

The Doctrine of Precedents

Rubi Talukdar¹, Sibasis Pattanaik²

^{1,2} Asst. Professor, Faculty of Legal Studies, Siksha O Anusandhan

¹ rubitalukdar@soa.ac.in, ² sibasispattanaik@soa.ac.in

ABSTRACT

The current research paper talks about the precedent doctrine which states that the higher court's judgment is binding on the lower court when it makes a decision on the same subject-matter. The research paper talks about the evolution of the doctrine in the English law which then found its way to India through the British rule. The doctrine got a proper sanction once it was laid down in the Constitution of India. The paper further talks about various decisions that brought clarity regarding the doctrine and adjudicated upon the questions such as 'Is the Supreme Court also bound to follow its previously decided judgements'? The research paper ends by explaining the importance of the precedent doctrine as it preserves the order of the judiciary and therefore plays a vital role in preserving the court's time because it is not expected to adjudicate on the matter already resolved.

Keywords

Precedents, Supreme Court, Hierarchy, Doctrine

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Introduction

Justice is one of the core needs of a society and for a society to function peacefully, there has to be some kind of mechanism in place which would cater to the administration of justice. The Government has to ensure that the society is not devoid of this bringing forth of justice by whatever means are deemed fit. It is in the nature of man to commit some mischief by one way or the other and this inherent mischief lying within the human mind needs to be curbed through teaching and inculcating them with discipline so that they do not commit acts which are undesirable.

"It is only through the safety of the State that people are able to see their own purpose and zeal for serving society, and justice of State-owned is a constantly required circumstance of concord, edict and progress".

Justice administration means justice that is performed in relation to the statute. There are growing mechanisms for the administration of justice that need to be used to help enforce the justice in society. For this administration and implementation of the justice, there are various sources which provide help to the government.

Origin of Law implies something special. It may mean the formal, concrete source that stipulates the rule about doing or not doing an act and then sets the rule in the form of a binding law. The state's will is the State's formal basis of rule. Any legislation can't have the State's power unless it gets the state seal of approval. "No rule may have validity as law unless the State has explicitly or tacitly approved it. Secondly, the word 'right source'."

The core information about the law lies in this state approved source. This is the literary source and the true knowledge of the law lies in this source itself. This includes the statutes, decided cases and textbooks.

The third meaning of the source of law is derived from the tenets of the society such as customs, religion, foreign laws, etc. "The term "source of law" can mean the substance of the law which supplies the matter. Practice, faith, consensus, and opinion of writers of books, international law codes,

legislation, precedents or judges rendered law, all fall under this classification."

PRECEDENT

The administration of justice calls for the similar cases to be decided on the similar basis. Thus, the judges are required to take into account the previously adjudicated cases on the same or similar subject matter.

"It may be nothing more than a want to do what others have done before, or if there is no reason for breaking from it, it may be the produce of a beneficialonus to obey a previous decision. Jurisdictional criterion has some convincing impact nearlyuniversallyfor the reason that "stare decisis" is a principle of nearly universal application (keep to what was previously decided)."

It's known as a primary source of rule. It originated in English law and then entered the common law countries. When the Parliament was not formed and thus did not have the authority as the sovereign Law making body, the judges were bestowed with the task of law making. To enforce them in society they had to set out legal standards. The majority of English law is judge rendered law.

A precedent can be described as a precedent or case which serves as an example of a future case which is similar in its subject-matter and hence the decision provided in the preceding case acts as a guideline for the decision on the current case. "It may be nothing more than a desire to do what others have done before, or if there is no reason for breaking from it, it may be the product of a constructive duty to obey a previous decision. It has certain substantial impact nearlyuniversallyfor the reason that "stare decisis" is a principle of nearly universal application (keep to what was previously decided)."

Keeton argues for the legal precedent to be a ruling to which power has been added in some way. Although Gray describes it as "a precedent that encompasses anything said or done the furnished law for later practice." Jenks describes it as a judicial precedent by a court of competent jurisdiction

on an inferior court of appeal which enforces the same structure until it is overruled by the superior court or by a statute, e.g. The Act of Parliament...

They are the foundation of the judges' potential actions when they are faced with a similar problem that had occurred in the past.

