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Judicial Precedents in India: Balancing Legal Certainty with Social Change

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ABSTRACT

Precedent sits at the heart of Indian adjudication, supplying the consistency, predictability and certainty that a justice system needs. Under Article 141 of the Constitution, whatever law the Supreme Court declares is binding upon every court in the country. Yet this binding force produces a lasting strain between continuity and reform. Uniform decision-making strengthens the rule of law, but rigid loyalty to past rulings can keep alive readings that no longer fit constitutional values, social conditions or later legislation. To manage that strain, the Supreme Court has relied on distinguishing, overruling, referral for reconsideration and purposive constitutional interpretation. This paper traces the constitutional basis and justification of precedent in India, examines the dangers of inflexibility, and assesses how the Court has weighed stare decisis *against constitutional growth. Its argument is that precedent is neither untouchable nor disposable at the whim of changing judicial taste; departures should rest on principled criteria, constitutional values, institutional legitimacy and real shifts in law or society.*

Keywords: *Judicial precedents, stare decisis, Article 141*

I. INTRODUCTION AND THESIS

Few doctrines shape Indian law as deeply as judicial precedent. A court seldom approaches a dispute as though no one had ruled before; instead, the principles laid down by higher courts guide, and often compel, the outcome of later cases. The practice helps ensure that people in like situations are treated alike.

Precedent nonetheless carries a built-in conflict. Law needs to be steady, but it must also keep pace with evolving constitutional ideas and social circumstances. A rule that suited one era can become troublesome once society, constitutional thinking or legislative policy has moved on. The real question, then, is not whether courts should follow precedent, but at what point and by what standards an existing rule deserves a fresh look.

This paper contends that precedent in India ought to operate as a source of stability, not as a doctrine of permanent fixity. Stability underpins the rule of law, yet legitimate constitutional

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adjudication will sometimes demand that settled doctrine be revisited. The right balance permits principled development of the law while keeping overruling rare, fully reasoned and subject to institutional discipline.

II. The Indian framework of precedent

A. Constitutional foundations

The principal constitutional anchor for precedent is Article 141, which makes the law declared by the Supreme Court binding on all courts within the territory of India.[1]

This provision does two things. It confirms the hierarchy of Indian courts, and it encourages a single, uniform understanding and application of the law.

Other parts of the constitutional design support the same idea. Article 136 gives the Supreme Court a wide appellate jurisdiction by special leave, and Article 142 lets it make whatever orders are needed to do complete justice. Under Article 145(3), any case raising a substantial question of constitutional interpretation must be heard by at least five judges.[2]

The Constitution thus accepts that weighty constitutional questions call for larger benches and that the Supreme Court holds a distinctive place at the top of the judicial structure.

Article 141 does not, however, turn every remark in a Supreme Court judgment into binding law. A line must be drawn between the *ratio decidendi*, the legal principle necessary to resolve the case, and *obiter dicta*, which are observations made in passing and not essential to the result. As a rule, only the *ratio* carries precedential weight.

B. Binding authority and hierarchy

Indian courts are arranged in a hierarchy. Supreme Court rulings bind all lower courts and tribunals. High Courts must follow the Supreme Court, while exercising general supervisory authority over the subordinate courts in their own territories.

The Supreme Court itself is ordinarily bound by decisions of benches of greater or equal strength. A smaller bench may not simply set aside a larger bench's ruling; if it doubts the correctness of that ruling, the accepted course is to refer the question to a larger bench. This practice safeguards judicial discipline and prevents rival interpretations from taking root.

In *Central Board of Dawoodi Bohra Community v. State of Maharashtra*, the Court set out the principles on bench strength and judicial discipline.[3] A bench of lesser strength cannot overrule

[1] India Const. art. 141.
[2] *Id.* arts. 136, 142, 145(3).
[3] *Central Board of Dawoodi Bohra Community v. State of Maharashtra*, (2005) 2 SCC 673, ¶ 12.

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a larger bench, and a coordinate bench will normally not depart from an earlier ruling without following the proper institutional route.

Precedent therefore works as an ordered system and not as a scattering of individual judicial views.

III. The doctrine of *stare decisis*

Stare decisis, loosely translated, means adhering to what has already been settled. Its basic aim is to keep the law continuous and foreseeable.

In *Union of India v. Raghubir Singh* (1989), the Supreme Court underlined how precedent secures consistency and certainty in the administration of justice, while also acknowledging that decisions cannot stay frozen once circumstances have changed in a fundamental way.[4]

The doctrine rests on both institutional and practical grounds. People order their lives on the footing that established legal principles will not shift capriciously, and businesses, governments and individuals all plan around existing judicial interpretations.

Even so, *stare decisis* does not demand unthinking obedience. The Court has more than once accepted that a mistaken reading of the Constitution need not endure merely because it has stood for many years.

