Rivlin, Meridor call on Knesset to legislate constitution

House Speaker: Judicial activism has gone too far, public now sees court as politicized, Knesset as cheapened.

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Knesset Speaker Reuven Rivlin, Intelligence Agencies Minister Dan Meridor and Government Services Minister Michael Eitan called for further Basic Laws, leading to a constitution, to be passed to protect democracy, while speaking at a conference commemorating 20 years since the passing of Basic Law: Human Dignity and Liberty and Basic Law: Freedom of Employment.

The event, titled "20 Years Since the Human Rights Revolution," took place in the Knesset and was organized by Tel Aviv University, Haifa University, the Hebrew University and the Interdisciplinary Center in Herzliya.

Rivlin explained to the former Supreme Court justices, MKs, Harvard Law Professor Frank Michelson and law students attending the conference that, while recent bills threaten and try to limit the High Court of Justice, they are a reaction to a system of "intervention and expanded justiciability" without public discourse.

"I am concerned about [judicial] activism, justified or not, that goes too far in the High Court, and made it seem politicized in the eyes of sectors in the Israeli public," Rivlin said.

"The judiciary threw itself into the deepest conflicts in Israeli society, without the public agreeing to it."

The result of the "judicial revolution," in which Basic Laws are treated like a constitution and used to cancel legislation, is that the Knesset has been cheapened, Rivlin said.

According to the Knesset speaker, now, more than ever, a Basic Law on legislation is necessary to fully separate the branches of government and determine the courts' ability to intervene in the Knesset's work. His call was later echoed by Meridor and Eitan.

If such a Basic Law is not passed soon, Rivlin stated, the Knesset is likely to pass bills that will intervene in judicial affairs.

He also said that these bills, such as one suggesting that potential Supreme Court justices undergo a public hearing in the Knesset, are not inherently bad, and are worthy of discussion and argument.

However, according to Rivlin, the problem with legislation on the judicial system is the rhetoric and tone that go along with them, which seek to delegitimize and take revenge on the courts.

"The legislative branch and the judicial branch [of government] are on a collision course, and the only victim in this battle is Israeli democracy," Rivlin explained.

Meridor called for the constitution to be completed, which he said would require two more Basic Laws – one on legislation and one regarding human rights – to be passed.

"Unfortunately, the constitution cannot be completed at this time," Meridor said, referring to haredi parties in the coalition that automatically veto any Basic Laws.

In the meantime, "essential" rights such as freedom of speech are being established by the courts and not legislated by the "passive" Knesset, according to the Intelligence Agencies minister.

Meridor pointed out that a constitution would strengthen democracy in Israel by enforcing the rights of the minority, explaining that democracy is not just the rule of the majority, but a protection from tyranny by the majority.

Also speaking at the conference, Eitan said that by approving two Basic Laws 20 years ago, the Knesset did not intend to create a constitution.

However, then-Supreme Court justice Aharon Barak interpreted the Basic Laws to mean that the court has increased authority and may annul bills passed by the Knesset.

Eitan called for a constitution, because "every branch of government takes its authority and stretches it out to the point where it becomes absurd, each interpreting the law in a different way."

All of the clashes between the judiciary and the Knesset, Eitan explained, are due to the fact that "the Knesset didn't do its job" in writing a constitution.

As a result, the public is disappointed in its elected representatives, he added.