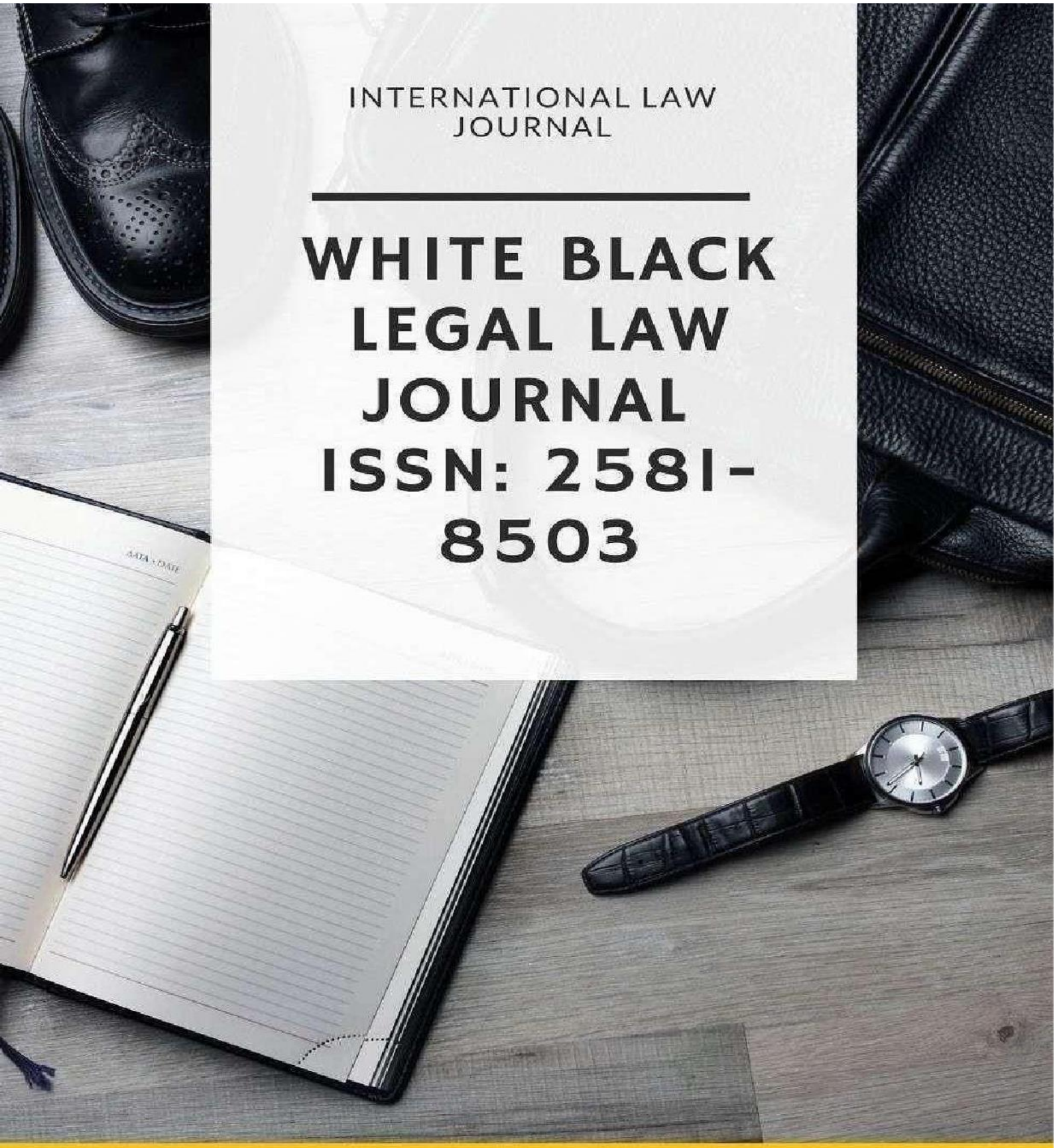


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DOCTRINE OF STARE DECISIS

AUTHORED BY - SNEHA SARKAR

LIST OF ABBREVIATIONS

ABBREVIATION	FULL FORM
AIR	ALL INDIA REPORTER
A.P.	Andhra Pradesh
Art.	Article
Arts.	Articles
Co.	Company
HC	High Court
INSC	Indian Supreme Court (Neutral Citation)
Ltd.	Limited
Ors.	Others
SCC	Supreme Court Cases
SCR	Supreme Court Reports
SC	Supreme Court
U.P.	Uttar Pradesh
v.	Versus
Vol.	Volume
No.	Number
Ed.	Edition
P.	Page
pp	Pages

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Para.	**Paragraph**
Const.	**Constitution**
CrPC	**Code of Criminal Procedure**
CPC	**Code of Civil Procedure**
IPC	**Indian Penal Code**
Ratio Decidendi	**The Legal principle forming the basis of a judicial decision**
Obiter Dictum Observations	**Observations made by a court that are not essential to its decision**

LIST OF CASES

FULL CASE NAME	CITATION
Bengal Immunity Co. Ltd. v. State of Bihar	AIR 1955 SC 661
Central Board of Dawoodi Bohra Community v. State of Maharashtra	(2005) 2 SCC 673
Director of Settlements, A.P. v. M.R. Apparao	(2002) 4 SCC 638
State of Bombay v. United Motors (India) Ltd.	AIR 1953 SC 252
State of U.P. v. Synthetics and Chemicals Ltd.	(1991) 4 SCC 139
Union of India v. Raghuvir Singh	(1989) 2 SCC 754

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ABSTRACT

The doctrine of stare decisis is an important principle followed by the Indian Judiciary. It leads to certainty, consistency and stability. It is based on the principle that the courts must decide cases according to past judicial decisions. However, it does enable development of law. This research paper looks into the meaning behind the doctrine, its basis in the Constitution and how it works in practice with a focus on Article 141 of the Constitution of India that states that the Supreme Court has created a binding law for all courts in India.

One can get to know that how judicial precedents provide discipline, consistency and equality in front of law. This research paper will make people to again look at their previous knowledge and thoughts, departed from and overturned with reference to relevant cases decided by the Supreme Court. It also gets to how stability can be provided without prevention of development of law.

This research paper shows that following precedent is an important part in providing public confidence and rule of law, there should be some flexibility. The ability of one to go to the back at previous decisions makes the courts to correct mistakes and apply legal principles to present situations. Now in conclusion, that having a balance in between the two terms which are consistency and flexibility is necessary to make sure that justice is administered effectively and the development of law in India.

Keywords: Stare Decisis, Judicial Precedent, Article 141, Supreme Court of India, Judicial Discipline, Legal Certainty, Overruling, Administration of Just

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CHAPTER 1: INTRODUCTION

1.1 STARE DECISIS

Stare Decisis is one of the important principles of Judiciary that means if there was a previous judicial decision then it will be followed.