There is a difference between the judicial decisions becoming the law itself and judicial precedent. Two of these though, cannot be separated as the establishment of the fact that judicial decisions are in fact responsible for making laws for the future, an adjudication on a point of law becomes precedent for a case to be discussed in the future. "Consequently, the term 'precedent theory' often denotes the provision that, in relation to the processes on which the provision has application, judicial decisions have the force of law."

Importance of the judicial decisions was given acknowledgement in very ancient times. Mahabharata states, that direction is the correct one followed by good people which is suitably applicable to the doctrine of precedents in the judiciary. Also in the old lawful systems, such as those of Babylonia and China, judicial precedents have been given considerable significance.

Common law is essentially a rule made by a judge, created mainly through judicial decisions. Laws such as torture formed the Constitution of England through judicial decisions, containing citizens' freedoms mainly through legal precedents.

Under English law gives immense importance to the judicial precedents because of this history. The authority and value given by the British legal system to the precedents is like no other. "The administration of the legal structure, the judges' power and authority, lawful thought and publication of the law reports all led to the growth in English law of the preceding doctrine."

Precedents In India

Even though the ancient Indian Scriptures consist of sayings such as which direction is the correct one followed by upright people, to suggest that the doctrine of tradition in India has always existed on the basis of such scriptures would be an over-report.

It cannot be said that that the practice of relying upon the previously decided cases always existed as there is no concrete evidence of the same. The agrarian society, because of the meagre number of disputes, did not seek help of the courts that often. The courts made their decisions orally. Both decided the proceedings fall under their different jurisdictions. "Although the definition and title of the suits and a very thorough protocol occur in ancient records, there is no documentation of the trials; it is not well known how it functioned in action. There were no copying devices and so no monitoring mechanism was possible so there was little possibility of establishing a precedent law."

No evidence of the existence of the rule of precedents or the practice of it has been found in the medieval period. In the era of the Mohammedan rule, courts had been established and Qazis had been appointed to administer justice, panchayats were the bodies deciding on most of the cases. A proper system of judicial process was thus lacking, and therefore no precedent law established in India. The

precedent theory thus arrived in India only after the beginning of British rule and from that time on a growth can be seen to have happened slowly and steadily.

Justice was initially enforced in British India by people's personal rules, and only the pandits and Maulvis took aid. It was the Regulatory Act that established a Supreme Court in the town of Calcutta that also gave way to the creation of other Supreme Courts in the country. The high courts and the supreme courts worked independently of one another and had no relation between them. We ruled on the basis of two separate sets of rules, and then, as other branches of the same rules were created, all the courts started to follow the same set of laws.

This led to the formulation of a proper hierarchy of courts. Each of the courts was now bound by the decisions of the higher court which ensured that there was a proper uniformity in the decisions of the courts. "Thus the precedent doctrine took its birth in India, in the modern sense of the word. At this time even Indian case coverage began. Several findings came into being with the beginning of the present century."

The establishment of the Federal Court in India is due to the Government of India, in 1935. This Act specifically allowed for the decision of the Superior Court to be binding on the lesser courts. Section 212 of the Act provided for the following:

"The legislation declared by the Federal Court and by any resolution of the Privy Council shall, to the extent necessary, be recognized as binding and adhered to by all courts in British India and, to the extent that it involves the application and understanding of the Act or any order in its council or any matter on which the Federal Legislature has the authority to legislate in support of the Statute."

When India gained liberty from the British, the Privy Council was no longer the Court of Appeal and the Federal Court abolished. India's constitution created the Supreme Court, which is the court of final appeal. The Constitution, in the same way, established the High Courts for the states. For criminal cases, first-instance courts are the legal magistrate courts, while in civil cases, first-instance court is the munsif's jurisdiction. There are also tax courts in some of the states that issue decisions on tax lawsuits.

Constitution And Precedent

"With independence and the implementation of the Indian Constitution, a shift has occurred in a substantial new legal environment and a whole range of new viewpoints provided by the constitutional framework, resulting in a fundamental reorientation at the Supreme Court level on the Court's continued duty to uphold the previous common law doctrine."

The Indian Constitution of 1950 established the Supreme Court which is the highest court of the Indian State. It has very wide competence to appeal and the same jurisdiction to publish, review and initial in some cases. The judgments of the Apex Courts and the guidelines formed by the decision-taking of the Supreme Court are binding on all the courts when rendering the judgment on the subject issue. The lower courts can not make a deviating opinion from what was laid out by the Apex Court.

