

# Judicial Pronouncements: Unravelling the Significance of Obiter Dicta and Ratio Decidendi in Legal Precedents

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## Abstract

This article examines the significance of court decisions, paying particular attention to the concepts of both ratio decidendi (rationale) and obiter dictum in relation to legal precedents. It looks into how laws are made and where legal notions come from, including laws, conventions, and precedents. Civil law principles are compared and contrasted with cases from the English common law system. Article 141 of the Indian Constitution,<sup>1</sup> highlights the significance of decisions made by the different Courts being binding in the Indian context and the applicability of precedents in this regard.

Furthermore, the difference between ratio decidendi and obiter dicta is elucidated, underscoring the importance of the former as the legal principle that guides subsequent instances. Both descriptive and prescriptive ratios are considered, as well as the application of obiter dictum to court rulings. The essay highlights the need for precedents to be clear and logical for courts to correctly recognize them as legal precedents.

The paper concludes with recommendations for improving and simplifying the precedent system to support the consistent and uniform administration of justice. To improve the precedents' utility and accessibility for legal scholars and practitioners, judges should write succinctly and clearly. In the end, the statement emphasizes how important it is for interested parties to keep debating and discussing ways to settle conflicts and enhance the way precedents are applied in the legal profession.

## Introduction

The law is a vital instrument in all societies since it suitably moulds people's conduct and behaviour within a society. It requires adherence to these norms and acknowledges the accepted standards among people and institutions, which may prevent conflicts. A society devoid of regulations would see a decline in ideal interpersonal relationships and an increase in harshness and self-centeredness. As previously mentioned, law is relevant, thus it makes sense to talk about its sources. Three distinct categories of sources have shaped the development of law: **conventions, legislation, and precedents**. Customs are primarily made up of the freely established behavioural guidelines within a community.

Subsequently, that specific group becomes a fundamental member of that conduct. **Customary legislation** is the result of such behaviour becoming the norm throughout time. Regarding the second source, laws are deliberate legal proclamations drafted by a nation's legislature or government, and they are presently

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<sup>1</sup> INDIA CONST. art. 141, amended by The Constitution (One Hundred Sixth Amendment) Act, 2023.

acknowledged as the **primary source** of law worldwide. Case law, or precedent, is the final source of law. It is described as a previous ruling made by a certain court that extends comparable or related rules to a different case. It is not required for all courts to decide which legal principles to follow in the latter case because the earlier decision is either persuasive or binding. The idea of **precedents, ratio decidendi, obiter dicta** and **Article 141 of the Indian Constitution**<sup>2</sup> are all covered in this article. Particular attention is paid to the parts on ratio decidendi and obiter dictum because they seem to be very important to how the court and the law function.

### What is a Precedent?

The widely accepted meaning of precedent is “*an adjudged case or decision of a court, considered as furnishing an example or authority for an identical or similar case afterwards arising or a similar question of law*”.<sup>3</sup>

According to Salmond, a precedent is a judicial ruling that includes a ratio decidendi, or component of legal authority.<sup>4</sup>

### Origin of precedents-

The English common law is where precedents first came to be. Common law is a body of laws and concepts pertaining to property and government that have their roots in historical usage and traditions, or in court rulings that acknowledged, upheld, and enforced these historical uses and customs. In the absence of a written set of rules by the ruling power, judges established the corpus of law that became known as common law. Legal concepts began to take shape and develop in the thirteenth century thanks to the decisions made by courts.

Accepting court decisions as a source of legal principles and carefully applying previous decisions as precedents in case settlement and legal evolution gave rise to common law. The judges based their decision on precedent-setting prior cases' ratio decidendi, which governed appeals to higher courts. In the common law system, a ruling made by a higher court is acknowledged as authoritative for handling matters that are similar to or identical to it, as well as any future legal challenges that may arise. All judicial decisions are based on precedents, or previously accepted principles, whenever they are available. Thus, the common law system is built upon the notion of precedents.

On the other side of the English Channel, a different legal system known as the civil law system was emerging at the same time as common law in England. French and other European judges found it helpful to have access to well-established, codified Roman law as the foundation of the law.<sup>5</sup> Later, as and when the sovereign powers in Europe created codes that detailed legally enforceable regulations based on both local circumstances and Roman law, such systems progressively replaced Roman law.<sup>6</sup> There was a clear source of codified laws that was always available, thus there was no need or justification for the courts to

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<sup>2</sup> INDIA CONST. art. 141, amended by The Constitution (One Hundred Sixth Amendment) Act, 2023.

