

CONCEPT OF LEGAL PRECEDENT AND ITS IMPORTANCE IN COMMON LAW SYSTEMS: WITH SPECIAL REFERENCE TO HUMAN RIGHTS

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ABSTRACT

Legal precedent is a central concept in common law systems, serving as a guiding principle in the interpretation and application of the law. It refers to the principle that decisions made by higher courts serve as binding authority for lower courts in similar cases. This means that courts must follow the legal reasoning and outcomes of previous cases, ensuring consistency and predictability in the law. The concept of legal precedent is vital in common law systems, as it promotes fairness and justice, helps to establish legal certainty, and contributes to the development and evolution of the law. This paper examines the concept of legal precedent in common law systems and its importance, including its role in promoting consistency and predictability in the law, the development of legal doctrine, and the protection of individual rights.

Keywords: Judicial Precedent, Decision making, common law legal system, Human rights Law.

CHAPTER I

INTRODUCTION

Legal precedent refers to the use of previous court decisions as a source of guidance or authority for future cases. The doctrine of precedent, also known as stare decisis, is an integral part of the Indian legal system and is followed by all courts in the country. Under this doctrine, decisions made by higher courts are binding on lower courts, and decisions made by the Supreme Court are binding on all other courts in the country. This means that if a particular issue has been decided by a higher court, the lower court must follow the same decision in similar cases that come before it. The use of legal precedent in India helps ensure consistency and predictability in the judicial system. It also helps to reduce the workload of

the courts by providing a framework for decision-making. However, there are certain exceptions to the doctrine of precedent, such as when a decision is found to be erroneous or when there is a need to reconsider a previous decision in light of new evidence or changing circumstances. Legal precedent is an important aspect of the Indian legal system that helps ensure consistency, predictability, and fairness in the administration of justice.

A. RESEARCH PROBLEM

How do judges use precedent when making decisions in complex legal cases, and what factors influence their interpretation and application of prior case law.

B. RESEARCH QUESTIONS

1) What is the role of judicial precedent in common law legal system, how has it evolved

overtime and benefits and drawbacks of using judicial precedent in decision making.

2) How have landmark cases and influential precedents shaped the development of specific areas of law such as constitutional law and Human Rights Law.

C. HYPOTHESIS

Providing guidance to judges on how to decide cases that present similar factual and legal issues to previous cases this allows for a consistent application of the law over time, which can enhance public confidence in the legal system and facilitate efficient resolution of disputes. Additionally, the use of precedent can promote fairness by ensuring that similarly situated individuals are treated equally under the law. However, there may be some drawbacks to relying too heavily on precedent, such as the potential for rigid and inflexible application of the law and the possibility of perpetuating past injustices.

D. EXISTING LEGAL SITUATION

In India, the legal system is based on the common law system, which recognizes the importance of legal precedent. Precedent, also known as case law, refers to the legal principles established by courts in their previous decisions, which are binding on lower courts and persuasive on higher courts. The doctrine of precedent in India is based on the principle of stare decisis, which means "let the decision stand." This principle requires that lower courts follow the decisions of higher courts in similar cases, and that higher courts follow their own previous decisions. In India, the Supreme Court is the highest court and its decisions are binding on all other courts in the country. The High Courts of each state are also bound by the decisions of the Supreme Court. Lower courts are bound by the decisions of the Supreme Court and the High Courts within their jurisdiction.

However, there are some exceptions to this rule. The Supreme Court may overrule its own previous decisions in exceptional cases where it finds that the previous decision was incorrect or

unconstitutional. In addition, the Supreme Court has the power to grant special leave to appeal, which allows it to hear appeals against lower court decisions even if they are not in line with previous Supreme Court decisions. Overall, the legal system in India places a strong emphasis on precedent, and the doctrine of stare decisis is an important principle in the Indian legal system.

E. LITERATURE REVIEW

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F. OBJECTIVE/ SCOPE

- 1) To understand the development of precedent in Human rights.
- 2) To asses the impact of precedent on legal outcomes.

