



## Artificial intelligence, ethics and rule of law

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### Abstract

In this paper I have tried to establish a link between very prominent and presently very commonly talked technological development among techie, business houses, educational institution, healthcare sector, hospitality and tourism sector and even the government across the globe are showing keen interest in the artificial interest. Every sector is trying to accommodate and adjust and innovate artificial intelligence to cater their needs and desire and, in this context, and backdrop the legal field is showing and trying to explore the artificial interest and trying to accommodate the artificial interest in its main purpose to administering the justice.

This paper has made an honest attempt to give a glance to understand while the legal arena is trying to spread its tentacles in the artificial intelligence, it has to balance it with two main concept or pillar of legal arena i.e. ethics and rule of law.

**Keywords:** Echnological development, legal field, justice administration, ethics, rule of law, innovation in AI

### Introduction

Artificial Intelligence has gained a momentum due to technological advancement and nowadays artificial intelligence is replacing human hands and the work is getting fast mode and it is creating the work or product more accurate and perfect. The artificial intelligence is now being used to in research, management, healthcare and various aspect of life and work. Artificial intelligence is used in upholding rights like data privacy and cybersecurity and data management. In every field where, artificial intelligence is applied it should be in "Accordance with law". This Accordance with Law means to keep pace with the Ethics of Law and Ethics in Law. The Law which will be formulated and drafted and passed in form of legislation should have elements of Ethics in it, law should be ethical itself by its content and Law should also be purposed For Ethical Cause.

### What is "ETHICS"?

"ETHICS" is very commonly used terms in various field and subject like foremost when we talk about ethics it equates with the religion in our mind and whatever religion we belong we follow code of ethics which that religion propagates and in some extent, there are some code of ethics which all religion propagates and there are some contradicting ethics among religion which one religion propagates and other oppose. Religion Ethics depend on:

1. Place of origin of the religion
2. Social and political circumstances under which the religion has incepted
3. Religious text

Even the atheism also has code of ethics which does not believe in spiritual world rather it believes in materialistic world and world of science.

There are political ethics among the political world, Ethics among doctors, chartered accountant, actor, writer, cinematographer, teachers and professors and list will continue more.

In this context ethics is a code of principles and action, action which are based and shaped by the principles.

Now for every function to be performed perfectly and every doer has to act accordingly to uphold the ethics and, in this connection, there is need for another set of ethics which would monitor, supervise and correct and punish the wrong doer. This another set of ethics is "LAW".

### What is ETHICS in law?

In subject Law like all other there is also existence of "Ethics". In law "Ethics" has separate definition, connotation and application. Now I will try to elaborate on "ethics" in law. I would like to begin my discussion on "ethics IN law" by quoting Great jurist Benjamin Cardozo in his book "THE PARADOXES OF LEGAL SCIENCE" "in chapter 1 -"Introduction -Rest And Motion -Stability And Progress" "in page 4 he said "The reconciliation of the irreconcilable, the merger of anti-thesis, the synthesis of opposites, these are the great problems of law." Now I start my discussion from here, we see that Benjamin Cardozo gives very efficiently and unique nutshell of problems of law and he mainly stressed on how the contradiction and opposition can be reduced. And now I will Quote Demogue in his Analysis of Fundamental Notions, Vol. 7 where he says "The goal of Juridical Effort is not logical synthesis but compromise".

From the above two quotation of great scholars and jurist we see that the problems of the law is how to get the two parallel line meeting because if we sincerely and deeply analyse the statement of Benjamin Cardozo we will see he said of reconciliation of irreconcilable, merger of anti-thesis, synthesis of opposites this mean that the how to odds can come together.

Next If we see that goal of juridical effort as per Demogue is not logical synthesis but compromise. Here it is very noteworthy and important to note and consider that we very often equate law with logical outcome but the scholar has bluntly refuted and struck down this very much prevalent and accepted view that another name of logical outcome is law.

Now I will take the discussion Further by elaborately depicting what is meaning of logical synthesis, to get into this discussion we must briefly give an attention to Karl

Marx 's Negation and Double Negation theory, this theory was promulgated to understand the social change, here Marx said the present condition i.e thesis is been challenged by new ideas or social set up which is anti-thesis and when these two thesis and anti-thesis negates with each other and new order is set up that is Synthesis and again with passage of time this synthesis becomes thesis and again is challenged by anti-thesis and synthesis is created this how society is ever changing and dynamic. This process what Demogue called Logical Synthesis which he struck down as a juridical goal and he gave place to compromise as a juridical goal which Benjamin Cardozo has also accepted.

Now I will try to give a picturesque view of compromise, I began my discussion with quoting again Benjamin Cardozo he says "Law defines a relation not only always between fixed points, but often indeed oftenest, between points of varying position. The act and situation to be regulated, have a motion of their own. There is change whether we will it or not."