IV. Why precedent matters

Precedent serves several distinct ends.

Certainty. Because earlier rulings signal how courts are likely to act, individuals and institutions can anticipate the legal results of what they do. Without such consistency, comparable cases might end very differently.

Equality. Consistent reasoning gives practical content to the guarantee of equality in Article 14.[5] If similar cases were judged by wholly different standards, arbitrary distinctions would creep in.

Efficiency. Courts need not reopen basic legal questions in each new case. Settled principles free judges to concentrate on the points genuinely in dispute.

Legitimacy. A court earns public trust partly through reasoned consistency. A judiciary whose interpretations swing simply because the membership of a bench has altered invites a loss of confidence.

[4] *Union of India v. Raghubir Singh*, (1989) 2 SCC 754, [1989] 3 SCR 316, 324–25.
[5] India Const. art. 14.

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These benefits, however, have to be set against a competing requirement: the law must be able to respond to constitutional and social transformation.

V. Stability versus stagnation

A. Shifting constitutional values

The Constitution is not a relic; it is a living framework. The Supreme Court has read the fundamental rights, above all Articles 14, 19 and 21, in an expanding and progressive manner.[6]

The history of Article 21 shows this clearly. In *A.K. Gopalan v. State of Madras* (1950), the Court took a comparatively restrictive view of fundamental rights.[7] Nearly three decades later, *Maneka Gandhi v. Union of India* (1978) adopted a wider conception of personal liberty, holding that any procedure that affects liberty must be fair, just and reasonable.[8]

The movement from *Gopalan* to *Maneka Gandhi* shows that constitutional precedent can change once earlier readings stop capturing the constitutional scheme.

B. The danger of outdated reasoning

A serious risk of over-attachment to precedent is that obsolete reasoning gets preserved.

The most telling illustration is *Justice K.S. Puttaswamy (Retd.) v. Union of India* (2017), in which a nine-judge Constitution Bench held privacy to be a fundamental right.[9] In doing so, it expressly overruled earlier decisions, in whole or in part, that had refused to recognise a constitutional right to privacy; the case is examined more fully in the case study below.

The lesson is that precedent must not stand in the way of constitutional rights. When an earlier interpretation clashes fundamentally with constitutional guarantees, it may have to be revisited.

C. Principled distinguishing

Overruling is not the only tool through which courts shape the law. A court may also distinguish a prior case where the facts or legal setting differ in a material way.

Distinguishing is especially useful because it permits development without immediately demolishing an existing rule, offering flexibility while retaining continuity.

The distinction, though, must be real. Contrived differences invented only to sidestep an unwelcome precedent can damage certainty as much as arbitrary overruling.

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[6] *Id.* arts. 14, 19, 21.
[7] *A.K. Gopalan v. State of Madras*, AIR 1950 SC 27.
[8] *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248, ¶ 48.
[9] *Justice K.S. Puttaswamy (Retd.) v. Union of India*, (2017) 10 SCC 1 (order of the Court).

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VI. Judicial evolution in India

A. Overruling and reconsideration

The Supreme Court has accepted that earlier rulings may be revisited where compelling reasons exist.

Kesavananda Bharati v. State of Kerala (1973), in which a bench of thirteen judges overruled *I.C. Golak Nath v. State of Punjab* (1967)[10] on Parliament's power to amend the fundamental rights, is a landmark instance.[11] There the Court articulated the basic structure doctrine: Parliament has broad power to amend the Constitution under Article 368, but cannot use it to destroy the Constitution's basic structure.

The ruling marked a major constitutional advance, showing that judicial interpretation can safeguard the Constitution's essential identity while still leaving room for democratic amendment.

A further example is *Minerva Mills Ltd. v. Union of India* (1980), which strengthened the limits on the amending power and stressed the need for harmony between the Fundamental Rights and the Directive Principles.[12]

Together these cases show that constitutional precedent is dynamic and can develop through principled interpretation.

B. Constitutional transformation

Indian constitutional law has changed considerably in its treatment of equality, liberty, privacy and dignity.

In *Navtej Singh Johar v. Union of India* (2018), the Supreme Court revisited the validity of Section 377 of the Indian Penal Code and held it unconstitutional to the extent that it criminalised consensual sexual conduct between adults of the same sex, moving the law toward dignity, autonomy, equality and personal liberty.[13]

Likewise, in *Joseph Shine v. Union of India* (2018), the Court struck down the criminal offence of adultery, finding it incompatible with constitutional commitments to equality, dignity and individual autonomy.[14]

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[10] *I.C. Golak Nath v. State of Punjab*, AIR 1967 SC 1643.
[11] *Kesavananda Bharati v. State of Kerala*, (1973) 4 SCC 225.
[12] *Minerva Mills Ltd. v. Union of India*, (1980) 3 SCC 625, ¶ 56.
[13] *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1.
[14] *Joseph Shine v. Union of India*, (2019) 3 SCC 39.