CHAPTER II -

WHAT IS THE ROLE OF JUDICIAL PRECEDENT IN COMMON LAW LEGAL SYSTEM, HOW HAS IT EVOLVED OVERTIME AND BENEFITS AND DRAWBACKS OF USING JUDICIAL PRECEDENT IN DECISION MAKING.

A. ROLE OF JUDICIAL PECEDENT IN COMMON LAW.

Legal precedent plays a crucial role in the common law system, which is a legal system used in many countries including the United States, United Kingdom, Canada, and Australia. In this system, judges rely on past decisions made by higher courts when making decisions in similar cases. The importance of legal precedent lies in the principle of stare decisis, which means "to stand by things decided." This principle requires that lower courts follow the decisions made by higher courts in similar cases. The idea behind this principle is to promote consistency and predictability in the legal system, and to ensure that like cases are treated alike. Legal precedent serves as a guide for judges when interpreting the law and

applying it to new cases. By looking to past decisions, judges can see how the law has been applied in similar cases and can apply the same principles to new cases. This helps to promote fairness and equality in the legal system, as similarly situated parties should be treated similarly under the law. Additionally, legal precedent provides stability and predictability in the legal system. Because judges are bound to follow past decisions, parties to a case can have a good idea of how a court will rule based on previous decisions. This can help parties make informed decisions about whether to settle a case or pursue litigation.

B. EVOLUTION OF LEGAL PRECEDENT IN INDIA

India has a rich history of legal precedents that have evolved over time, shaped by the country's diverse cultural, social, and political landscape. The evolution of legal precedent in India can be traced back to the ancient period, when the Vedas and the Dharmashastras formed the basis of the legal system. Over the centuries, various kingdoms and empires, including the Mauryan, Gupta, and Mughal empires, contributed to the development of the legal system. During the colonial period, the British introduced their own legal system, which was based on common law principles. This system was gradually adopted in India, and it remains the foundation of the country's legal system today. The Indian Constitution, which was adopted in 1950, also played a significant role in shaping the legal precedent in the country. One of the key features of the Indian legal system is the concept of judicial precedent, which means that previous decisions of the courts are binding on subsequent cases. This ensures consistency and predictability in the legal system and helps to ensure that the law is applied fairly and consistently. Over time, legal precedent in India has evolved through a combination of legislative reforms, judicial decisions, and social and political changes. For example, landmark judgments like **Kesavananda Bharati v. State of**

Kerala (1973)⁵⁵⁶, which established the doctrine of basic structure of the Constitution, and **Navtej Singh Johar v. Union of India (2018)**⁵⁵⁷, which decriminalized homosexuality, have had a significant impact on legal precedent in India. Overall, the evolution of legal precedent in India reflects the country's rich cultural and historical heritage, as well as its ongoing efforts to adapt to changing social and political realities.

Precedent refers to a legal principle established in a prior court decision that is then used to guide or determine the outcome of subsequent cases with similar facts or legal issues. In this way, precedent can be seen as a source of law because it provides a framework for how similar cases should be decided in the future. When a court issues a decision, it typically provides a written opinion explaining the legal reasoning behind the ruling. This opinion becomes part of the body of law and can be cited and relied upon by other courts in future cases. When a court relies on a prior precedent in deciding a case, it is said to be following the principle of stare decisis, which means "to stand by things decided." Precedent can be binding or persuasive. Binding precedent is established by a higher court and must be followed by lower courts in the same jurisdiction. For example, a decision by a federal appeals court is binding on all federal district courts within its jurisdiction. Persuasive precedent, on the other hand, is not binding but may be considered by a court in making its decision. Persuasive precedent may come from a variety of sources, including decisions by courts in other jurisdictions or legal treatises written by legal scholars. It allows parties to anticipate how a court will rule in a particular case based on how similar cases have been decided in the past. However, precedent is not always followed, particularly if there are compelling reasons to depart from it, such as changes in societal norms or legal principles.

C. TYPES OF PRECEDENT

⁵⁵⁶ Kesavananda Bharati v. State of Kerala, AIR 1973 SC 1461

⁵⁵⁷ Navtej Singh Johar v. Union of India, AIR 2018 SC 4321

In common law legal systems, legal precedent refers to the principle that previous court decisions should be followed in similar cases. This means that when a court makes a decision, it sets a precedent for future cases that involve similar facts and legal issues.