From the definition provided by Benjamin Cardozo is very unique and appropriate for the present world and especially for this paper which is trying to establish a relationship between Artificial intelligence, Ethics and law. The definition provided by Benjamin Cardozo gives a relationship approach to the studies of law and it also gives a view of nature of relationship because it not only talks of relationship between fixed points but also varying points which gives a place to compromise which has been advocated by Demogue. Here it can be said that law is not purposed or should not be purposed to severe all kind of relationship nor to isolate or discriminate any law or people rather it is or should be purposed and tailored to create a road map for establishing a relationship between varying points of different position through an arrangement of compromise. Thus, it can be inferred and concluded that the "Ethics in Law is to build a relationship between fixed points and points of varying position through an arrangement of compromise".

### **What is the relationship between ETHICS AND LAW?**

In above discussion I have discussed what is ethics? And what is ethics in law? Through which I have tried to establish the independent position and entity of ETHICS which is present all spheres of the universe, now I will try to connect ETHICS AND LAW and try to sketch a relationship between the two. In my discussion under the head "What is Ethics?" I have discussed that Ethics is present in all subjects so ethics is independent in character and under head what is ethics in law? I have shown that in law ethics is present, now I will start my discussion how the ethics is connected with law and I will also give a situation where ethics is not connected with law.

Firstly I will discuss the situation where ethics is not connected with law first example I will take from the religion say for the followers of Hinduism it an ethical obligation to perform shradh and pin daan after the demise of somebody his/her relatives perform the shradh and pin daan but if somebody does not perform these rituals which is part and parcel of ethics of a hindu, but nowadays nothing will happen but if this incident would have taken place even 60 years back in rural india that person would serious consequence and if it would have taken in urban india 200 years back it would lead to severity of punishment by the Brahmins. This is because now this ethics is not in shape it

has no enforceability character and no penal provision is attached but when times were there it was law and penal provision was there attached to law and law enforcing agents were to make people follow the ethics in law form where penal provision was also attached. In this regard I would like to quote Whitehead," inherent in the very nature of things, recurring in some particular embodiment whatever field we explore –the spirit of change, and spirit of conservation. There can be nothing real without both. Mere change without conservation is passage from nothing to nothing. Its final integration yields mere transient non – entity. Mere conservation without change cannot conserve. For after all, there is a flux of circumstances, and freshness of being evaporated under mere repetition." This statement is very appropriate and relevant when we discussing the relationship between law and ethics because in discussing ethics of performing shradh and pin daan the it has changed from previous times from stringent law to ethics which is still being followed by most of hindus from heart and mind to give respect and love to their beloved. It is also relevant when we will be discussing artificial intelligence, ethics and rule of law.

Now we will discuss the ethics which are in the shape of laws especially in Indian context:

1. Code of Medical Ethics Regulation 2022
2. Code of Ethics for chartered Accountant
3. Code of Ethics for Engineers prepared by National Society for Professional Engineers
4. University Grant Commission-Code of Professional Ethics
5. Code of Professional Teachers developed NCERT and AIPTF, AISTF and AIFEA.
6. The Advocate Act 1961

These are some of piece of code of ethics which are in force in india regulating various expertise field. This once shows that the ethics have placed in the law to gain the enforceability and moreover not only these few laws but whole set of procedural and substantive laws are part and parcel of ethics and these ethics are given the character of enforceability and penal provision are attached with.

### **What is the meaning of Rule of Law?**

To begin the discussion on the defining the concept of "Rule Of law "it will be injustice if I don't give the understanding of Rule Of Law according to Aristotle in the words of George H. Sabine and Thomas L.Thorson, so I quote the definition from their well-known book "A History Of Political Theory "fourth edition chapter 6 page 100 in their view the rule of law is the constitutional law so I quote "constitutional rule as Aristotle understands the expression has three elements :First, it is the rule in the public or general interest as distinguished from a factional or tyrannous rule in the interest of a single class or individual. Second, it is lawful rule in the sense that government is carried on by general regulations and not by arbitrary decrees, and also in the vaguer sense that the government does not flout standing customs and conventions of the constitution. Third, Constitutional government means the government of the subject as distinguished from despotism that is supported merely by force."

There is other view on defining Rule of Law a well-known English jurist A.V. DICEY in his famous "Law of The

Constitution he enumerated three rules regarding the rule of the law which are as follows:

- a. Superiority of law
- b. Equality before the law
- c. Predominance of legal spirit

Another proponent of Rule of law is that EDWARD COKE who was chief justice of England during the reign of King James I and his main propositions are

- a. The king is under the law
- b. The government power should be free from any arbitrary character
- c. No punishment should be awarded without specific breach of law.

Now I will discuss the Rule of law briefly in reference to our Indian constitution the term rule of law is being in the article 14 of the Indian constitution which very specifically and categorically states” the state shall not deny to any person equality before the law or equal protection of the law within the territory of India”. Here it is said that all citizens of India are guaranteed the right to get equal protection of law and equality treatment of law. In other words, it can be encapsulated that equals should be treated equally, unequally should be treated unequally.

Thus, it is to be referred that the rule of law is the character of the law and whether the law is good or bad, it is to be decided on the basis of the Rule of Law or in other it can be said that the law is judged on the parameter of Rule of Law.