This principle can be translated from Stare decisis et non quieta movere to mean stand by decided matters and do not disturb the settled points. The doctrine helps to create certainty, consistency and predictability. India has a hierarchy of courts such as Supreme Court, High Courts and Subordinate Courts. The Constitution of India (Article 141) has provided that the 'law declared by the supreme court shall be binding on all courts within the territory of India.[1]' In this doctrine it is shown that it creates consistency in the judiciary system, a fair approach to the law and decisions which are consistent.[2] However, it is not a permanent and a strict rule and the courts can double think the previous decisions. This research will be on definition of the doctrine, the constitutional basis of it, how it works, its importance and limitations. It will also analyse that balance of the two, which is stability and development.[3]

1.2 RELIABILITY

Reliability that are essential to the practice of. Stare decisis is a doctrine that fosters the very first consistency and reliability which are fundamental to the practice of law.

Risk of Rigidity: If people are too attached to the previous decisions it can be possible that they are taken to the wrong or old interpretations and prevent the person from taking the right decision.

Taking risks: Intentional variations from past precedent could cause confusion, the interpretations which are of legal principles.[4]

Central Problem: The research analyses that how Indian courts balance the urge to maintain stability and judicial discipline to correct errors and develop the law.

1.3 LITERATURE REVIEW

Stare decisis has been known as a crucial principle making sure the consistency in judicial decision making. It is recognised in judicial decisions and literature that the precedent provides for consistency and allows the development of legal principles through judicial processes. By flawless judicial proceedings, principles are upheld. Binding Nature of Judicial Precedent in Constitution

[1] Rupert Cross & J.W. Harris, Precedent in English Law (4th ed. 1991).
[2] P.J. Fitzgerald ed., Salmond on Jurisprudence (12th ed. 1966).
[3] 3. Neil Duxbury, The Nature and Authority of Precedent (2008).
[4] INDIA CONST. art. 141.

Article 141 of Constitution of India provides that every decision Supreme Court makes must bind on all the courts within the territory of India. This article provides the constitutional basis for the binding effect of Supreme Court decisions. This ensures that principles will be applied consistently.

In (Director of Settlements, A.P. v. M.R. Apparao), (2002) 4 SCC 638, the Supreme Court explained the importance of the decisions declared under Article 141. This decision is relevant when understanding that the binding nature of the decision comes from the principle expressed by the Court and not only just the result of the case.

Certainty and Consistency

In Union of India v. Raghubir Singh [1989] 2 SCC 754, the Supreme Court stated that the doctrine of precedents provides certainty and consistency. Whilst recognising that for the coherent development of the law it is important to have clear legal principles to follow, the court also recognised that, in suitable circumstances, the Supreme Court can depart from previous decisions. [5]

This shows that precedent is an important tool and can provide certainty to individuals and increase public confidence in the legal system. It allows individuals to know what their legal rights and duties are.[6]

Judicial Hierarchy

In Central Board of Dawoodi Bohra Community v. State of Maharashtra [2005] 2 SCC 673 it was decided that when a higher bench has given a decision, any lower or equal benches will be bound by this decision. If a lower bench has doubts about whether the earlier decision is correct, they cannot ignore the previous decision but the matter should usually be referred to a higher bench.

This creates a level of discipline within the judiciary. This also shows that the binding nature of precedent relies on the rules surrounding the judicial hierarchy.

Reconsideration and Overruling of previous decisions

On an occasion in Bengal Immunity Co. Ltd. v. State of Bihar, AIR 1955 SC 661, the Supreme Court had reconsidered its judgment in the case of State of Bombay v. United Motors (India) Ltd. This shows that how the Supreme Court always does not have to follow its earlier judgments and can reconsider their decisions if they have good enough legal place to do so.

This shows the importance of piercing a balance between the following previous precedents

[5] Union of India v. Raghubir Singh, (1989) 2 SCC 754.
[6] 6. Charles W. Collier, Precedent and Legal Authority: A Critical History, 1988 Wis. L. Rev. 771 (1988).

and recorrecting any misinterpretation of law. However, this must be handled with care as if they are respectively changing their own decisions, it may cause uncertainty.

Binding Principles

One very important concept to understand the difference between ratio decidendi and obiter dicta. Ratio decidendi is the principle of law needed to decide on the result of the case, while obiter dicta is the observations made by the court which are not essential to the case. This allows the courts to gain the knowledge of which principles should be followed.

In the case of Director of Settlements, A.P. v. M.R. Apparao,[7] (2002) 4 SCC 638, the Supreme Court discussed the meaning and binding nature of the law laid down in article 141. [8]This therefore shows how important it is to look at the reasoning and principle behind the judgment.[9]

1.4 RESEARCH GAP

While a number of judicial decisions have established the importance of the doctrine of stare decisis in providing consistency and certainty, there still needs to be an understanding of how the Indian judiciary balances the need to follow precedent and rectifying mistakes. This research will explore the constitutional provisions, judicial decisions and any exceptions to the doctrine to gain an understanding of how the Indian judiciary balances these two factors.

1.5 RESEARCH QUESTIONS

The research seeks to answer the following five questions:

1.What is the doctrine of stare decisis, and how does it operate within the Indian judicial system?

2.What is the constitutional and legal basis of judicial precedent in India, particularly under Article 141 of the Constitution?

3.How does stare decisis promote certainty, consistency, judicial discipline and equality in the administration of justice?

4.Under what circumstances may an existing judicial precedent be reconsidered, departed from or overruled by Indian courts?

5.How does the Indian judicial system balance the stability and certainty of precedent with the need to correct errors and facilitate the development of law?

1.6 RESEARCH METHODOLOGY

This research is doctrinal based. It deals with the study and analysis of legal materials. This

[7] Director of Settlements, A.P. v. M.R. Apparao, (2002) 4 SCC 638.
[8] Arthur L. Goodhart, Determining the Ratio Decidendi of a Case, 40 Yale L.J. 161 (1930).
[9] E.W. Wambaugh, The Study of Cases (2d ed. 1894).

research is qualitative and involves understanding the concept of stare decisis, the constitutional basis, application by Indian Courts and importance of the doctrine.[10]

This research has made use of primary and secondary sources of law. The primary sources include the Constitution of India, statutes and case laws decided by the Supreme Court of India. Particular attention has been given to Article 141 which provides that the law declared by the Supreme Court shall be binding. Cases such as Union of India v. Raghubir Singh and Central Board of Dawoodi Bohra Community v. State of Maharashtra have been studied to understand the principles of binding precedents, discipline and reversal.[11]

The secondary sources include books, commentaries, research papers, journals etc. These have helped understand the theoretical basis behind stare decisis.[12]

The research is analytical. Relevant cases have been studied along with the principles set in place. The research also includes the understanding between ratio decidendi and obiter dicta, binding nature of precedents and exceptions to binding precedents. Certain situations where reversal of previous decisions can happen have been analysed.[13]

This research is restricted to the Indian Judicial system. There has been no use of empirical methods such as surveys or interviews. The main aim of this research is to determine how the doctrine of stare decisis is used to keep the law stable and consistent whilst allowing the law to develop when there is a need to reverse a previous precedent.[14]

1.7 LIMITATIONS OF RESEARCH

1.The research is limited to the Indian legal system.

2.Other sources of law will be looked at but only if they are relevant.