There are several different kinds of legal precedent, including:

1) **Binding precedent:** this is a precedent that must be followed by lower courts in the same jurisdiction. Binding precedent is usually set by higher courts, such as appellate courts or the highest court in the jurisdiction.

2) **Persuasive precedent:** This is a precedent that is not binding on lower courts but may be considered as guidance. Persuasive precedent may come from other jurisdictions, lower courts in the same jurisdiction, or from a court in a different legal system.

3) **Stare decisis:** This is the principle that courts should follow previous decisions and not disturb settled matters. Stare decisis is often used as a reason for following binding precedent.

The importance of legal precedent in common law is that it provides consistency and predictability in the law. When courts follow precedent, it ensures that similar cases are decided in the same way, which promotes fairness and equality. Additionally, precedent can provide guidance for judges in deciding cases, which can lead to more efficient and consistent decision-making. Finally, precedent allows for the gradual development of the law over time, as courts can build on previous decisions to refine and clarify legal principles.

D. IMPORTANCE OF USING RATIO DECIDENDI AND OBITER DICTA IN DECIDING PRECEDENTS

Ratio decidendi and obiter dicta are two important concepts in legal reasoning that play a significant role in deciding precedent.

Ratio decidendi is the legal principle or the reasoning behind a court's decision that forms the basis for the legal precedent. It is the part of the judgment that is binding on lower courts

and is used to guide future decisions. The ratio decidendi is the most important part of the judgment as it establishes the legal principle that must be followed in future cases.

Obiter dicta, on the other hand, are statements made by a judge in a judgment that are not directly relevant to the decision in the case. These statements are not binding on future cases and do not form part of the legal precedent. However, obiter dicta may still be persuasive and influential in future cases, particularly if they are made by a judge who is highly respected or if the statement is considered to be particularly insightful.

The importance of ratio decidendi and obiter dicta in deciding precedent can be summarized as follows:

1) **Establishing legal precedent:** The ratio decidendi forms the basis for legal precedent and provides a clear legal principle that must be followed in future cases. It is the part of the judgment that is binding on lower courts and is used to guide future decisions.

2) **Providing guidance to future courts:** The ratio decidendi provides guidance to future courts, ensuring that similar cases are decided in a consistent manner. This promotes certainty and predictability in the law, which is important for individuals and businesses.

3) **Clarifying legal principles:** The ratio decidendi clarifies legal principles, making it easier for lawyers and judges to understand the law and apply it to different cases. This reduces confusion and promotes fairness in the legal system.

4) **Influencing future decisions:** While obiter dicta are not binding, they may still be influential in future cases, particularly if they are made by a highly respected judge or if the statement is considered to be particularly insightful. This can help shape the development of the law over time.

In conclusion, both ratio decidendi and obiter dicta are important in deciding precedent. While the ratio decidendi is the binding part of the judgment that establishes legal precedent, obiter dicta may still be persuasive and

influential in future cases. Together, they help shape the development of the law and ensure that it remains fair, just, and responsive to changing circumstances.

E. BENEFIS AND DRAWBACKS OF USING JUDICIAL PRECEDENT IN DECISION MAKING

There are several merits and demerits associated with the use of precedent in the legal system:

MERITS:

- 1) **Consistency:** Precedent helps ensure that similar cases are decided in a consistent manner, creating predictability and stability in the legal system. This allows individuals and businesses to plan and make decisions with a greater degree of certainty.
- 2) **Efficiency:** Precedent can help streamline the legal process by providing a framework for analyzing and deciding cases, reducing the need for time-consuming and expensive litigation.
- 3) **Authority:** Precedent provides a level of authority and legitimacy to legal decisions, as they are based on established legal principles and interpretations.
- 4) **Evolution:** Precedent allows for the evolution of the law over time, as previous decisions are reevaluated and modified in light of changing circumstances or societal values.
- 5) **Clarity:** Precedent provides clarity in terms of the legal rules that should be applied in a given case. This can be particularly useful for lawyers and their clients who want to know in advance what the likely outcome of a case will be.