#### **Relationship between Rule of law and Ethics**

As I have already discussed the concept of ethics, relationship between law and ethics, definition of Rule of law. Now I will be giving a brief account on the relationship between Rule of law and Ethics. As I have already said the ethics is an independent entity and law is the tool to make the ethics enforceable with some penal attaching to it, Law itself has some code of ethics which is the Rule of Law and so whether the law itself is ethical or not, it should be judged on the basis of character of Rule of Law is present in the law. So, it can be said that Rule of law is the Ethics of law and in other word it can be said that Rule of law is also Ethics. Thus, it can be said that Ethics in Law and Ethics Of law both are true in letter and Spirit.

#### **What is Artificial Intelligence?**

Now I will begin my discussion on the “Artificial Intelligence “by exploring the definition of Artificial Intelligence. John McCarthy defines artificial intelligence as it is “The science and engineering of making intelligent machines, especially intelligent computer programs”.

Now the artificial intelligence is getting momentum in various field like management, healthcare, logistic and many more and it is becoming tied to our daily life and it is creating an easiness in daily life by making things automation and reducing the cost of production and distribution through reducing the dependency on the labour intensive technique and creating more dependency on machine and capital intensive technique and making work more accurate and perfect and in more fast mode i.e.it is adding speed and reducing time to get the work finished.

Artificial intelligence is branch of science which deals with mainly how to do the work in more efficient, systematic and fast mode. There are various methods in the artificial intelligence which are – Data Structure, Algorithm.

#### **How the Artificial intelligence can be applied to legal process?**

Here I am going to deal with a very important vital question that is how the artificial intelligence can be used in carrying out the legal process or the judicial process. Now I will give a very general and simple stages of the legal process irrespective of it ‘s nature and scope which are as follows:

- 1<sup>st</sup> Stage:** Consultation with the legal advisors and seek legal remedies
- 2<sup>nd</sup> Stage:** Doing the research work on the case by the legal Advisors with his/her team of juniors and law clerk
- 3<sup>rd</sup> Stage:** Drafting the petition
- 4<sup>th</sup> Stage:** Filing of the suit
- 5<sup>th</sup> Stage:** Issuing of notice on the opposite party
- 6<sup>th</sup> Stage:** Court proceedings (written statement /objection/denial of the guilty /Examination &Cross Examination of the witnesses)
- 7<sup>th</sup> Stage:** Argument
- 8<sup>th</sup> Stage:** Judgement

Here I have enumerated general stages of the court proceeding in the trial court but in the cases registered by the investigation agency then there are few more stages adding to this preliminary enquiry, registering F.I.R. and submitting charge sheet before the court.

Now the question is how the artificial intelligence can be applied and accommodated to speed up the legal process and what stages.

If we see the 2<sup>nd</sup> stage where the advocate is engaged with the research work with his/her team, in this stage the if artificial intelligence is applied then the work will get speed and it will produce a accurate and perfect and unbiased work which is very essential for the preparation of the suit because this stage involves collecting of datas, classification of the collected data, verification and comparing of data which need an efficient hand to do it, where the artificial intelligence can play a vital role.

After filing of the suit, the department of the judiciary enters where they have lots of work like giving the number to each case filed, classification of cases according to their nature, distributing the case according to the determination of each bench and keeping all the record of the case in a classified structure and keep the record of the cases pending and disposed of.

In the sixth stage where there is examination of witnesses and cross examination of witnesses, here the artificial intelligence is required to keep the record of the content of the witnesses without any kind of tampering and distorting.

#### **Conflict of Artificial Intelligence with the existing law Of Intellectual Property Law**

At present legal scenario there are bundles of law relating to the product produced by and through human intelligence in the garb of copyright, patent, trademark but on the other hand there is no law relating to the artificial intelligence which making the artificial intelligence vulnerable to the risk of getting tampered and many frauds and forgery are prone to take place in absence of law.

There must be laws on two spheres to make artificial intelligence ethical in general character and ethical in legal sense or in legal terminology that are: -1) Law should be there to protect the work produced by artificial intelligence 2) Law should be there how the artificial intelligence upheld

the ethics of law i.e. Rule of Law and beside that the artificial intelligence should have basic ethical character.

### **Conclusion**

In the abstract I had given that this chapter is made or meant to establish a relationship between three elements or variables that is Ethics, Rule of Law and Artificial Intelligence.

I have established the relationship between Law and Ethics and have inferred that that Ethics though a separate entity needs the attire of law with enforceability and penal attached to it, so it is to be inferred that all laws contain the element of ethics in it. And while establishing the relationship between Ethics and Law it established that Compromise and establishing relationship between fixed variables of different position. And I have also inferred that rule of law is the ethics of law and after discussing the artificial intelligence and its applicability in legal process and its conflict with existing law I have inferred and came to the conclusion that the to make artificial intelligence functional and operational in practice there should be set of laws defining the scope and operation of the artificial intelligence so that it can co exist and co habit with ethics and rule of law.

### **References**

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