

Inaugural Address¹

My esteemed Brother Judge, Hon'ble Justice Augustine George Masih,

Respected Vice-Chancellor Prof. (Dr.) Dilip Ukey,

Our distinguished international guest, Prof. (Dr.) Kokila Konasinghe, joining us from the University of Colombo;

Distinguished faculty members, members of the Bar, scholars, academicians,

Dear students,

Ladies and gentlemen,

Good morning to all.

Introduction

It is a profound honour to be at Maharashtra National Law University, Mumbai. The theme chosen for today, "*Constitutionalism to Transformative Constitutionalism: Rethinking the Constitutions Across Time and World*" is not merely an academic exercise. It is an audit of our collective soul as a nation and a civilization.

We often think of a Constitution as a shield, a document designed to protect the citizen from the overreach of the State. This is the classic "Constitutionalism."

¹ Inaugural Address by Hon'ble Mr. Justice Pankaj Mithal on the occasion of International Conference on "*Constitutionalism to Transformative Constitutionalism: Rethinking the Constitutions Across Time and World*" organised by Maharashtra National Law University Mumbai on 18.04.2026 at 10.30 am at Mumbai.

But today, we discuss the Constitution as a Sword, a transformative instrument intended to strike down the shackles of social inequality, poverty, and indignity.

Today, let us engage in a dialogue that is not just international, but inter-generational rethinking our foundational document not as a relic of 1950, but as a roadmap for a Viksit Bharat in 2047.

Civilizational Root: From Dharma to Law

There is a beautiful thought in our heritage: “यतो धर्मस्ततो जयः” (Where there is Dharma, there is Victory.) In the 21st century, our “Dharma” is the Constitution. But for this Dharma to be victorious, it cannot remain a static text preserved in a glass case. It must be a living, breathing force that rethinks its own application across time and across worlds.

When we speak of constitutionalism and the Rule of Law, we often look to modern developments in the West. But the idea that power must be exercised within limits is not new to us. Long before the ink dried on any modern charter, our soil was governed by the principle of Dharma.

We must remember: Dharma is not religion. It is the Righteous Path. It is the cosmic order that ensures the sun rises and the rivers flow, but in the human realm, it is the code that ensures the King is not above the Law.

There is a timeless Sanskrit maxim: “धर्मो रक्षति रक्षितः” (Dharma protects those who protect it.) This verse conveys the message that if you follow morality, duty, and Dharma, that Dharma will protect you as a shield. In our context, the Constitution is the modern institutional expression of Dharma. It protects the

citizen only as long as the citizen, the judge, and the administrator protect its sanctity.

In the Ramayana, Lord Rama is often described as “*Maryada Purushottam*”, one who upholds the rule of law and duty i.e. *Kartavya* above personal interest. When faced with exile, he did not question the legitimacy of the decision, even though it was personally unjust. His conduct reflected an unwavering commitment to the idea that rules and institutions must be respected for the larger stability of society.

Similarly, in the **Mahabharata**, during the *Yaksha Prashna*, Yudhishtira is asked: “What is the path?” He responds: “महाजनो येन गतः स पन्थाः” (The path is that which has been trodden by the wise.)

Today, the “wise” are those who drafted our Constitution, but “rethinking” means we must also find new paths when the old ones encounter the complexities of the 21st century.

The Shift to Transformation

The shift from “Constitutionalism” to “**Transformative Constitutionalism**” is the journey from the static to the dynamic. Traditional constitutionalism seeks to limit government power, to say “No” to tyranny. Transformative constitutionalism goes a step further; it asks the State to say “Yes” to progress, to dignity, and to the upliftment of the last person in the queue.

Transformation is always moral at its core. This moral foundation was laid in our soil during the time of Lord Rama. If we look at the life of Lord Rama, we see a ruler who never sought conquest for the sake of expansion. Even after defeating his opponents, he never annexed their lands or enslaved their people. Instead, he sought the victory of morals and the establishment of Dharma. After the fall of

Bali, he ensured the leadership of Sugriva; after the defeat of Ravana in Lanka, he handed the reins of governance to Vibhishana.

