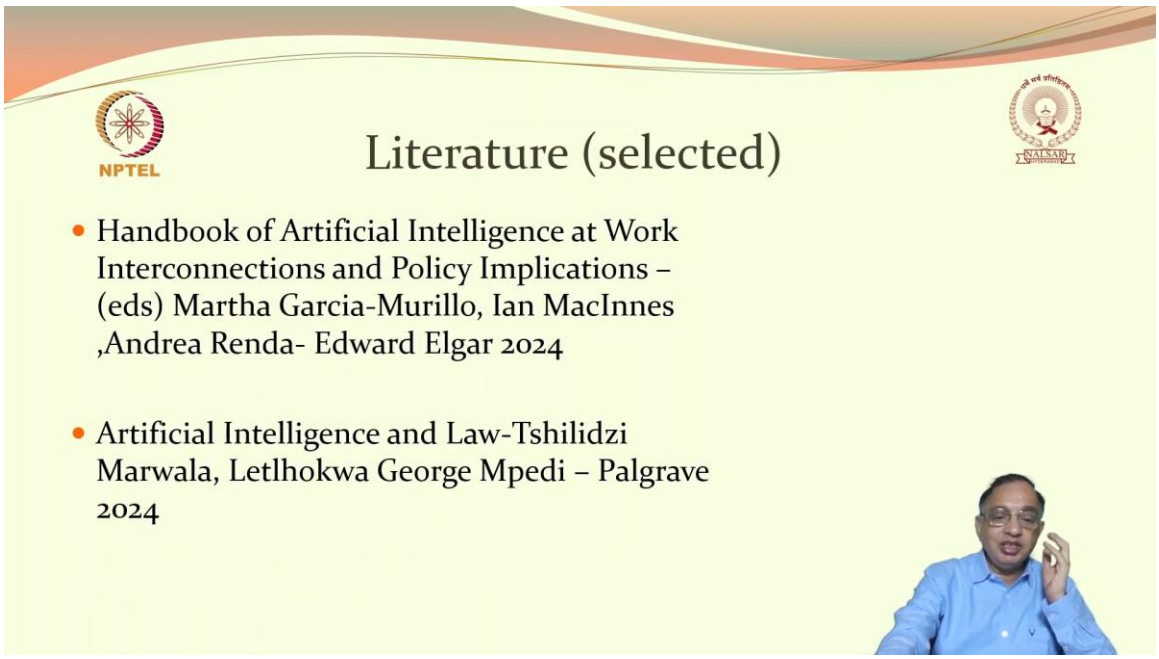
Then, of course, there are a whole lot of privacy issues; like how much of the employees' previous data, which is collected on the employees working, should be shared by the company with third parties or within the company itself, and whether the company should share the data with health insurance provider or others for some other purposes should also be looked into.

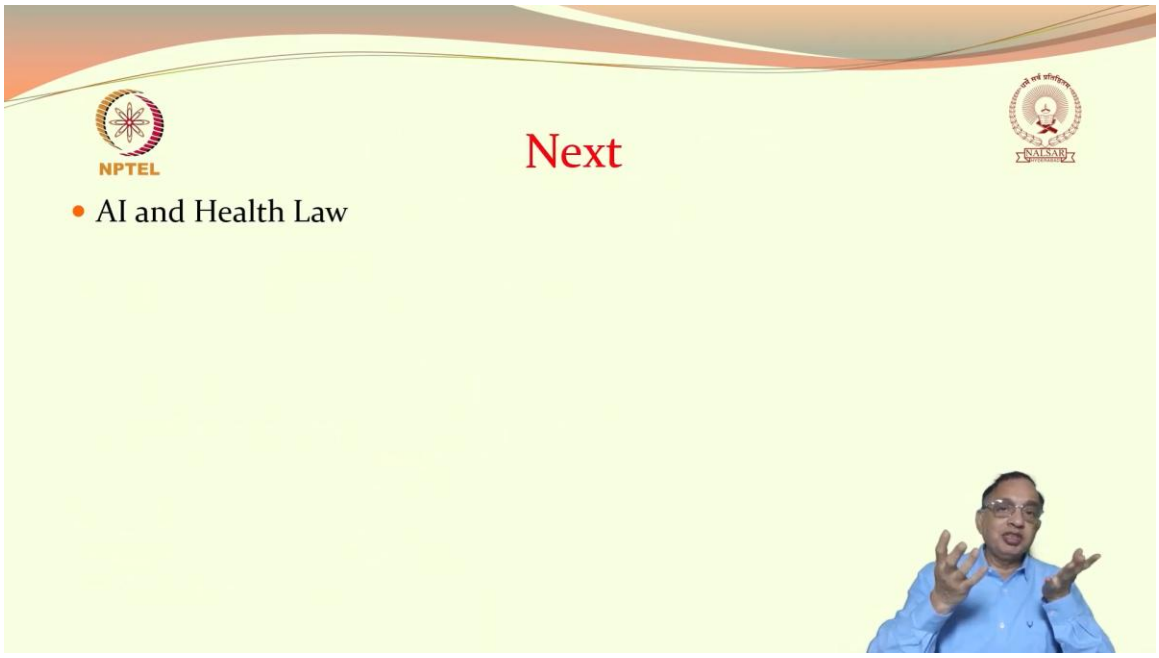


So, then we need a framework that also looks into that and how to protect the personal information of the workers that is collected as part of monitoring their work.

Then balancing AI and labour law is a real challenge where we need to make sure that labour law is agile and flexible enough to come to grips with the changes and ensure that labour law's primary objectives are not vitiated or negated by the deployment of AI on a large scale in society. So, it again means that the stakeholders need to come together; we need to have a common understanding and a consensus on the deployment of AI, and then how to use labour law as a tool that could effectively help in harnessing AI.

So, the summary for this will be that there are positive and negative aspects, but we are at a stage where we are not very sure of what the better or best options will be and what the most harmful options could be. But the labour law should develop in such a way that it broadly maintains or consolidates the available rights for labour while also building on that so that labour does not end up as a loser when AI is deployed on a wider scale. It should also address newer and emerging concerns, particularly taking into account gig workers, remote workers, and others who would be enormously affected by AI if the AI systems are not tailor-made or based on ethical and responsible AI principles.





In the next class, we will look at another aspect of law, health law, which is equally important and where AI is playing a huge role. So, AI and health law will be the next topics we will discuss. Thank you.