

News

Supreme Court Justice Manmohan: The *Kesavananda Bharati* decision made sure that India's Constitution would live on.



At the first-ever IBA India Litigation and ADR Symposium, he spoke about India's rule of law and justice system.

Justice Manmohan, a Supreme Court judge, on Friday called the Kesavananda Bharati ruling India's "most important" addition to the discussion of the rule of law around the world.

He credited the basic structure doctrine evolved in this judgment as having been

important for the survival of the Constitution of India and judicial independence. He noted that the 1973 decision established constitutional limits that Parliament "cannot cross," which have now changed into a promise that democracy will remain in place.

The ability to edit gives you the freedom to make changes, as long as you don't damage the main structure. "It has made sure that democracy is deeply rooted, and it has limited the power of the government," he stated.

He also said that the decision set in stone unchangeable standards like the rule of law and the split of powers, which have kept the constitution strong.

"This basic structure doctrine (evolved in the Kesavananda Bharati judgment) has ensured that the Constitution has survived in this country for 75 years. He continued, "Usually, if you look at how long a Constitution lasts, it's around 20 years."

Justice Manmohan added that the basic structure theory is now what makes investors feel good about putting their money into projects.

He said that the separation of powers is important for business certainty, and ***"when the investor comes, he wants to be assured that the contract entered into will be enforced by an independent judiciary."***

Justice Manmohan also recounted an incident from his days of legal practice, when a foreign solicitor once asked him whether top government officials in India could be approached to influence a verdict in his client's favour.

"My answer was no. We have a clear split of powers. No executive can affect the judiciary," he said.

Justice Manmohan also linked the constitutional evolution in India to current judicial decisions such as those in the electoral bonds case, noting that courts continue to insist on transparency and accountability in political finance.

Justice Manmohan was speaking at the opening session of the International Bar Association (IBA) India Litigation and ADR Symposium, on the theme,

"Will the rule of law and the justice delivery system in India offer a competitive edge

over other emerging economies? Can uniform laws and justice delivery systems drive us towards a borderless world?"

Attorney General for India (AG) R **Venkataramani** also spoke at the event. He told the audience that the rule of law and access to justice now work as mutually reinforcing constitutional commitments. Justice delivery must reach people in a meaningful form rather than exist as a mere institutional structure, he said.

"Access to justice is an important part of the rule of law," he added.

He said India's constitutional architecture shows convergence between fundamental rights and directive principles, creating what he described as a seamless breadth of constitutional values.

The Attorney General, however, went on to observe that India should rethink adversarial lawsuits and build a stronger culture of mediation and arbitration.

"The more we try to make good an adversarial system, the more problems we have with it. We need courts recreated on new models," he said.

Former UK Attorney General Lord Peter Goldsmith warned that the rule of law should not be confused with rule by law.

Singapore International Commercial Court president Justice Philip Jeyaretnam spoke of how international commercial courts are building cross-border confidence and jurisprudence that arbitration cannot.

The symposium, hosted by the India Working Group of the International Bar Association, featured talks on constitutional safeguards, justice system reform, mediation culture, digitisation of courts and comparative dispute resolution frameworks.