3.It is a doctrinal study so it has relied on legal texts, constitutional provisions and cases. No surveys or interviews have been conducted.

4.Only select cases that were relevant have been looked at.

5.There has been subsequent cases that could alter how we view current laws.

6.Only limited analysis of the constitution has been done as it has focused on article 141 and associated principles.

7.Time and resources have been limited so not many sources could be looked into.

[10] Ian McLeod, Legal Method (7th ed. 2009).
[11] Andrew Green & Albert H. Yoon, Triaging the Law: Developing the Common Law on the Supreme Court of India, 14 J. Empirical Legal Stud. 683 (2017).
[12] H.W.R. Wade & C.F. Forsyth, Administrative Law (11th ed. 2014).
[13] M.P. Jain, Indian Constitutional Law (7th ed. 2014).
[14] H.L.A. Hart, The Concept of Law (2d ed. 1994).

CHAPTER 2: INTRODUCTION TO THE DOCTRINE OF STARE DECISIS AND ITS OPERATION WITHIN THE INDIAN JUDICIAL SYSTEM

THE DEFINATION, BACKGROUND AND CONCEPT OF STARE DECISIS

One principle that is essential to judicial decision making is stare decisis, or standing by a decision. This refers that the courts must follow these set principles and rule. However, they may vary them if there is a very good reason to do so. The principle of stare decisis is found within many modern legal systems as part of common law. One can see from where stare decisis is originated that is in the common law courts of England, but it has become part of the law of India, as well as other nations. And how did it generate? It has been created by years of continuous similar judgements on similar cases. This is how now the Indian judicial system works.

In these legal systems (for instance the common law) law can be made by the courts. If a court makes a decision on an issue, they may create a principle of law which will help to decide future cases. The principle of stare decisis is that of judicial precedent. Judicial precedent is when a court has actually made a decision in the past. People, companies etc in a legal system based on this doctrine can have faith in the law having established principles. Having certainty within the law also reduces the cost of litigation which could result in less cases being heard by courts. If people and businesses were not certain of the laws, they would not be able to abide by them.[15]

Within the law certainty is very much related to predictability. As defined above it also means that there is a principle of law that won't change between different courts or over time. An analogy from other fields, especially the economics and other social sciences will help further the understanding of the doctrine of stare decisis. In almost any society, uncertainty or lack of predictability is an anathema to almost any endeavour, let alone business. One might think of a market economy, for instance. If the people were not able to make economic predictions a market would be paralysed by the laws, the system, and the regulations, doomed to change if their will thus, without regard for stare decisis. There would be no economy, or any stable society.[16]

2.1 CONSTITUTIONAL AND LEGAL FRAMEWORK IN INDIA

[15] Neil MacCormick & Robert S. Summers eds., Interpreting Precedents: A Comparative Study (1997).
[16] Frederick Schauer, Precedent, 39 Stan. L. Rev. 571 (1987).

In India, the concept of stare decisis works under a system of rule of law.[17] Although, the concept originated in the common law system, the structure of the judiciary in India has an inextricable link with it.

Decisions given by the Supreme Court which set out a legal principle are binding on all courts in India since they have been declared under Article 141. High Courts must follow the law as declared by the Supreme Court. Subordinate courts must follow binding decisions from the Supreme Court and the appropriate High Court. This ensures that lower courts do not interpret the law in a way that does not align with binding decisions from higher courts.

There is also the application of precedent in the High Courts. This is governed by certain rules of law. Generally, decisions made by High Courts will be binding on all lower courts in their geographical jurisdiction, if they are still valid and relevant.

In the case of Central Board of Dawoodi Bohra Community v. State of Maharashtra[18], the Supreme Court outlined the principles that apply to decisions made by Benches of differing strength. This was an important decision as it shows that there is discipline within the Supreme Court itself.

The principle of bench strength also ensures certainty within the institution. Without this principle multiple benches could come up with conflicting answers to similar questions. This would create uncertainty for those involved in litigation and for lower courts. By having established rules that larger benches are to be followed, and issues needing to be reconsidered are referred to the right sized larger bench, Indian Jurisprudence is ensured to remain consistent.[19]

2.2 BINDING AND PERSUASIVE PRECEDENTS

The Indian Judicial system recognises the theory of binding and persuasive precedents. A Binding precedent is one of the principles of law that must be followed due to their decision by a court that has constitutional jurisdiction or hierarchical superiority. The best example of this can be found in article 141 which states that 'the law declared by the supreme court shall be binding on all'[20]. A persuasive precedent is the type of precedent which was made by a court that can be used as a basis for reasoning and law. But in general, they are not likely to be adhered to.

Binding precedents makes sure that there is consistency in contrast to persuasive authority

[17] 17. Joseph Raz, The Authority of Law: Essays on Law and Morality (1979).
[18] Central Board of Dawoodi Bohra Community v. State of Maharashtra, (2005) 2 SCC 673.
[19] 19. A.V. Dicey, Introduction to the Study of the Law of the Constitution (10th ed. 1959).
[20] Bengal Immunity Co. Ltd. v. State of Bihar, AIR 1955 SC 661.

gives permission for alternative. It is essential that reasoning is taken into account. Overall, however, there is a binding precedent even if one is not constitutional that reasoning cannot overcome. There is a proper structure in the doctrine of Stare Decisis in the Constitution and laws of India.

Conclusion

Overall, there is a clear structure in place within the Constitution and laws of India to regulate the doctrine of Stare Decisis. Firstly, Article 141 provides for binding precedent by stating that the law declared by the Supreme Court must be binding. Secondly the precedent set will be applied across the court system due to the hierarchy within the judiciary and the rules placed on the size of the bench. Finally, there is also a clear distinction between binding and persuasive authority. This therefore ensures there is consistency within the courts, certainty within the law, and creates an idea of discipline among the judges whilst allowing the law to progress through formal judicial processes.[21]

2.3 OPERATION OF THE DOCTRINE WITHIN THE INDIAN JUDICIAL SYSTEM

The doctrine of stare decisis will be applicable for the judicial precedent used by judges when deciding cases with similar issues of law. It will be applied based on the hierarchy of the judiciary, its binding nature, ratio decidendi and the way cases will be decided by benches of varying strength.[22] This ensures consistency of legal principles whilst also allowing for certain cases to be distinguished.

Application of Precedent

Depending on the level of the court that decides the precedent, the doctrine will operate differently. As the law declared by the Supreme Court is binding on all courts in India, (Article 141) High Courts and subordinate courts will be bound by any applicable principles decided by the Supreme Court

Ratio Decidendi

This is important as often there will be statements made in the judgement that are not directly related to the issue. This is known as obiter dicta and although they may be persuasive, they do not have binding value. Therefore, the court must carefully apply the precedent. This will ensure that the doctrine is not applied too widely. If there are two cases based upon the same statute but with different material facts and legal issues then the court must consider

[21] State of Bombay v. United Motors (India) Ltd., AIR 1953 SC 252.
[22] Jaisri Sahu v. Rajdewan Dubey, AIR 1962 SC 83.

if the ratio actually applies. This ensures there is consistency but also allows for meaningful differences.