Judicial precedent plays an important role in ensuring the stability, consistency, and fairness of the legal system. While it is not without its limitations and drawbacks, it remains a valuable source of legal authority and guidance for judges, lawyers, and litigants.

DEMERITS:

- 1) **Inflexibility:** Precedent can create rigidity and inflexibility in the legal system, as decisions may be based on outdated or flawed

reasoning and may not reflect current legal or societal norms.

- 2) **Stare decisis:** The principle of stare decisis, which requires courts to follow established precedent, can lead to decisions that are not necessarily the best outcome for a particular case or situation.

- 3) **Conflicting precedent:** Precedent from different courts or jurisdictions may conflict with one another, creating confusion and uncertainty in the legal system.

- 4) **Reliance on past decisions:** Precedent can create a reluctance to depart from past decisions, even when circumstances or social values have changed, which can hinder the development of the law.

Overall, while precedent plays an important role in shaping the legal system, it is not without its drawbacks. Its merits and demerits must be carefully balanced in order to ensure that the law remains fair, just, and responsive to changing circumstances.

In summary, legal precedent is essential to the common law system as it provides guidance to judges, promotes consistency and predictability in the law, and ensures fairness and equality in the legal system.

CHAPTER III

HOW HAVE LANDMARK CASES AND INFLUENTIAL PRECEDENTS SHAPED THE DEVELOPMENT OF SPECIFIC AREAS OF LAW SUCH AS CONSTITUTIONAL LAW AND HUMAN RIGHTS LAW.

In India, the judiciary has played a significant role in advancing the cause of human rights by interpreting the Constitution and developing a body of case law that protects individual rights and liberties. The Supreme Court of India, in particular, has been at the forefront of this effort, and its decisions have served as a guide for lower courts and tribunals. When deciding human rights cases, Indian courts often rely on past decisions, or precedents, to determine the legal principles that should apply to a given case. These precedents may come from a

variety of sources, including the Constitution, statutes, international human rights instruments, and prior judicial decisions.

Landmark cases and influential precedents have played a critical role in shaping the development of specific areas of law, including constitutional law and human rights law in India. Here are some examples of such cases and their impact:

One of the most important precedents in Indian human rights law is the Supreme Court's decision in the case of **Maneka Gandhi v. Union of India (1978)**⁵⁵⁸, which established the principle that the right to life and personal liberty under Article 21 of the Constitution is not limited to mere animal existence, but also includes the right to lead a life of dignity. This decision has been relied upon in countless subsequent cases to protect a wide range of individual rights, from freedom of speech and expression to the right to a fair trial.

The **MC Mehta v. Union of India**⁵⁵⁹ case is one of the most significant environmental law cases in India. It was a series of cases that were brought by environmental activist MC Mehta against the Union of India and other parties to seek remedies for environmental degradation and pollution in the country. also known as the "oleum gas leak case." In this case, the Supreme Court of India issued several directions to prevent industrial pollution and protect the environment and the health of the citizens. The judgment also established the concept of "absolute liability" for hazardous industries, which held that those who engage in hazardous activities are strictly liable for any harm caused by such activities, regardless of whether they had taken adequate precautions to prevent the harm. This principle has had far-reaching implications for environmental law in India and has been used in subsequent cases to hold polluters accountable for their actions. MC Mehta v. Union of India (1996) judgment was a landmark decision that helped to establish the

importance of environmental protection and the need to hold industries accountable for their impact on the environment and public health. It remains a significant precedent in Indian environmental law today.

Olga Tellis v. Bombay Municipal Corporation⁵⁶⁰, the Supreme Court held that the right to life under Article 21 of the Indian Constitution includes the right to a livelihood, and that the municipal corporation could not evict pavement dwellers without providing them with alternative accommodation. The Court also held that the right to life and livelihood was not only applicable to citizens but to all persons, including the pavement dwellers who were not citizens. The Court further directed the state governments to take steps to provide basic amenities to the pavement dwellers. the judgement in olga tellis v. Bombay Municipal Corporation is significant because it expanded the scope of the right to life under the Indian Constitution and recognized the right to livelihood as an integral part of it. It also emphasized the need for the state to provide basic amenities to the homeless and the marginalized.