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Such decisions show constitutional adjudication responding to changing ideas about individual rights and social equality.

VII. Case study: *Puttaswamy*

Few cases capture the interplay of precedent and constitutional change as well as *K.S. Puttaswamy v. Union of India* (2017). Earlier rulings, notably *M.P. Sharma v. Satish Chandra* and *Kharak Singh v. State of Uttar Pradesh*, decided by benches of eight and six judges respectively, had been read as restricting constitutional recognition of privacy.[15] The nine-judge bench in *Puttaswamy* examined afresh the constitutional basis of privacy.

It overruled *M.P. Sharma*, which had held that the right to privacy is not protected by the Constitution, and overruled *Kharak Singh* to the extent that it so held.[16] It concluded that privacy is inherent in life, liberty, dignity and the freedoms the Constitution secures. For the theory of precedent, the more significant point is that the Court showed an earlier approach can be discarded when it does not accord with the Constitution's underlying philosophy.

Puttaswamy thus confirms that a precedent draws its authority from the strength of its reasoning, not from its age alone.

Equally, constitutional transformation cannot become a licence for judges to displace settled law whenever they happen to prefer another reading. Change must remain tied to constitutional text, structure, precedent, reason and institutional principle.

VIII. Limits and principles for reform

A. Judicial power and restraint

Judicial power has constitutional limits. Courts are charged with interpreting the Constitution, but they are not elected legislatures.

Restraint therefore remains vital. Courts should hesitate to construct entirely new policy regimes where the Constitution or statute gives little direction, especially in complex economic or social fields.

Restraint, though, must not become a reason to withhold enforcement of constitutional rights. Where government action breaches constitutional limits, the judiciary is obliged to step in. The sound course is principled activism combined with institutional self-restraint.

[15] *M.P. Sharma v. Satish Chandra*, AIR 1954 SC 300; *Kharak Singh v. State of Uttar Pradesh*, AIR 1963 SC 1295.
[16] *Puttaswamy*, *supra* note 9 (order of the Court).

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B. Separation of powers

Separation of powers expects courts, legislatures and the executive to stay within their respective constitutional roles.

When revisiting precedent, courts should keep apart the task of interpreting existing law from that of fashioning new legal policy; the judiciary's legitimacy depends on that separation.

Where a statute infringes fundamental rights, striking it down is an act of constitutional review, not an intrusion on legislative territory. By contrast, courts should be wary of substituting their own preferences for legislative policy choices.

C. Standards for reconsideration

A clear framework would make the reconsideration of precedent more consistent. A precedent should ordinarily be revisited only when one or more of the following conditions is present:

1. Constitutional inconsistency: the precedent is at odds with the constitutional text, structure or fundamental rights.
2. Manifest error: the earlier ruling contains a grave and demonstrable error of law.
3. Changed legal circumstances: legislation or constitutional amendment has altered the legal landscape.
4. Changed social conditions: major social developments make continued application of the rule unjust or irrational.
5. Conflicting precedents: inconsistent rulings have generated uncertainty.
6. Serious practical consequences: the precedent produces real injustice or results contrary to constitutional principles.

Reconsideration is best undertaken by a larger bench, with an explicit account of why the earlier rule can no longer stand.

Where overruling might upset legitimate reliance, courts may turn to prospective overruling, which confines the retrospective impact of a new rule in suitable cases. The device was employed prominently in *I.C. Golak Nath v. State of Punjab*.[17]

IX. Conclusion and Implications

Precedent is indispensable to Indian law because it delivers certainty, consistency, equality and institutional legitimacy. Without it, adjudication would turn unpredictable and hinge on the personal inclinations of individual judges.

[17] *Golak Nath*, *supra* note 10.

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Absolute adherence, however, would be just as problematic. A constitutional democracy needs law that answers to shifting social values, legislative change and deepening understandings of rights. Indian constitutional history shows that many of the most important gains in fundamental rights came from revisiting earlier judicial approaches.

The Supreme Court has accordingly built a flexible model in which precedent commands respect without being immune from review. *Stare decisis* should establish a presumption of continuity, not a bar on change.

Stability and change are best seen as complementary aims rather than opposites. Stability grounds the rule of law, while principled change keeps the law aligned with constitutional morality and social justice.

Going forward, judicial practice should stress clear standards for overruling, respect for bench hierarchy, careful weighing of reliance interests, and a firm line between constitutional interpretation and judicial legislation. Courts should explain not just what the new rule is but why the old one has become legally or constitutionally untenable.

In the end, the worth of precedent lies not in permanence but in its ability to maintain legal continuity while allowing constitutional principles to evolve. The Indian experience shows that precedent keeps its legitimacy only by striking this balance: the law must be stable enough to give certainty and flexible enough to stay just.

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