Judicial Discipline & Benches of Varying Strength

Another factor of stare decisis is the judicial discipline. The supreme court hear matters on benched of varying strength so there must be rules in place to decide which decision must be adhered to.

In Central Board of Dawoodi Bohra Community v. State of Maharashtra [2005] 2 SCC 673 the supreme court outlined the rules regarding binding decisions from benches of varying strength. They essentially said that decisions made by the larger bench are binding on any subsequent benches of lesser or equal strength. A smaller bench cannot overturn or ignore decisions made by a larger bench just because they disagree with the reasoning.

If a lower bench has doubts about the correctness of a previous decision made by a larger bench they must apply the correct process to ask for reconsideration. If the decision has been made by a co-equal bench, then the correct process is to ask for a reference to a larger bench. This ensures there is consistency and avoids conflicting legal principles.

This principle was also discussed in Union of India v. Raghubir Singh [1989] 2 SCC 754.[23] The supreme court emphasised how important it is to apply binding precedents to provide consistency. This shows that stare decisis is not a general principle but is supported by judicial discipline rules.

Distinguish Conflicting or Inapplicable Precedents

Stare decisis does not refers that the court must always apply previous decisions. If there are significant differences in the material facts and legal issues then the court can distinguish the precedent. This means that they give reasons why the legal principle does not apply. Distinguishing is different to overturning as the previous decision will still be valid but the principle will not apply.

If there are two conflicting decisions the court must consider the legal principles, dates, bench strength and relationship between the decisions. Usually, the decision of the larger bench will take precedence. If there are two decisions from co-equal benches then the correct rules of judicial discipline must be applied. This includes asking for a reference to a larger bench if required.

However, there is a small exception to this. The principle of per incuriam. This is when a

[23] 24. Shrutanjaya Bhardwaj & Ayush Bahet, Precedent, Stare Decisis and the Larger Bench Rule: Judicial Indiscipline at the Indian Supreme Court, 6 Indian L. Rev. 58 (2022).

decision is made without knowledge of the relevant statute or binding authority. In A.R. Antulay v. R.S. Nayak [1988] 2 SCC 602 the supreme court discussed the implications of a decision being made per incuriam. This principle is applied very carefully as it is an exception to the general rule that decisions should be followed. It is not a general rule that allows the court to ignore previous decisions as they believe the reasoning to be incorrect.[24]

Conclusion

To conclude, the doctrine of stare decisis works within the Indian judicial system, making sure that decisions are followed as they are binding due to the hierarchy of the judiciary. This is because ratio decidendi can be identified and judges are disciplined. [25]This helps provide certainty and predictability allowing the law to be developed in an organised way.[26] The doctrine is therefore an important aspect of the Indian judiciary.

2.4 LIMITATIONS, EXCEPTIONS AND CONCLUSION

Overturning differs from differentiation as it alters the precedent. In India, the Supreme Court can reconsider previous judgments using the correct judicial procedures and rules relating to the strength of Benches. In Central Board of Dawoodi Bohra Community v. State of Maharashtra, [2005] 2 SCC 673 the Supreme Court stated that decisions made by a larger Bench must be followed by any subsequent Benches with less or equal strength. Any smaller Bench cannot overturn or disagree with a larger Bench.[27] When in doubt whether an earlier decision was correct, it is generally advisable to seek a larger Bench with the matter referred. This demonstrates that the reconsideration should adhere to the judicial discipline rules. This is a key principle because the legal principles might have to be modified depending on the constitutional values, new legislation or case law. But it's a delicate topic. When courts continually vacate past rulings without just cause, it can create uncertainty in the law. Per Incuriam Per incuriam means a decision rendered on a wrong basis, being unaware of any statute or precedent.

In some situations, decisions can be identified as being per incuriam and therefore not followed as a normal precedent. However, this is an exception to the general principle of judicial discipline. It should not be used in situations where the court disagree with the reasoning behind the previous judgment. This principle ensures that there is a distinction made between when a court genuinely did not know about a binding law, and

[24] A.R. Antulay v. R.S. Nayak [1988] 2 SCC 602
[25] Municipal Corporation of Delhi v. Gurnam Kaur, (1989) 1 SCC 101.
[26] 28. State of U.P. v. Synthetics & Chemicals Ltd., (1991) 4 SCC 139.
[27] Central Board of Dawoodi Bohra Community v. State of Maharashtra, [2005] 2 SCC 673

when they simply disagree. If the court has considered the relevant authority but came to a different conclusion then it will not be per incuriam. As this is an exception it is important that courts aren't able to simply label some inconvenient precedents as per incuriam without good reason. This principle allows for some errors in judicial decisions to be addressed whilst keeping the general principle of following precedent. It must be applied consistently with the rules surrounding judicial hierarchy.

Maintaining a Balance

An issue with following precedent is keeping a balance between certainty and development. By following precedent, it gives certainty, fairness and stability. Maintaining a Balance An issue with following precedent is keeping a balance between certainty and development. By following precedent it gives certainty, fairness and stability.[28] People and entities will have the ability to make plans based on the likely content of the law. If courts were too strict with applying the previous law, however, this can create issues with rectifying any errors in the law and building constitutional and statutory interpretation skills. So there should be rules that can be considered again in a justifiable manner.[29] This is balanced by differentiation, overturning and exception per incuriam. India try to maintain equality, but do not have to make it an unalterable rule. The strength of Benches and the constitutional power of the Supreme Court will make sure that the law will evolve in a correct manner an organised way.

India aim to keep things consistent but not make decisions completely unchangeable. The rules relating to strength of Benches and the constitutional authority of the Supreme Court ensure that the law will develop in an organised way. Overall, the principle of stare decisis should be seen as a principle of judicial discipline.

The doctrine of stare decisis is an important aspect in the Indian judicial system. It helps to keep things consistent, predictable and with judicial discipline. It is backed up by the constitutional framework, including Article 141 of the Constitution of India, and rules surrounding the authority of decisions. Courts will be able to keep things consistent by following binding precedents.

However, it is not an absolute principle. Courts can differentiate previous decisions if there are significant differences in the facts/legal issues. Decisions can be reconsidered using the correct procedures. The exception of per incuriam will also apply to some decisions which weren't

[28] Benjamin N. Cardozo, The Nature of the Judicial Process (1921).
[29] 30. Lon L. Fuller, The Morality of Law (rev. ed. 1969).

taken into account of the relevant binding law[30].

Overall, the principle of stare decisis in India is a balance between certainty and flexibility. It requires the courts to show respect to previous judicial authority but also allows for justified changes using legal procedures. This means that the Indian judicial system can keep things consistent, increase public confidence in the justice system and adapt to the ever-changing needs of society.

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[30] I.C. Golak Nath v. State of Punjab, AIR 1967 SC 1643.

CHAPTER 3: CONSTITUTIONAL AND LEGAL BASIS OF JUDICIAL PRECEDENT IN INDIA

3.1 CONSTITUTIONAL BASIS

The constitutional basis for judicial precedent in India is linked closely to the principle of constitutional supremacy. Judicial precedent is a key aspect of the law in India and it relates to the common law system. This means that decisions reached can create legal principles which can be used as a guideline or binding on courts in similar cases. The constitutional basis is important because it recognises the authority of the Supreme Court and the binding nature of the law declared.