The word "law proclaimed" implies not merely a ruling's "ratio decidendi," on the other hand also an obiter dictum given that it is raised and argued on a question, although it does not imply that any assertion found in a judgment of the Apex Court has a mandatory result.

"Judicial land, integrity and decorum require that even the obiter dictum of the Supreme Court should be recognized as binding as presence uppermost jurisdictional court in the world. Court's declaration of law, even if it is just by stating that it must be upheld. However all this does not mean that "Article 141" will apply to any argument found in that Court's judgment"

In *Gurcharan Singh v. State of Punjab*, most Apex Courts verdicts stand as evidence as this Court stated, and *Prakash Chandra Pathak v. State of Uttar Pradesh*, because, in fact, no binary cases could be identical, rulings, simply referred to factual issues, could not be seen as precedents for other cases to be decided.

"This should be recalled that every action in a situation needs to be considered in the context of the disagreement. Logical retentions from the ratio or obiter dictum are not part or parcel of the dicta." "Likewise, every general declaration shall not be valid for the understanding of the provisions of the Act until the provisions of that Act have been enacted and reviewed by the Apex Court."

Apex Law court from time and again opined that a particular decision given by it must only be relied on by the lower courts only when the facts of the two cases and the subject matter are very similar.

"It should be recalled that, when we consider monitoring a higher judicial authority such as this Court, the greatest possible care must be exercised in applying the observations of a judge to the particular issues before it and in limiting those observations; in the general sense of the matter before it, although articulated in broad terms, unless it is clear that it intended to be wider in nature"

Once it comes to the Supreme Court ruling itself, the court rulings will either be definitive or convincing. An authoritative precedent is one which judges will obey whether they agree with it or not. A compelling standard is one to which the judges are not obliged to conform, nor which they will take into account and on which they attach as much weight as they find appropriate. "For its control it depends on its own credibility, not on any moral reasoning it may embrace. In other terms, legal sources are conclusive precedents, whereas plausible precedents are pure historical precedents. Observations of a judgment cannot be interpreted as voicing a view"

The two judgments were made by the Supreme Court and both are somewhat inconsistent in nature, the judgment of the wider bench being binding on the High Court. "Legal effect of the decision does not depend on whether or not it has approved a specific case, as the issue on which a question was eventually presented was originally determined."

Article 141 of the Constitution of India stipulates that 'the law declared by the Supreme Court shall be binding on all courts in the jurisdiction of India.' Article 141 of the Constitution makes use of the words 'all courts' and pose the question whether this implies that the Apex Court is indeed bound by the decisions. This brings us to the decision given in 1954 regarding this. In *Dwarkadas v. Sholapur Spinning*

and *Weaving Co.*" Where it was held that 'Acceptance, the Apex Court is not constrained by its own decisions and can reverse a previous judgment, especially on constitutional issues, the Court will definitely be hesitant to do so because such an earlier decision seems to be obviously incorrect.'

It was more apparent in the case of *"Bengal Immunity Co. v. State of Bihar"* Where a previous judgment had been overruled and it was stated that, "There is nothing in the Indian Constitution which prevents the Supreme Court from departing from its previous judgment if it is persuaded of its error and its disgraceful impact on the public interest."

Similarly, in case of *"Sajjan Singh v. State of Rajasthan"* "It is correct that the Constitution does not limit our powers to change or even depart from our previous decisions, so there can be no doubt that in matters pertaining to constitutional decisions which have a major influence on people's fundamental rights, we must be prepared to amend our previous decisions in the interests of the public good.

Conclusion

Precedents play a huge role in bringing uniformity in the system of decision making. It ensures that a lower court does not go against what has been laid down by a superior court and the hierarchy is maintained.

The Indian judicial system is overburdened by the number of cases and adjudicating on every subject matter of every case may end up taking a lot of precious time of the courts. Referring to the decision given by the higher court, when the subject matter is similar in both the cases, helps the court in saving its time as then the courts don't have to get into the technicalities of the law. Though the courts are very much required to take care of the two cases being of similar subject matter.

Hence precedents are highly helpful and vital both in creating a consistent authority structure and in saving court time. Nonetheless, if the judges are persuaded that there were flaws in the previous ruling, the Supreme Court is not obliged to uphold the theory set out in its preceding judgment.

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