Vishaka v. State of Rajasthan⁵⁶¹ is a landmark case in India that established the guidelines to prevent sexual harassment and to ensure the safety of women in the workplace. The case involved the gang rape of Bhanwari Devi, a social worker in Rajasthan, who was trying to prevent a child marriage in her village. The Supreme Court held that sexual harassment of women at the workplace violated their fundamental rights under Article 14, 19, and 21 of the Indian Constitution, which guarantee the right to equality, freedom of speech and expression, and the right to life and personal liberty. The Court further held that it was the duty of the employer to prevent sexual harassment and to provide a safe working environment for women. The Court also laid down guidelines for preventing sexual

⁵⁵⁸ Maneka Gandhi v. Union of India, AIR 1978 SC 597

⁵⁵⁹ M.C. Mehta & Anr. v. Union of India & Ors. (1987) SC 1086

⁵⁶⁰ Olga Tellis v. Bombay Municipal Corporation (1986 AIR 180, 1985 SCR Supl. (2) 51)

⁵⁶¹ Vishaka & Ors. V State of Rajasthan & Ors., ((1997) 6 SCC 241)

harassment in the workplace, which are known as the Vishaka Guidelines. The guidelines included measures such as setting up a complaints committee, conducting awareness programs, and providing support to victims of sexual harassment.

Shreya Singhal v. Union of India⁵⁶², In this incident, two women made comments on Facebook that were deemed objectionable regarding the shutdown that was announced in Mumbai following the death of a political leader. They were detained under section 66A of the Information Technology Act but later released. The occurrence gained widespread media coverage, raising concerns about whether it violates the fundamental right to freedom of speech and expression. The petitioner contended that this section of the IT Act is unconstitutional because it encourages annoyance, danger, obstruction, and ill-will, and has a "chilling effect" on the right to free speech and expression. The court determined that Section 66A violates the fundamental rights guaranteed under Article 19(1)A of the Constitution and, as a result, must be invalidated. As the law had already been declared unconstitutional in previous proceedings, the court refused to address the petitioner's challenge of procedural unreasonableness.

National Legal Service Authority (NALSA) V. Union of India⁵⁶³, This case was a significant milestone in India's history of Human Rights, especially for transgender individuals who were previously not legally recognized as persons. This marginalized population faced numerous inequalities and human rights violations. The National Legal Service Authority of India filed the case to argue that transgender individuals should be legally recognized as a third gender, distinct from male or female. The court recognized the fundamental rights of transgender persons under both the Indian Constitution and International Laws. The

judgment ensured that transgender individuals have equal rights to other citizens, including the right to equality, freedom of expression, and the right to life. The court also referred to International Human Rights Treaties and the Yogyakarta Principles to recognize the Human Rights of transgender people. The court ordered that transgender individuals should be treated as minorities and given reservations in jobs, education, and other sectors when necessary.

Mohammed Ahmed Khan v. Shah Bano Begum⁵⁶⁴, Shah Bano Begum was thrown out of her marital home by her husband who pronounced triple talaq, leaving her without any financial support. Despite this, the Local Court ordered her husband, Muhammad Ahmad, to pay a monthly maintenance of Rs. 25 to Shah Bano. However, the petitioner took the case to the Supreme Court which ruled that under section 125(3) of the CrPC, it is the responsibility of the husband to provide for his divorced wife, regardless of her religion. This landmark judgment emphasized that the right to maintenance cannot be taken away by the pronouncement of triple talaq, and upheld the human rights of Muslim women. This ruling has served as a precedent for similar cases in the future.

Harvinder Kaur v. Harmandir Singh Chaudhary⁵⁶⁵, The petitioner was previously married to Harmandir Singh and both were employed. They had a child together but the petitioner moved out with the child. Harmandir Singh then filed a case under section 9 of the Hindu Marriage Act, and in response, the petitioner filed a case in the Delhi High Court. The petitioner's case challenged the constitutional validity of section 9 of the Hindu Marriage Act and argued that the degree for restitution was against the right to life, equality, and privacy. The Delhi High Court found that the petitioner had intentionally caused trouble without reasonable cause and dismissed the appeal. The court also rejected the argument

⁵⁶² Shreya Singhal v. Union Of India, AIR 2015 SC 1523

⁵⁶³ National Legal Service Authority (NALSA) V. Union of India, AIR 2014 SC 1863.