India has a constitutional system which creates a unified judicial system with the Supreme Court which is the most powerful. Below the Supreme Court there are High Courts and then subordinate courts. This helps to ensure order is kept in the administration of justice. If courts weren't bound by the decisions of higher courts they may have created conflicting interpretations of the law. By using judicial precedence there is discipline shown by the courts and it ensures that the law is reasonably consistently applied.

An important part of the constitutional basis is Article 141 of the Constitution of India. This states that 'the law declared by the Supreme Court shall be binding on all courts within the territory of India.' This therefore means that the law declared by the Supreme Court is recognised by the Constitution as binding. This means that any legal principles set down by the court will have influence on other cases. This article is the core constitutional basis for the doctrine of binding precedent.

Judicial precedent also works within the constitutional basis. The Constitution is the supreme law of the land and any legislation or executive decisions must obey the Constitution. When disputes occur the judiciary will decide on what the Constitution and relevant legislation says. This means that the courts will clarify what the law actually means and will create legal principles to help them apply the law in the future. Therefore, when applying judicial precedent, you must consider how the decision was reached with regards to the Constitution and relevant statutory provisions.

A key point to note is the difference between the legal principle and the factual findings. In Director of Settlements, A.P. v. M.R. Apparao the Supreme Court explained: 'Article 141...provides that the law declared by the Court shall be binding on all courts in India'[31]. The

[31] Director of Settlements, A.P. v. M.R. Apparao, (2002) 4 SCC 638.

Court went onto explain how 'the binding nature of the judgment lies in the legal principle which the judgment sets out to declare. This principle can be discovered by looking at the judgment as a whole'. This shows that although the precedent has constitutional [32]authority not all statements made by the Court will be binding. It will depend on which principle of law the Court has laid down and upon what the issue was.

Equality and fairness is promoted through judicial precedence. Where there are similar cases in substance, the law will be applied in the same way and unfair treatment of people will be reduced. It will also help clarify the situation for everyone involved in the case, including lawyers and government officials. It also provides a boost of confidence to the public, as it ensures that judgments are being made on a legal basis, and not by the judge's beliefs or opinions. But the courts should be careful in applying the laws and should be open to the evolution of the law. Judicial precedent also is constitutionally grounded in the principle of discipline.

In Central Board of Dawoodi Bohra Community v. State of Maharashtra the Supreme Court explained that decisions made by Benches of lower strength are bound by those of higher strength[33]. They explained that 'when a smaller Bench has heard a matter and a larger Bench has decided it, the smaller Bench is bound by the decision of the larger Bench. They cannot overturn the decision of the larger Bench. If it is felt that the matter needs to be reconsidered then this must be done in accordance with the correct process to refer to a larger Bench'. This ensures that there is consistency within the Supreme Court and no conflicting legal positions. [34]The precedent will be used, however, with certain caveats because there is a difference between the ratio decidendi and other statements and there are rules regarding reconsideration of past decisions. Judicial precedent plays an important role in the Indian constitution.

3.2 ARTICLE 141 OF THE CONSTITUTION OF INDIA SCOPE AND INTERPRETATION

Article 141 of the Constitution sets out the main constitutional provision which creates the binding nature of judicial precedent. It states that "the law declared by the Supreme Court shall be binding on all courts within the territory of India".

The Supreme Court gave clarification in Director of Settlements, A.P. v. M.R. Apparao, [2002] 4 SCC 638. It was recognised that whilst the law declared by the Supreme Court is binding on all courts in India, it must be looked at to determine what the binding principle is. Therefore,

[32] INDIA CONST. art. 141.
[33] Central Board of Dawoodi Bohra Community v. State of Maharashtra
[34] Sanjay Singh v. Uttar Pradesh Public Service Commission, (2007) 3 SCC 720.

any court interpreting this article must consider what legal point was being decided, what reasoning was used and what principle was being enforced.

All courts within the territory of India must follow the law declared by the Supreme Court. The High Courts and lower courts have to adhere to the laws if it creates uniformity in respect of interpretation of the laws. But precedent must be of a similar case that has been heard. Difference Between Law Declared and What Happens.

One important to remember is that the judgement law is not the final order. There might be a legal principle stated in the judgement, but the directions in the judgement might be for solving the problem in the case under consideration. Thus, the Supreme Court's decision does not necessarily mean that all of the points in the order are binding.

In Sanjay Singh v. Uttar Pradesh Public Service Commission [2007] 3 SCC 720, the Supreme Court highlighted that the legal principle should be identified from the judgement. This is important as the judgement may have been based on specific facts relating to that case.

This can be seen with the relationship between Article 141 and 142. Under Article 142[35], the Supreme Court has the power to make any order to enable them to do full justice in a cause or matter that is before them. [36]These specific directions must be distinguished from the law declared. Although they can appear in the same judgement, they are very different powers. The law declared will state what principle should be applied, whilst the power in 142 may relate to the specifics of the case.

Judicial Discipline.

Article 141 provides a constitutional basis for judicial discipline.[37] It creates a sense of uniformity between the courts of India by making them follow the law declared by the Supreme Court. This is important as there will be many cases heard by different courts involving the same statutes.

This aids in creating predictability in the law. Individuals, businesses, public bodies and legal Practitioners can look to the legal principles to know what their rights and obligations are. If each court did not follow the relevant decisions of the Supreme Court, then there could be different answers to the same legal issue in different places. Article 141 reduces this and creates equal treatment within the law.

[35] INDIA CONST. art. 142.
[36] Frederick Schauer, Playing by the Rules: A Philosophical Examination of Rule-Based Decision-Making in Law and in Life (1991).
[37] Minerva Mills Ltd. v. Union of India, (1980) 3 SCC 625.

However, this doesn't mean that the courts must follow the precedents. They must determine what legal principle was decided upon and whether it can be applied to their case. If the facts or issues are different than the previous case can be distinguished.

Interpreting and Limitations of Article 141.

When interpreting this article care must be taken to ensure that the correct legal principle is being followed. The ratio decidendi of any judgement will be the binding principle. However, the obiter dicta may be persuasive. Therefore, any court must read the judgement as a whole.

The Supreme Court highlighted in their judgement dated 17 August 2023 that the ratio decidendi is the binding precedent. It cannot just be what the final outcome was or how the specific case was decided. The ratio must be identified from reading through the judgement and considering what facts and legal provisions were involved. [38]This means that the binding nature of precedent comes from the reasoning behind the decision.

Article 141 does not stop the Supreme Court from reviewing their previous decisions. The main point of this article is that the law declared by the Supreme Court is binding on other courts. However, there are rules surrounding the strength of the bench and judicial discipline so they can review their previous interpretations.

Overall, Article 141 provides the main constitutional basis for the binding nature of Supreme Court precedent. [39]The scope of this article is based around the meaning of law declared, identifying the ratio decidendi and distinguishing between general principle and specific directions. It creates judicial discipline by requiring all courts in India to follow the relevant law declared by the Supreme Court.[40] This creates predictability, consistency and can allow for development in the law using recognised processes.