<sup>3</sup> Precedents—Boon Or Bane?, (2015) 8 SCC J-1aspx

<sup>4</sup> *Salmond's Jurisprudence* (10th Edn.) 191.

<sup>5</sup> Emperor Justinian entrusted the work of codification of Roman Law to Tribonian. He prepared—(a) compilation of all edicts of the emperor and decrees of the Senate in a code known as Code of Justinian; (b) edited condensation of important judicial decisions known as The Digest; and (c) text book of law known as Institute. Together they were known as Corpus Juris or Roman law.

<sup>6</sup> In the nineteenth century, Emperor Napoleon got prepared a new legal code.

create a common law through their rulings. Consequently, the practice of utilising rulings as precedents with legal power was not adopted or used by the system of civil codes.

### **Precedents in Indian context-**

India came under British rule, and with it the common law system. As a result, legal principles in areas not covered by the statutes were developed based on precedents, and legal laws were interpreted despite the British Ruler's enactments. Following Independence, everything remained the same. Moreover, the rulings of the Supreme Court and similar High Courts became legally binding precedents due to the common law system's continuous existence and explicit and implicit constitutional demands in certain circumstances. According to **Article 141 of the Indian Constitution**,<sup>7</sup> all courts operating inside India's boundaries are required to abide by the rulings of the Apex Court. As a result, the Constitution requires that decisions made by the Supreme Court be followed as binding precedents rather than just common law rules.

Regarding decisions made by the High Courts, which are courts of record under **Article 215 of the Constitution**,<sup>8</sup> it is suggested that all courts and tribunals in the relevant State shall be bound by the decisions of the State High Court, subject to the decision of the Supreme Court. This is so that, under **Article 227 of the Constitution**,<sup>9</sup> each High Court in the territory within its jurisdiction may exercise superintendence over all other courts and tribunals. In the case of **East India Commercial Co. Ltd. v. Collector of Customs**,<sup>10</sup> the Supreme Court clarified this.

*29. ... It is implicit in the power of supervision conferred on a superior tribunal that all the tribunals subject to its supervision should conform to the law laid down by it. Such obedience would also be conducive to their smooth working: otherwise, there would be confusion in the administration of the law, and respect for the law would irretrievably suffer. We, therefore, hold that the law declared by the highest court in the State is binding on authorities or tribunals under its superintendence and that they cannot ignore it either in initiating a proceeding or deciding on the rights involved in such a proceeding.*<sup>11</sup>

Because of this, the Apex Court has read **Article 227 of the Constitution**,<sup>12</sup> to mean that, in addition to being a common law obligation, lower courts and tribunals in the relevant State must accept the decisions of the High Courts as binding precedents.

### **What is Ratio decidendi vis a vis Precedents?**

The ratio decidendi is the rule that may be inferred from how the law is applied to the particular facts and circumstances of a case.<sup>13</sup> Priorities are defined as either what the judges directly determined or what must be deemed to have been chosen by necessary inference from the circumstances that the judges themselves specified.<sup>14</sup>

Ideally, a court's decisions should consist of three parts:

A. conclusions of significant facts, both explicit and implicit;

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<sup>7</sup> INDIA CONST. art. 141, amended by The Constitution (One Hundred Sixth Amendment) Act, 2023.

<sup>8</sup> INDIA CONST. art. 215, amended by The Constitution (One Hundred Sixth Amendment) Act, 2023.

<sup>9</sup> INDIA CONST. art. 227, amended by The Constitution (One Hundred Sixth Amendment) Act, 2023.

<sup>10</sup> AIR 1962 SC 1893.

<sup>11</sup> Id, 1905, para 29.

<sup>12</sup> INDIA CONST. art. 227, amended by The Constitution (One Hundred Sixth Amendment) Act, 2023.

<sup>13</sup> Regional Manager v. Pawan Kumar Dubey, (1976) 3 SCC 334.

<sup>14</sup> Gopal Upadhyaya v. Union of India, 1986 Supp SCC 501.

