

‘Hope constitutional morality dies with birth’: Attorney general criticises Supreme Court

KK Venugopal said it was incorrect to assume that the citizens would be unable to choose between rights and wrongs by themselves.

by *Scroll Staff*

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A file photo of Attorney General KK Venugopal | Wikimedia commons

Attorney General KK Venugopal on Saturday claimed the Supreme Court had given itself vast powers that “no one apex court in the world has ever exercised” and criticised it for depending heavily on constitutional morality, *The Indian Express* reported.

Venugopal criticised the court for relying on constitutional morality when passing its judgement on the Sabarimala temple where it allowed women of all ages entry to the shrine. The five-judge bench, in a 4:1 judgement, had struck down the age-related restrictions. Venugopal said it was a very dangerous weapon as while a few judges used constitutional morality to justify the entry of women, others prohibited their entry on the same ground.

“Use of constitutional morality can be very dangerous and we can’t be sure where it will lead us...therefore, I hope constitutional morality will die with its birth,” Venugopal said at the second J Dadachanji Memorial Debate in New Delhi. “Otherwise, our first Prime Minister [Jawaharlal] Nehru’s fear that the Supreme Court will become the third chamber [of Parliament] might come true,” he added, according to *The Tribune*.

Venugopal said that conflict between the legislature and the judiciary has existed since the 1950s, when the Supreme Court declared many laws unconstitutional and Parliament passed amendments to save such legislation.

Venugopal said that it was wrong for the court to assume that the country's citizens would be unable to choose between right and wrong. "Are you going to treat the whole of the population as illiterate and not able to think for themselves? Maybe the illiteracy today is 26%, but even those [people living in villages and rural areas], they have basic wisdom and they know what is good for them," he said. "And therefore, for the court to believe that unless we interfere, the country is doomed, I say no, it can't."

Venugopal said the court had "used Article 142 as a powerful weapon, which surpassed all the powers conferred on the Supreme Court by the Constitution". As per Article 142, the Supreme Court can pass decrees or orders in order to do complete justice in any matter pending before it. But the court treated Article 142 in a manner in which "unlimited powers flowed" to it, he claimed.

"The result is that instead of the supremacy of the Constitution, the supremacy of the Supreme Court of India was established," he said.

Attorney General KK Venugopal: Use of constitutional morality can be very very dangerous & we can't be sure where it'll lead us to. I hope constitutional morality dies. Otherwise, our 1st PM Pt. Nehru's fear that SC will become 3rd chamber (of Parliament) might come true. (8.12)
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