3.3 BINDING EFFECT OF THE LAW PRONOUNCED BY THE SUPREME COURT

Article 141 of the Constitution of India establishes that the law pronounced by the Supreme Court shall be binding on all the courts within the territory of India. This ensures that there is a uniformity in the interpretation of laws and that judicial discipline is adhered to. All High Courts and subordinate courts of India must follow the laid down legal principles of applicable

[38] K. Gopalan v. State of Madras, AIR 1950 SC 27.
[39] Morelle Ltd. v. Wakeling, [1955] 2 Q.B. 379 (CA).
[40] State of Punjab v. Devans Modern Breweries Ltd., (2004) 11 SCC 26.

law laid down by the Supreme Court when making decisions[41].

This will largely depend on what the ratio decidendi was. Ratio decidendi are the legal principles that are essential in deciding the case. Obiter dicta are not necessary for the decision of the case. Therefore, not everything said by the Supreme Court will have binding effect.

The Supreme Court explained in Director of Settlements, A.P. v. M.R. Apparao, (2002) 4 SCC 638 what the binding effect of the law pronounced by the Supreme Court pursuant to article 141[42]. The Supreme Court also explained in Central Board of Dawoodi Bohra Community v. State of Maharashtra, (2005) 2 SCC 673 that the decisions of larger Benches bind those of smaller Benches[43]. This ensures that there is consistency in the decisions.

Despite this, the Supreme Court can still review its previous decisions using the correct judicial process. Article 141 therefore ensures there is a balance between having legal certainty and judicial discipline whilst allowing the law to evolve.

The binding effect of Supreme Court decisions is an essential part of the Indian Judicial system.[44] It therefore ensures there is consistency and predictability and ensures equality before the law.

3.4 JUDICIAL INTERPRETATION, LIMITATIONS AND CONCLUSION

Judicial interpretation is an important factor in interpreting precedents in India. Courts are required to interpret the ratio decidendi within judgments as only the legal principles which are fundamental to the decision of the case are binding under article 141.

However, there are limitations to the doctrine of precedent. If a decision is made in ignorance of a relevant Statute or binding precedent this will be considered to be a per incuriam decision. Additionally, if a point of law is not deliberately considered then it will be an example of sub silentio. These decisions may not be binding. In the case of Municipal Corporation of Delhi v. Gurnam Kaur, [1989] 1 SCC 101 [45]the Supreme Court discussed the importance of these principles.

The Supreme Court may review previous decisions in appropriate circumstances. However, judicial precedent requires that decisions are made according to well established precedent. Where there is some difference of opinion the matter should be referred to a larger Bench. This means that although precedent encourages uniformity it does not prevent the law from

[41] William M. Landes & Richard A. Posner, Legal Precedent: A Theoretical and Empirical Analysis, 19 J.L. & Econ. 249 (1976).
[42] , A.P. v. M.R. Apparao, (2002) 4 SCC 638
[43] in Central Board of Dawoodi Bohra Community v. State of Maharashtra, (2005) 2 SCC 673
[44] Jack Knight & Lee Epstein, The Norm of Stare Decisis, 40 Am. J. Pol. Sci. 1018 (1996).
[45] Municipal Corporation of Delhi v. Gurnam Kaur, [1989] 1 SCC 101

developing.

Conclusion

In conclusion it can be seen that judicial precedent is an important part of the Indian legal system. Under article 141 the law decided by the Supreme Court is given constitutional backing. Judicial interpretation ensures that this is applied correctly. The doctrine provides a balance between certainty, uniformity and judicial precedent whilst encouraging the development of the law.

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CHAPTER 4: ROLE OF STARE DECISIS IN THE ADMINISTRATION OF JUSTICE

4.1 CERTAINTY AND PREDICTABILITY

The doctrine of stare decisis creates certainty in the law. It obliges judges to follow legal principles in similar cases. This will help individuals to know their legal rights and duties and to identify the likely outcome of certain actions.

This also ensures that there is no judicial discretion. This therefore increases public confidence in the judiciary.

"The doctrine of stare decisis is the key to certainty and coherence in the development of the law." This was highlighted by the Supreme Court in Union of India v. Raghubir Singh. [46]They recognised that binding precedents ensure there are no discrepancies and creates judicial restraint. Furthermore, Article 141 of the Constitution of India states that 'the law declared by the supreme court shall be binding on all courts within the territory of India'. This therefore creates certainty within the law.

However, certainty does not mean that the law will not change. The Supreme Court can overturn previous decisions if there are valid reasons to do so based on changes in legal or social aspects. Therefore, the doctrine of stare decisis creates a balance between.

4.2 CONSISTENCY AND UNIFORMITY

This doctrine ensures there is consistency and uniformity between decisions made regarding similar cases. Therefore, it would be impossible for courts to interpret the law differently without due regard. Consistency means that there is less chance of an arbitrary outcome. This therefore helps guarantee the principles of law. It also enables lawyers to make the best advice to their clients and boosts trust in the justice delivery system. But in applying precedents, there ought to be due consideration to any material differences. There will have to be application of precedents, which will take into account the legal principles and facts. In Union of India v. Raghubir Singh, the Supreme Court stressed the importance of having consistency and certainty by applying binding precedents. [47]They acknowledged that decisions from a higher bench would bind a lower bench. This means there will not be any inconsistency in the supreme court.

In Central Board of Dawoodi Bohra Community v. State of Maharashtra[48] the Supreme Court

[46] Union of India v. Raghubir Singh.
[47] Marin K. Levy, Judging Justice on Appeal, 123 Yale L.J. 2134 (2013).
[48] Central Board of Dawoodi Bohra Community v. State of Maharashtra

reiterated the rules regarding decisions from different strength benches. This means that the doctrine of stare decisis will ensure there is consistency in judicial reasoning but also allows the law to evolve with proper reconsideration by the courts.

4.3 JUDICIAL DISCIPLINE AND THE COURT HIERARCHY

The concept of Stare Decisis plays an important role in ensuring judicial discipline in the Indian judiciary. It ensures that decisions by higher courts are upheld by lower courts. Secondly, it helps judges adhere to some of the legal principles. This prevents courts from not following previous decisions due to their different view. In the Supreme Court this is of vital importance since it is heard by Benches of different sizes. There cannot be a smaller Bench than the one that has decided the case, which means that they cannot overrule its decision. If they do not agree with a decision which is made by a Bench of the same size, they should refer back to that Bench. This means that there is not a place for conflicting decisions and that the judiciaries have validity. In order to achieve the twin goals of consistency and certainty, the Supreme Court emphasised that precedent must be followed. In Central Board of Dawoodi Bohra Community v. State of Maharashtra, the Court reiterated that decisions made by a larger Bench bind subsequent Benches of a smaller or same size. However, this must be done in accordance with the rules of reference to a larger Bench.

Therefore, the concept of stare decisis promotes judicial discipline, respect for the court hierarchy and ensures justice is administered properly within India.