- B. declarations of the legal principles that apply to the problems or legal issues revealed by the circumstances;
- C. judgment, or the ultimate decision, that includes the court's findings and recommendations based on the combined implications of the aforementioned (a) and (b).<sup>15</sup>

It is important to distinguish the ratio decidendi—the reasons for the decision—from the concluding portion of a decision, often known as the "concrete decision," which contains the court's conclusions and instructions. While a decision's conclusions and instructions—that is, its concrete decision—alone bind the parties to the litigation, the decision's abstract ratio decidendi, which is determined by weighing the judgment concerning the case's subject matter, has legal force and binding authority over all lower courts and tribunals.<sup>16</sup>

It was noted in the **B. Shama Rao v. UT of Pondicherry**,<sup>17</sup> case that a court's determination to establish precedent is predicated less on the decision's order or conclusion and more on the reasoning and guiding principles expressed in the ruling. Common law principles, ideas of natural justice, and legislative interpretation would all influence the ratio used to decide a case. In a panel decision, the rationale provided by the majority of judges will set a precedent for cases that arise later. It need not be accepted as precedent if the judges concur on a decision or order but differ on the ratio that was applied to arrive at that conclusion. Although it can be challenging to infer a ratio from a verdict, judges' main responsibility when rendering a decision is to find one. When a case is cited as a precedent, the court should ascertain the ratio in that particular case. By ranking the crucial information above the less crucial information, the ratio decidendi can be determined. Another way to figure out the ratio is to limit the number of precedents that can be utilised to settle legal disputes. The majority opinion and the case law should be given the weight they deserve, even in this way. Researchers like Halsbury, Wambaugh, Goodhart, and Julius Stone provide a range of specific criteria in place of these general methods. Ascertain a case's precise ratio, these methods are still employed.

### **Descriptive Ratio Decidendi-**

The rationale or explanation that guided the court's decision-making process is referred to as the descriptive ratio. This is the initial ratio and is useful in subsequent scenarios.

### **Prescriptive Ratio Decidendi-**

Conversely, a subsequent scenario makes use of the prescriptive ratio as a model for the descriptive ratio. Not all cases have the same facts or legal framework. This makes it difficult to apply the concept in the scenario that follows. The descriptive ratio is modified to some extent so that it can be used as a prescriptive ratio by changing the amount of generality.

### **Inconsistency in decisions-**

Courts are required by judicial discipline and the Constitution to refer to and obey binding rulings, particularly when it comes to decisions made by the Supreme Court. There wouldn't be a conflicting decision if this were done. However, several documented rulings have ratios that deviate from previously binding rulings. There could be several causes for this:

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<sup>15</sup> State of Orissa v. Mohd. Illiyas, (2006) 1 SCC 275.

<sup>16</sup> Halsbury's Laws of England, 4th Edn., Vol. 26, Para 573.

<sup>17</sup> B. Shama Rao v. UT of Pondicherry, AIR 1967 SC 1480.

1. The judge making the subsequent decision was not made aware of the preceding, binding rulings.
2. The later ruling was based on a misinterpretation of the previous rulings, which led to the conclusion that they were irrelevant.
3. The court debating the matter, dissatisfied with the legal principle established in the previous ruling, decides to disagree with the earlier decision and, characterizing it as having questionable efficacy, proceeds to establish a different principle rather than adhering to the discipline of referring the matter to a larger Bench.
4. The court deliberating the matter conveniently decides to disregard the prior binding decision or purposefully avoids referencing it and proceeds to lay down a different law, instead of referring the matter to a larger Bench, which is the proper course of action, because it is dissatisfied with the proposition of law established by the earlier decision.

Justice Hidayatullah lamented the perplexing array of viewpoints that had resulted from the Supreme Court's enlargement, the addition of more benches, and the frequent rearrangement of benches even in 1989.<sup>18</sup> If the circumstances were the same as in 1989, it would be simple to imagine the same circumstances 25 years later, with a notable increase in the number of judges, benches, and cases. Because of the marked rise in conflicting verdicts, a distinct body of legal precedent has developed around the question of whether binding decisions are inconsistent. If the issue caused by contradictory decisions is not resolved, the credibility of the court would be in danger.