His battles were not for territory, but for the welfare of the people and the triumph of righteousness. Lord Rama taught us that power is a sacred trust, and its only legitimate use is for the establishment of a righteous order. Similarly, our constitutional vision today reflects those same values, not a thirst for domination, but a commitment to a Ram-Rajya where governance is synonymous with service and welfare. Our leaders of today continue to find their guiding light in these very principles, where power remains a medium for service, not a tool for domination.

Take the example of Emperor Ashoka. After the Kalinga war, witnessing immense devastation and human suffering, he underwent a profound inner transformation, from a conqueror to a ruler guided by compassion and moral responsibility. The shift from *Bherighosha*/ भेरिघोष (the sound of war drums) to *Dhammaghosha* / धम्मघोष (the call of Dharma) marks one of the earliest and most significant moments of transformative governance in our civilizational history. His शासन thereafter was no longer anchored in conquest, but in welfare, justice, and the ethical exercise of power. This transformation reflects the essence of a welfare state, where power is exercised not for domination, but for the well-being, dignity, and upliftment of the people.

Our own constitutional journey mirrors a similar spirit. A powerful illustration of this can be found in the story of the Constituent Assembly debates. When concerns were raised about whether India was ready for universal adult franchise, the framers did not hesitate. They chose trust over doubt. They chose empowerment over exclusion. This decision, at a time when literacy levels were low and democratic institutions were nascent, was nothing short of revolutionary. This was not just a legal choice; it was a bold moral commitment.

In its early years, the Constitution was often seen as a framework of governance. Over time, it has come to be understood as an instrument of social transformation. It is not static or confined to its text. As I have often reflected, the Constitution is not a stagnant pool of water; it is a flowing river, a Ganga of justice that must wash away the pollutants of discrimination as it moves toward the ocean of equality.

However, as B.R. Ambedkar reminded us, the Constitution is only as good as the people who work it. This thought resonates with the saying: “यथा राजा तथा प्रजा”- As the ruler, so the people. Institutions shape citizens, but citizens equally shape institutions. The strength of constitutional governance, therefore, depends not only on laws and structures, but on the collective commitment to uphold its values. Constitutional morality must be practised in everyday life; it cannot remain a mere ideal to be invoked in words alone.

Rethinking Across Time and World

When we look beyond our borders, we gain both clarity and perspective. Each constitutional system reflects its own historical experience and social priorities.

The United States places a strong emphasis on liberty, yet continues to grapple with questions of equality. France upholds a strict model of secularism, sometimes at the cost of accommodation. South Africa stands as a powerful example of transformative constitutionalism, consciously designed to redress historical injustices. Germany, on the other hand, balances rights with a deep sense of civic duty and constitutional discipline. Sri Lanka, with its rich constitutional history, continues to engage in an evolving dialogue on

governance, reconciliation, and democratic resilience, offering valuable lessons in balancing diversity and unity.

India's uniqueness lies in its ability to maintain balance, pluralism without fragmentation, reform without coercion, and diversity without disintegration. Our constitutional vision is not one of rigid separation, but of harmonious coexistence - *Sarva Dharma Sambhava*.

As we rethink constitutions across time and across the world, one truth becomes evident: a constitution cannot remain confined to its text. It must evolve with society. It cannot be a fossil preserved in history; it must remain a living, breathing instrument of governance. Across jurisdictions, both in the Global South and the North, we witness a shared challenge, how to ensure that the Constitution is not reduced to a "lawyer's document," but truly becomes a "people's charter."

It is in this context that the idea of transformative constitutionalism assumes significance. It is not merely about interpreting the Constitution; it is about using it as a means to bring about meaningful social change. It acts as a bridge between the India that exists and the India that the Constitution promises.

While the founding years of our Republic ensured political democracy by giving every citizen a voice - the right to vote, the true measure of our constitutional success lies in the realization of social democracy, where liberty, equality, and dignity are not merely rights on paper, but realities felt in the daily lives of our people, especially those standing at the very margins of society.