4.4 EQUALITY OF LAW AND CONCLUSION

This doctrine provides equality before the law. Furthermore, the doctrine also prevents personal bias, in State of Punjab v Davinder Singh,[49] the supreme court reiterated how important the equality provided by the constitution was. In general, we must be equal to treated equally and fairly. But that doesn't imply that everyone will get the same deal. The courts will consider any differences between pertinent cases, and use the appropriate legal principles. Judicial means can also be a way to overturn precedents.

Conclusion

To conclude, the doctrine of stare decisis is a key part of the Indian justice system. This doctrine encourages certainty, uniformity, discipline and equality within the courts. This therefore enhances the rule of law and builds trust in the judiciary. Whilst precedent provides stability, it should be applied correctly so that the law can develop.

[49] State of Punjab v. Davinder Singh, 2024 INSC 562.

CHAPTER 5: RECONSIDERATION AND OVERRULING OF JUDICIAL PRECEDENTS

5.1 GROUNDS FOR RECONSIDERATION OF JUDICIAL PRECEDENTS

Generally speaking, a court would be bound to follow judicial precedent. However, reconsideration of an earlier judgement may be necessary if it was clearly wrong, failed to take into account a key provision of law or caused great problems in the administration of justice. There must be strong and weighty reasons for the reconsideration.

In Keshav Mills Co. Ltd. v. Commissioner of Income Tax,[50] the Supreme Court ruled that great care must be taken when reconsidering a previous decision. Factors such as was the decision correct, had any courts accepted this decision and what would happen if it was overturned should all be considered. The Court emphasised that constant reconsideration could lead to uncertainty and confusion.

In Bengal Immunity Co. Ltd. v. State of Bihar,[51] the Supreme Court acknowledged that they do have the power to reconsider a previous decision if this was necessary for the interests of justice and the public good. This shows that judicial precedents are authoritative but can change. This provides a way to correct any major mistakes in law.

5.2 REVERSAL OF JUDICIAL PRECEDENTS

Reversal refers to when a competent court decides that a legal principle has been wrongly applied in a previous decision, therefore, the principle will not be followed. The Supreme Court of India possess the power to review and reverse its previous decisions if there are strong grounds for it, however, the power should be used with care in order to avoid uncertainty and to maintain judicial discipline.

Where a lower bench has decided the case then it cannot be reversed by a higher bench. If the lower bench has decided that they disagree with the previous decision given by the same strength of bench then the matter should be referred to a higher bench.

In the case of Central Board of Dawoodi Bohra Community v. State of Maharashtra, the Supreme court made clear what should happen when decisions have been given by different strength benches. This ensures that judicial precedents will be reviewed in an organised way.

In Chandra Prakash v. State of Uttar Pradesh, the SC stressed the need to follow binding precedents to ensure certainty. Therefore, reversal is an important way to help develop law but must be done by the correct bench with good reasoning.

[50] Keshav Mills Co. Ltd. v. Commissioner of Income Tax, (1965) 2 SCR 908.
[51] 2. Bengal Immunity Co. Ltd. v. State of Bihar, 1955 SCR (2) 603 (India).

5.3 JUDICIAL PRECIDENT RECONSIDERATION AND OVERRULING

Important provisions have been laid down by the Supreme Court of India regarding reconsideration and overturning of judicial precedent.

It was observed in Keshav Mills Co. Ltd. v. Commissioner of Income Tax that reconsideration can occur if there is a valid and weighty reason for doing so. It can be considered that if any vital provision or aspect was misses it can be reconsidered[52]. However, it can cause confusion and uncertainty if it is done too often.

In Bengal Immunity Co. Ltd. v. State of Bihar, it was recognised by the Supreme Court that they are able to reconsider their previous decisions when needed for justice and public interest. This shows that the doctrine of precedent does not stop them from correcting major mistakes.

In Central Board of Dawoodi Bohra Community v. State of Maharashtra it was made clear that the decision of a larger bench binds benches of lower strength. If a bench is unsure of whether their decision is correct, then it should be referred to the appropriate larger bench.

5.4 LIMITATIONS ON REVERSING AND CONCLUSION

Although courts have the power to reverse previous judicial decisions, this right can be limited. For example, courts should only reverse previous decisions if there is a good reason and they should follow the hierarchy. Lower courts should not reverse binding decisions simply because they do not agree with them.

There are numerous limitations one the court. One being the doctrine of per incuriam. This applies when a decision has been made without knowledge of a relevant statute or binding decision. Another being the doctrine of sub silentio. This is when a point of law has not consciously been thought about. These will help to show that the decision does not bind.

The Supreme Court explained that decisions that have been made sub silentio and without the proper consideration of the law do not hold the same weight. However, these exceptions should only be used carefully and cannot be used by lower courts to ignore decisions made by higher courts.[53]

Conclusion

Overall, reversing decisions is important to allow errors in the law to be corrected and allow law develop. However, they should only be reversed in accordance with judicial procedures and there should be a strong reason for the reversal. This ensures that there is certainty in the law and a disciplined judiciary within the Indian legal system.

[52] Keshav Mills Co. Ltd. v. Commissioner of Income Tax, (1965) 2 SCR 908.
[53] Richard A. Posner, The Problems of Jurisprudence (1990).

CHAPTER 6: STABILITY OF PRECEDENT AND DEVELOPMENT OF LAW

6.1 STABILITY AND CERTAINTY

The principle of judicial precedent provides stability and certainty within the Indian legal system. The doctrine of stare decisis binds courts to apply established legal principles in cases which are similar to previous ones. This allows people to be aware of what their legal rights and duties are.

The certainty provided by judicial precedent means that there is less chance of there being arbitrary changes in the way the law is interpreted. This leads to people having greater confidence in the judiciary as they will receive consistent judgments based upon established legal principles. The law declared by the Supreme Court is bound to all courts in India and therefore provides increased stability. This is due to Article 141 of the Constitution of India.

In Union of India v. Raghubir Singh the Supreme Court highlighted that the doctrine of binding precedent provides certainty and consistency in the development of law. They acknowledged that it was important to have a respect for previous decisions so that there would be discipline within the judiciary.[54]

Overall, judicial precedent provides a stable basis for justice. However, this does not mean that the legal principles cannot be changed. Instead, they can only be changed using the correct judicial process and for valid legal reasons.

6.2 NECESSITY FOR DEVELOPMENT OF LAW

Judicial precedent provides certainty, however there must be some development for the law to keep up with new social, economic and constitutional situations. This can sometimes lead to unfair outcomes if old cases are followed rigidly, and therefore there must be the ability for courts to overturn previous decisions if there are strong legal reasons.

Development of law is very important in a fastmoving country such as India. The power to overturn previous judgements means that the law can adapt to new situations and be applied to constitutional provisions and rules.

In Bengal Immunity Co. Ltd. v. State of Bihar the Supreme Court [55]overturned a previous decision regarding the interpretation of the constitutional provisions relating to the interState sales tax. This shows that previously decided cases can be overturned by the court when it is

[54] Union of India v. Raghubir Singh (Dead) by LRs., (1989) 2 SCC 754 (India).
[55] 2. Bengal Immunity Co. Ltd. v. State of Bihar, 1955 SCR (2) 603 (India).

felt necessary to do so to correctly interpret the constitution.