### What is Obiter dicta vis a vis Judicial Pronouncements?

Obiter Dicta is typically interpreted as a humorous statement. The court makes the decision, which is not governed by the ratio decidendi. Obiter dicta are just helpful in supporting the facts; they are not required to conclude. An obiter dictum statement is made up only of unintentional quotes.

This is yet another facet of any evaluation. In the **Mohandas Issardas v. A.N. Sattanathan case**,<sup>19</sup> obiter dictum is defined as the judge's opinion given in court or during judgment declaration that is unimportant to the outcome. This is merely used to explain the situation; it is not a necessary component to make a decision. The Supreme Court of India said in the **Sarwan Singh Lamba v. Union of India**<sup>20</sup> case that, under normal circumstances, even an obiter dictum expressed in a court ruling must be adhered to.

Furthermore, the obiter dicta of the Supreme Court are quite important. However, the weight of the court varies depending on the type of decree. Even though the dictum is just a quick observation made by the court, it nevertheless affects the parties and cases that come after. On the other hand, some obiter dicta are suggestive or convincing but do not bind anyone.

In ancient India, the Privy Council's obiter dicta ruled paramount. In the Mohandas case, it was decided that as the Privy Council is India's highest court of appeals, the obiter dictum would apply to all Indian courts. However, for a variety of reasons, the application of obiter dictum was unenforceable in any English court.<sup>21</sup>

The decision in **Afcons Infrastructure Ltd.**,<sup>22</sup> where the question was whether a civil court might send the subject matter of a dispute to arbitration under Section 89 of the Code of Civil Procedure, without the consent of both parties, is an illustration of obiter dictum being a binding precedent. In reaching its

<sup>18</sup> Alladi Memorial Lecture 1989 by Justice Hidayatullah.

<sup>19</sup> Mohandas Issardas v. A.N. Sattanathan, 1954 SCC OnLine Bom 84

<sup>20</sup> Sarwan Singh Lamba v. Union of India, (1995) 4 SCC 546

<sup>21</sup> As per Halsbury Laws of England, Volume 22, page. 797

<sup>22</sup> Afcons Infrastructure Ltd. v. Cherian Varkey Construction Co. (P) Ltd., (2010) 8 SCC 24

decision, the Supreme Court effectively rewrote Section 89 of the Code, considering its breadth and depth. This was especially true when it came to referring the suit's subject matter to mediation in light of the patent error discovered during the provision's formulation. Given the thorough analysis and the evident wish that Section 89 CPC be the Supreme Court's stated law, even though the entire discussion on the topic was, in a sense, obiter, the obiter will be binding.

The **Kusum Ingots & Alloys Ltd.**<sup>23</sup> decision from the Supreme Court is an example of obiter dictum, which is illogical and might not create a precedent that is legally enforceable.<sup>42</sup> The only question that arose for consideration and was taken into consideration by the Court in **Kusum Ingots** was whether the seat of Parliament would be a relevant factor (and provide a cause of action) for determining the territorial jurisdiction of a High Court to entertain a petition under Article 226 challenging the validity of an enactment. The Delhi High Court did not have territorial jurisdiction to consider a writ petition challenging the constitutionality of a Central enactment, the Supreme Court ruled, based only on the fact that the law was passed by Parliament, which has its seat in Delhi, in cases where no part of the cause of action originated in Delhi. But instead of offering any reasoning for this decision, the Court made the following irrelevant observation:

*22. ... An order passed on a writ petition questioning the constitutionality of a parliamentary Act, whether interim or final, keeping in view the provisions contained in clause (2) of Article 226 of the Constitution of India, will have effect throughout the territory of India.*<sup>24</sup>

The binding impact of a High Court's ruling on the validity of a Parliamentary Act on other High Courts and courts/tribunals outside of its territorial jurisdiction is unaffected by **Article 226(2) of the Constitution**.<sup>25</sup> It is a well-established fact that the only courts and tribunals located within the State in which a High Court has territorial jurisdiction have the authority to enforce its decisions.

The Supreme Court's ruling in **East India Commercial Co. Ltd.**,<sup>26</sup> makes this clear. It was determined that the High Courts of each State has the authority to preside over all courts and tribunals situated within their borders, as stipulated by **Article 227 of the Constitution**.<sup>27</sup> This suggests that the decisions made by a state's high courts apply to all courts and tribunals functioning within that state. Stated differently, a High Court's ruling will not be binding on courts or tribunals located outside of its jurisdiction because it lacks superintendence over them.

