

## PRECEDENT AS A SOURCE OF LAW

Should a decision decided in the past can be the basis for cases in future too? Why should we rely on something which has been decided earlier? If precedent is important then *how much* part of it is important? In various instances outside the law or in, it is a strong reason by itself if something is done before should be done again subsequently. Precedent not just allows us to look backwards but also look to further decisions too. "Today is not only yesterday's tomorrow, it is also tomorrow's yesterday." Non-legal decisions in the past likewise show up with them conveying the first qualities. Suppose a child was allowed to stay late at night to watch an educational show. Now two weeks later the child will again ask his parents and if his parents refuse then he will argue "Two weeks ago I was allowed to do stay late at night and this is also an educational show so why I'm not allowed today?" So, it can be seen that precedent plays natural importance in our lives.

Judicial Pronouncements or simply Precedents are an important source of law. They have delighted a significant position consistently and in all nations especially in Britain and different nations which have been impacted by English statute. The rationale behind this can be concluded from the fact that in English countries, the juries have occupied higher positions because of their expertise in the law field and consequently their decisions have delighted their reputation among people.

What is a Precedent?

A legal point of reference that is authoritative and binding, implying that once a decision has been made in court, future legal disputes should depend on this point of reference when ruling. Precedents can be defined as guidance or authority of past decisions for future cases. They are an accumulation of judgements, opinions or decisions of reputed and respected judges which aid in similar cases in future proceedings. If a court precedent speaks with authority, the concept that it embodies becomes obligatory in subsequent instances.

They are subject to the verticality rule. It implies that decisions made are bound to be in hierarchal order, ranging from the highest Supreme Court to intermediate High Courts and the lowest trial courts. They can also be binding horizontally.

According to Bonham- “Precedent is judge-made by law.”

According to Austin- “Precedent is judiciary law.”<sup>1</sup>

Provisions related to precedents in Indian Constitution- Article 141 of Indian Constitution- “Law declared by Supreme Court to be binding on all courts The law declared by the Supreme Court shall be binding on all courts within the territory of India.”<sup>2</sup> All Indian courts are required by law to follow the Supreme Court's judgement. First, the judgement must be read in its entirety, and then the conclusions drawn from it must be evaluated in light of the issues before the court.

Article 225 of the Indian Constitution stipulates that the High Court's jurisdiction, the law it administers, the respective powers of its judges in regard to the administration of justice by the court, and their rule-making power must all remain the same as they were when the constitution was enacted.

In simple words- SUPREME COURT HIGH COURT LOWER COURTS.

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<sup>1</sup> The Institute of Company Secretaries of India, Elements of Business Laws and Management Part- A  
[https://www.iicseonline.org/business\\_law1.pdf](https://www.iicseonline.org/business_law1.pdf)

<sup>2</sup> Indian Const. art. 141