Over the past decades, the Indian judiciary has played a crucial role in advancing this vision. Through purposive and progressive interpretation, constitutional rights have been expanded to respond to the needs of a changing society. From *Kesavananda Bharati*, which preserved the basic structure of the Constitution,

to *Maneka Gandhi*, which broadened the scope of personal liberty, the Constitution has evolved into a living charter of human dignity. Decisions such as *Hussainara Khatoon, Vishaka, D.K. Basu*, and *M.C. Mehta* have translated constitutional promises into practical realities, protecting undertrials, safeguarding women, preserving the environment, and empowering the marginalized.

The Constitution, therefore, is not a relic of the past; it is a dynamic instrument of change. Yet, despite these achievements, the journey of transformation remains incomplete.

Structural Challenges and the Need for Reform

A significant gap continues to exist between constitutional promises and ground realities. While equality and dignity are guaranteed on paper, social and economic inequalities persist. **Access to justice** remains uneven, particularly for the marginalized and vulnerable sections of society.

The principle that “**justice delayed is justice denied**” is not merely a legal maxim; it is a lived reality for countless citizens. Judicial delays, procedural complexities, and rising costs often make justice inaccessible. If justice is neither swift nor affordable, it risks becoming an elite privilege rather than a universal right. It is therefore imperative that we simplify procedures, responsibly integrate technology, and ensure that the justice delivery system reaches even the last person in the queue.

At the same time, we are confronted with new and complex challenges in an increasingly **digital world**. Questions of **data privacy, artificial intelligence,**

and technological surveillance are no longer futuristic concerns; they are present realities. We live in an era of what may be called a “digital black box,” where algorithms influence decisions ranging from financial access to judicial processes. While technology offers efficiency, it must not come at the cost of fairness. The rule of law demands transparency, accountability, and due process. A machine may possess logic, but it lacks *karuna* i.e. compassion. And a constitutional system devoid of compassion risks becoming mechanical rather than just.

Environmental concerns present another critical frontier. Environmental degradation today is not merely an ecological issue; it is a constitutional concern. The right to life has rightly been interpreted to include the right to a clean environment, yet the challenge lies in reconciling development with sustainability. The question is no longer whether development should occur, but how it can be pursued responsibly and equitably.

As the saying goes, “**अंधेर नगरी, चौपट राजा**”, a state that ignores balance and wisdom ultimately descends into disorder. If we leave behind a damaged and depleted environment for future generations, no constitutional text, however well-drafted, will be able to undo that harm. Our understanding of transformation must therefore extend beyond the present to include the rights of the future. Justice, in this sense, is not merely inter-personal; it is inter-generational.

At the same time, the Constitution invites honest reflection on its structural challenges. Provisions such as **reservations**, conceived as instruments of empowerment, require periodic review to ensure they continue to serve their intended purpose. The idea of secularism calls for clarity, not as political symbolism, but as equal respect for all faiths. **Language** remains a sensitive issue, demanding a careful balance between national unity and linguistic diversity.

Institutional processes too must evolve. Questions surrounding **judicial appointments, federal balance, and legislative functioning** call for thoughtful reform, not to weaken institutions, but to strengthen their legitimacy and public trust.

The Mahabharata teaches us that one must not impose upon others what one would find unjust for oneself. If we expect transparency and fairness from every other institution of governance, then the judiciary too must embody the same spirit. Reform must never alienate, but reassure; it must protect independence. Only then can the judiciary continue to command the faith of the people and uphold the promise of justice at the heart of our Constitution.

A Constitution must not only endure, it must evolve. It must respond to the needs of the present while remaining anchored in its foundational values. Transformative constitutionalism, therefore, is not a destination but a continuous process, one that demands vigilance, responsibility, and a collective commitment to justice, dignity, and equality.

Balance of Rights and Duties

In contemporary discourse, there is often a tendency to speak loudly of rights while remaining silent on duties. But in Indian thought, the two are inseparable. As it is rightly said, “**अधिकार और कर्तव्य एक ही सिक्के के दो पहलू हैं।**” i.e. Rights and duties are two sides of the same coin.

A transformative constitution cannot succeed if the citizens are passive consumers of rights. Real transformation occurs when Duty (Kartavya) becomes the foundation. If I have a right to a clean street, it is my duty not to litter. If I have a right to free speech, it is my duty to speak the truth. A democracy cannot thrive if citizens are conscious only of entitlements and not obligations.