The Supreme Court defines obiter dictum as “an observation by the court on a legal question suggested in a case before it, but not arising in such a manner as to require a decision.”<sup>28</sup> Numerous times, the Supreme Court has held that obiter dicta do not create a precedent.<sup>29</sup> Supreme Court decisions may not always fall under the traditional rule that an opinion's obiter dicta would not be enforceable as precedent when mentioned before lower courts.

### Importance of obiter dicta-

1. All courts and tribunals operating inside the borders of India must abide by the obiter dictum of the Supreme Court.

<sup>23</sup> *Kusum Ingots & Alloys Ltd. v. Union of India*, (2004) 6 SCC 254.

<sup>24</sup> *Kusum Ingots & Alloys Ltd. v. Union of India*, (2004) 6 SCC 254, p. 261, para 22.

<sup>25</sup> INDIA CONST. art. 226(2), amended by The Constitution (One Hundred Sixth Amendment) Act, 2023.

<sup>26</sup> *East India Commercial Co. Ltd. v. Collector of Customs*, (1963) 3 SCR 338

<sup>27</sup> INDIA CONST. art. 227, amended by The Constitution (One Hundred Sixth Amendment) Act, 2023.

<sup>28</sup> *Director of Settlements, A.P. v. M.R. Apparao*, (2002) 4 SCC 638

<sup>29</sup> *Balwant Rai Saluja v. Air India Ltd.*, (2014) 9 SCC 407

2. Though they are included in the court's ruling, the judge's comments or observations do not constitute a crucial part of the court's decision.
3. Examples of obiter dictum are given by way of illustration, comparison, or case.
4. They are not the subject of the court decision, even though they are accurate legal declarations.

## Conclusion

To ensure that rulings from the courts which are at higher position in the hierarchy such as SC and HC will always be a source of law and guidance and that the courts will be able to administer justice consistently and uniformly, the system of precedents has to be streamlined and enhanced. Precedents are helpful when they are unambiguous, easy to comprehend, trustworthy, and present in appropriate quantities. A precedent is a curse if it is convoluted, illogical, contradictory, and numerous. Although there are clear methods to use precedents to your advantage, putting them into practice will take work. The advice given to judges by Fali S. Nariman will make precedents useful and applicable.<sup>30</sup>

*In a case law-oriented system like ours, if law is to be meaningful and to be easily understood, Judges must find more time to write more briefly, more precisely, with a consciousness that whatever is pronounced in a judgment or order of the highest court is read very closely by lawyers and Judges throughout the land.*<sup>31</sup>

The idea of precedent is particularly important to legal systems all across the world, including India. Judicial decisions known as precedents act as guidelines or authorities in instances that are identical to one another down the road. They have been an essential component of Indian law since its inception in the English common law system.

The doctrine of precedent, which mandates that lower courts obey the rulings of higher courts, guarantees uniformity and predictability in the legal system. All Indian courts are required under **Article 141 of the Constitution**<sup>32</sup> to follow the decisions made by the Apex Court. In a similar vein, inferior courts operating under the jurisdiction of the High Courts must follow its rulings.

An essential part of precedents is the ratio decidendi or the rationale behind a court's ruling. It is an illustration of how the law is applied to the particular facts of a case. Determining a precedent's binding authority is aided by knowing the ratio decidendi.

Conversely, non-binding statements or observations made by judges that are not crucial to the case's outcome are known as obiter dicta. Obiter dicta are not legally binding, but they can nevertheless offer important insights into legal interpretations and ideas.

Even with the significance of history and the best attempts to uphold consistency, there are several reasons why choices can be inconsistent. However, to preserve the legitimacy and integrity of the legal system, courts must abide by binding decisions.

Given the circumstances, the development of law and the use of precedents, ratio decidendi, and obiter dicta are crucial components of the Indian legal system and support the upholding of justice and order in society.

To discover a remedy, judges, attorneys, jurists, and scholars must continue to debate the problem.

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<sup>30</sup> F.S. Nariman, "India's Legal System — Can it be saved?" (Penguin 2006).

<sup>31</sup> Id (p. 144).

<sup>32</sup> INDIA CONST. art. 141, amended by The Constitution (One Hundred Sixth Amendment) Act, 2023.

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