⁵⁶⁴ Mohammed Ahmed Khan v. Shah Bano Begum, AIR 1985 SC 945.

⁵⁶⁵ Harvinder Kaur v. Harmandir Singh Chaudhary, Air 1984 Delhi 66, ILR 1984 Delhi 546, 1984 RLR 187

that personal law was discriminatory towards gender inequality in India and that constitutional law should not be introduced into personal laws.

Keshavananda Bharati v. State of Kerala⁵⁶⁶, in 1973, India witnessed a landmark case where the founder of 'Edneer Mutt' in Kerala challenged the government's attempt to restrict the management of its property. The case was heard by a 13-judge bench, which was the largest bench in India's history. This case led to the development of the Doctrine of Basic Structure, which implies that the basic structure of the Constitution cannot be altered. The court held that the power to amend the basic structure is extremely limited and cannot be violated. It's worth mentioning that this case overruled the Golaknath case, and the court highlighted that even though the Parliament has the power to amend the Constitution under Article 368, it cannot rewrite the entire Constitution according to its power.

ADM Jabalpur v. Shivakant Shukla⁵⁶⁷, During the emergency period in India, a case was filed challenging the election of Smt. Indira Gandhi to the Lok Sabha before the Allahabad High Court. In response, she declared a state of emergency, resulting in the arrest of many people, including prominent politicians. As a result, several petitions were filed in courts across the country, and some petitioners received favorable judgments. The government was dissatisfied with the orders issued by the High Court and approached the Supreme Court in the case of ADM Jabalpur v. Shivakant Shukla, which was heard by a five-judge bench. Unfortunately, Justice H.R. Khanna delivered a controversial judgment, and the constitutional validity of Section 16A(9) of the MISA Act was upheld. Justice Bhagwati later expressed regret for his decision to support the majority opinion, acknowledging that he should have upheld individual liberty. However, once the emergency period ended, the Supreme Court altered its

stance, elevating Article 21 to a permanent status and linking it to Articles 14 and 19.

Joseph Shine v. Union of India⁵⁶⁸, Joseph Shine, the petitioner, filed a Public Interest Litigation (PIL) under section 32 of the Constitution in which he challenged the constitutionality of the Adultery offence stated in section 497 of the Indian Penal Code along with section 198(2) of Cr.P.C. In response, the Supreme Court declared that a husband cannot be considered the owner of his wife, and hence Adultery cannot be considered as a criminal offense. However, it can still be considered as a reasonable ground for divorce. Adultery will only be considered a criminal act if it leads to the abetment of suicide. The Supreme Court declared Adultery as a violation of women's dignity, infringing Article 21 of the Constitution and ultimately their Human Rights. Hence, in July 2018, the Supreme Court invalidated section 497 of the Indian Penal Code as it was found to be in violation of Articles 14, 15, and 21 of the Constitution.

Navtej Singh Johar v. Union of India⁵⁶⁹, landmark case heard by the Supreme Court of India in 2018. The case challenged the constitutional validity of Section 377 of the Indian Penal Code, which criminalized consensual homosexual acts between adults. The Supreme Court, in a historic decision, struck down Section 377, thereby decriminalizing consensual homosexual acts between adults. The court held that Section 377 violated the fundamental rights of individuals, including the right to equality, dignity, privacy, and autonomy. The court also noted that the provision discriminated against the LGBTQ+ community and perpetuated stigma and prejudice against them. The court's decision was widely celebrated by activists and members of the LGBTQ+ community in India and was seen as a significant step towards promoting inclusivity and equal rights for all individuals, regardless of their sexual orientation or gender identity.