Overall, development of law means that there is a need to respect precedent but also correct any legal mistakes. Overturning previous decisions allows the judiciary to react to new situations.

6.3 STABILITY AND FLEXIBILITY

The Indian judiciary has tried to maintain a balance between providing stability through judicial precedent and providing flexibility in order to develop the law. The doctrine of stare decisis helps to provide consistency within the law; however, strict application of judicial precedent may not always allow courts to rectify mistakes. As such there needs to be some level of flexibility within the law, however this must be done within legal and constitutional boundaries. The Supreme Court plays an important role in balancing this. The law declared by the Supreme Court is binding on all courts under Article 141 of the Constitution of India. However, the supreme court can overrule previous decisions through proper judicial procedures if there are good reasons to do so[56]. Larger Benches decisions are still binding on lower Benches to keep a level of discipline.

In Central Board of Dawoodi Bohra Community v. State of Maharashtra the supreme court set out the principles to be followed when one Bench has decided a case and another Bench has decided differently. [57]This therefore creates a balance between stability and flexibility so that the law remains predictable whilst being able to adapt to new situations. The law will develop through logical decision making.

6.4 CONCLUSION: AN EVOLVING JUDICIAL SYSTEM

The doctrine of stare decisis is crucial to ensuring there is a balance between certainty and development in the law. The reason behind this is that it supplies consistency, certainty and discipline, the ability to look back at previous decisions prepares the courts to correct any errors and adapt to new changes in society and within the constitution.[58]

The Supreme Court has the power to interpret the Constitution and overturn previous decisions making sure that the legal principles do not become outdated. However, this should be done according effective legal reasoning and following proper judicial procedures.

[56] Nick Robinson, Structure Matters: The Impact of Court Structure on the Indian and U.S. Supreme Courts, 61 Am. J. Comp. L. 173 (2013).
[57] Central Board of Dawoodi Bohra Community v. State of Maharashtra, (2005) 2 SCC 673.
[58] Marc Galanter & Nick Robinson, India's Grand Advocates: A Legal Elite Flourishing in the Era of Globalization, 20 Int'l J. Legal Prof. 241 (2013).

CONCLUSION

The doctrine of stare decisis plays an important role in the Indian legal system. This ensures consistency, certainty and predictability in the administration of justice. When applying judicial precedents it ensures cases are dealt with in the same way which aids the rule of law. Stare decisis also helps ensure decisions are not made randomly and everyone can feel confident that they will be treated fairly under the law.

This research looks at the meaning and application of stare decisis, including looking at its constitutional basis. Article 141 of the Indian Constitution states: "the law declared by the supreme court shall be binding on all courts within the territory of India." Therefore, showing that the supreme court have binding authority under the constitution. One can learn from this research that decisions will only be stated as binding if they are made on the basis of a certain legal principle.

Doctrine Of Stare Decisis had remained significant to play an important role in the efficiency judicial administration. This helps individuals, organisations and public authorities to understand their legal rights and responsibilities.

However, this research shows that stare decisis is not absolute. If too much emphasis is placed on previous decisions then incorrect interpretations may be maintained and there may not be enough adaptations to the law to fit modern society, constitutional and legal changes. There is therefore a need for there to be the ability to re-consider previous decisions. Cases such as Bengal Immunity Co. Ltd. v. State of Bihar show that previous decisions can be re-considered if there are enough legal reasons. However, there should be caution when applying exceptions to the doctrine.

This research shows that there is no conflict between having a stable and flexible approach. Having a stable approach ensures there is continuity in the law whilst being able to re-consider decisions helps to ensure mistakes can be rectified. A balance must be found between applying stare decisis.

Overall, stare decisis is an essential part of the Indian legal system. The effectiveness of the doctrine relies on there being a balance between applying previous decisions, ensuring certainty in the law and having judicial discipline. Indian courts can ensure that judicial precedent is respected whilst still ensuring justice can be applied in line with constitutional values. Therefore, the doctrine plays an important role in ensuring the legal system remains stable whilst also ensuring Indian Jurisprudence continues to develop.

BIBLIOGRAPHY

I. PRIMARY SOURCES

A. Constitutional Provisions

1. The Constitution of India, 1950, Article 141 — Law declared by the Supreme Court to be binding on all courts.
2. The Constitution of India, 1950, Article 137 — Review of judgments or orders by the Supreme Court.
3. The Constitution of India, 1950, Article 145 — Rules of Court and related procedural matters.

B. Judicial Decisions

1. Bengal Immunity Co. Ltd. v. State of Bihar, AIR 1955 SC 661.
2. Central Board of Dawoodi Bohra Community v. State of Maharashtra, (2005) 2 SCC 673.
3. Director of Settlements, A.P. v. M.R. Apparao, (2002) 4 SCC 638.
4. State of Bombay v. United Motors (India) Ltd., AIR 1953 SC 252.
5. State of U.P. v. Synthetics and Chemicals Ltd., (1991) 4 SCC 139.
6. Union of India v. Raghubir Singh, (1989) 2 SCC 754.

II. SECONDARY SOURCES

A. Books and Legal Commentaries

1. Basu, D.D., Introduction to the Constitution of India, LexisNexis.
2. Cross, Rupert, and J.W. Harris, Precedent in English Law, Clarendon Press.
3. Fitzgerald, P.J. (ed.), Salmond on Jurisprudence, Sweet & Maxwell.
4. Jain, M.P., Indian Constitutional Law, LexisNexis.
5. Singh, G.P., Principles of Statutory Interpretation, LexisNexis.

B. Legal Research Articles and Academic Literature

1. Academic writings on the doctrine of stare decisis and the role of judicial precedent in common-law legal systems.
2. Scholarly discussions on the constitutional significance and interpretation of Article 141 of the Constitution of India.
3. Legal commentaries concerning ratio decidendi, obiter dicta and the binding force of judicial decisions.

4. Academic discussions on judicial discipline, the hierarchy of courts and the reconsideration of precedents.
5. Research literature examining the relationship between legal certainty, consistency and the progressive development of law.

III. ELECTRONIC SOURCES

1. India Code, Government of India. The Constitution of India. Available at: https://www.indiacode.nic.in/
2. Indian Kanoon. Director of Settlements, A.P. v. M.R. Apparao, (2002) 4 SCC 638. Available at: https://indiankanoon.org/doc/703650/
3. Indian Kanoon. Union of India v. Raghubir Singh, (1989) 2 SCC 754. Available at: https://indiankanoon.org/doc/505842/
4. Indian Kanoon. Bengal Immunity Co. Ltd. v. State of Bihar, AIR 1955 SC 661. Available at: https://indiankanoon.org/doc/1629830/
5. Indian Kanoon. State of U.P. v. Synthetics and Chemicals Ltd., (1991) 4 SCC 139. Available at: https://indiankanoon.org/doc/1488034/
6. Courts & Cases. Central Board of Dawoodi Bohra Community v. State of Maharashtra, (2005) 2 SCC 673. Available at: https://courtsandcases.com/case/s_2004_6_1054_1064

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