The Bhagavad Gita reminds us: “कर्मण्येवाधिकारस्ते मा फलेषु कदाचन” i.e. one’s right lies in the performance of duty. In a constitutional framework, rights naturally gain meaning when duties are fulfilled. Without civic responsibility, constitutional guarantees risk becoming hollow promises.

This brings me to the concept of Constitutional Morality. As Dr. Ambedkar emphasized, it is not a natural sentiment; it must be cultivated. It requires respect for the “other,” acceptance of diversity, and a willingness to abide by the rule of law, even when outcomes do not align with personal preferences. Constitutional morality, therefore, is the invisible thread that sustains the visible structure of the Constitution.

Toward a Viksit Bharat: The Road to 2047

As we reflect on these 75 years of our Constitution, we must look ahead. Our national collective aspiration is the creation of a Viksit Bharat - a developed India, by the year 2047. However, a Developed India is not merely defined by infrastructure, GDP, or technological prowess; it is defined by the robustness of its justice system, the strength of its institutions, the dignity of its citizens, and the lived reality of its constitutional values.

Transformative Constitutionalism is the very engine that will drive this vision of Viksit Bharat. True development is impossible without the Rule of Law, social equity, and the protection of individual dignity. For India to take its place as a global leader, our legal system must be one that is inclusive, efficient, and accessible to the last person in the smallest village. A developed nation is one where the promise of Satyamev Jayate is felt in every administrative action and every judicial decree.

Conclusion

I must commend Maharashtra National Law University, Mumbai, for organizing this conference. Academic institutions are the nurseries of constitutional thought and the architects of the vision for 2047.

As we mark seven decades of our constitutional journey, we must remind ourselves that a constitution is not an inert text bound by time; it is a living covenant between the State and its people. The American Constitution has endured through brevity, the British through convention, and the French through reinvention. The Indian Constitution has endured through its inclusiveness, its adaptability, and above all, its moral authority. It is not merely a legal document of the twentieth century, but a reflection of a much older civilisational wisdom.

Mahatma Gandhi reminded us with profound simplicity: **“सच्चा लोकतंत्र वही है जिसमें सबसे कमजोर आदमी को भी वही अधिकार मिलें, जो सबसे ताक़तवर को हैं।”** That, indeed, remains the true touchstone of our Republic. Our epics echo the same truth. When Lord Krishna chose to stand unarmed with Arjuna, offering his सेना to Duryodhana, he demonstrated that Dharma outweighs force, and justice outweighs numbers. Our Constitution, in many ways, is that unarmed Krishna, its strength lies not in coercion, but in conviction; not in authority, but in legitimacy.

The Rig Veda calls upon us: **“आ नो भद्राः क्रतवो यन्तु विश्वतः”**, let noble thoughts come to us from every side. This openness, this willingness to learn, to adapt, and to uphold the common good, is the very essence of constitutionalism.

As India moves into the next quarter-century of its journey toward Viksit Bharat, let us carry this spirit forward. The Constitution must not remain confined to courtrooms or parliaments; it must be lived in our villages, our cities, and our

homes. As the Bhagavad Gita reminds us, for the righteous, Dharma is strength; for the unrighteous, power is but weakness. The Constitution is not only our inheritance; it is our responsibility. To honour it is not merely to recite its provisions, but to realize its promises in our daily lives. For if we protect it, it shall protect us; if we strengthen it, it shall strengthen the Republic.

Let us, therefore, commit ourselves to this ongoing journey of renewal, to a future where constitutional values are not abstract ideals, but lived realities; where its silences are addressed with wisdom, and its shortcomings met with courage and reform. To the students, scholars, and members of the legal fraternity present here, the responsibility is not merely to inherit the vision of our framers, but to reimagine it continuously, to ensure that justice is not only promised, but experienced.

Transformative constitutionalism is not an endpoint; it is a constant striving to make the “ideal” the “real.” If we walk this path with sincerity and resolve, the Constitution will continue to shine, not only as the foundation of our Republic, but as its guiding light for generations to come.

In conclusion, I once again thank the organizers and our distinguished guests for fostering this dialogue. May your deliberations be profound, and may they contribute to the great river of Indian jurisprudence.

Thank you.

जय हिन्द!