⁵⁶⁶ Kesavananda Bharati v. State of Kerala, AIR 1973 SC 1461

⁵⁶⁷ ADM Jabalpur v. Shivakant Shukla, AIR 1976 SC 1207

⁵⁶⁸ Joseph Shine v. Union of India, 2018 SC 1676

⁵⁶⁹ Navtej Singh Johar v. Union of India, AIR 2018 SC 4321

Sarla Mudgal v. Union of India⁵⁷⁰, the case addressed whether a Hindu man, who converted to Islam, could legally remarry without first dissolving his original marriage under Hindu law. Additionally, the court investigated if the man would be found guilty of breaking section 494 of the IPC. The court ultimately determined that it was unjust and went against good conscience for a person to convert to another religion for the sole purpose of remarriage without ending their first marriage. They also clarified that a person's conversion to a new religion did not automatically dissolve their first marriage and that only a court-issued divorce could legally end a marriage.

Minerva Mills v. Union of India (1980)⁵⁷¹, this case struck down certain provisions of the Constitution's 42nd Amendment, which had granted the government sweeping powers to amend the Constitution. The decision upheld the principle of federalism and reinforced the doctrine of basic structure.

Naz Foundation v. Government of NCT of Delhi (2009)⁵⁷², in this case, the Delhi High Court decriminalized homosexuality and upheld the right to privacy and non-discrimination under Articles 14, 15, and 21 of the Constitution. This decision was a landmark moment for the LGBT+ community in India and affirmed the importance of human dignity and equal treatment under the law.

Puttaswamy v. Union of India (2017)⁵⁷³, this case recognized the right to privacy as a fundamental right under the Constitution and established a robust framework for the protection of personal data. The decision was a significant milestone for privacy rights in India and reinforced the principle of individual autonomy and dignity.

Overall, these landmark cases and influential precedents have had a profound impact on the development of constitutional law and human rights law in India. They have helped to shape the legal landscape, protect fundamental rights, and promote a more just and equitable society.

In addition to relying on precedent, Indian courts also take into account the specific facts and circumstances of each case when making their decisions. This allows courts to adapt legal principles to the unique challenges and complexities of human rights cases, and to ensure that their decisions are grounded in the realities of the society they serve. Overall, the use of precedent in Indian human rights cases reflects the country's commitment to the rule of law and the protection of individual rights and liberties. By relying on past decisions to guide their rulings, Indian courts are able to build a coherent and consistent body of case law that promotes justice and fairness for all.

CHAPTER IV

CONCLUSION

Legal precedent refers to the practice of courts following prior decisions made in similar cases. The evolution of legal precedent can be traced back to the common law system, which developed in England and spread to many other countries, including the United States. In the common law system, courts decide cases based on legal principles established in prior cases, rather than relying solely on written statutes or codes. This approach allows for flexibility and adaptability in the law, as courts can update and refine legal principles over time. The evolution of legal precedent involves several key factors. One of the most important is the concept of *stare decisis*, which means "let the decision stand." This principle requires courts to follow prior decisions in similar cases, unless there is a compelling reason to depart from them. Over time, legal precedent can evolve as new cases present different fact patterns or legal issues. When a court is faced

⁵⁷⁰ Sarla Mudgal v/s Union of India AIR 1995 SC 1531.

⁵⁷¹ Minerva Mills v. Union of India (1980), AIR 1980 SC 1789

⁵⁷² Naz Foundation v. Government of NCT of Delhi, (2009) 160 Delhi Law Times 277

⁵⁷³ Puttaswamy v. Union of India, ((2017) 10 SCC 1), (Puttaswamy I).

with a new issue, it may rely on prior decisions to establish a framework for its analysis, but it may also distinguish those prior decisions or even overrule them if they are no longer considered valid or relevant. Another factor that can influence the evolution of legal precedent is changes in societal norms and values. As society evolves, legal principles may need to be updated to reflect new understandings of fairness, justice, and equality. For example, the evolution of legal precedent around civil rights has been shaped by changing attitudes towards discrimination and equality. The evolution of legal precedent is also influenced by legal practitioners and advocacy. Lawyers, judges, and legal scholars can contribute to the development of legal principles through their arguments and analysis in court cases, legal practitioners, and advocacy for changes to the law. Overall, the evolution of legal precedent is a dynamic process that reflects changes in society, legal scholarship, and judicial decision-making. As new cases arise and legal principles are refined, the law continues to adapt and evolve to meet the needs of society.

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