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A Study on the Circumstances Destroying the Binding Force of Precedent

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Abstract: ***Judicial precedent, also known as stare decisis, serves as a cornerstone of the common law legal system by promoting consistency, uniformity, and predictability in judicial decisions. Through adherence to previous rulings, courts ensure that similar cases are treated alike, thereby fostering public confidence in the legal system. However, the binding nature of precedent is not absolute. In certain situations, courts may deviate from established rulings to correct judicial errors, accommodate evolving societal norms, or adapt to changes in statutory law. Circumstances such as overruling by a higher or larger bench, distinguishing cases based on factual differences, identifying decisions as per incuriam (made in ignorance of law), or recognizing statements as obiter dicta (non-binding judicial observations) can limit or nullify the binding force of precedent. Additionally, legislative intervention can also override judicial decisions by enacting new laws. This paper systematically explores these circumstances, examines their legal and jurisprudential implications, and analyses how courts navigate the tension between legal certainty and the need for dynamic interpretation. The study aims to provide a comprehensive framework for understanding the limitations of the doctrine of precedent in the context of Indian and comparative jurisprudence.***

Keywords: *Stare Decisis, Obiter Dicta,* Decisions made as *per incuriam, Sub Silentio* Decisions, Legislative Override, Legislative Interventions, Balancing act between legal certainty and legal reform

I. INTRODUCTION

The doctrine of precedent, also referred to by its Latin term *stare decisis* (meaning "to stand by things decided"), is a foundational element of the common law system. It mandates that courts, especially lower courts, are bound to follow the legal principles established by higher courts in previous decisions when the facts of a case are substantially similar. This adherence to precedent ensures that the law remains consistent, predictable, and stable, allowing individuals, institutions, and legal professionals to rely on established interpretations of the law. It fosters judicial discipline and the uniform application of legal principles across cases, which is essential for maintaining public confidence in the legal system.

However, while precedent is a guiding force, it is not an inflexible rule. Courts are not forever bound by past decisions, especially when such decisions are found to be outdated, incorrect, or incompatible with current social values, legislative changes, or constitutional principles.

To maintain a dynamic and responsive legal system, courts have recognized various doctrines and exceptions that allow deviation from earlier rulings. These include overruling (where a higher court declares a prior decision incorrect), distinguishing (where a court finds material differences in the facts of a case), decisions given *per incuriam* (where a decision was made in ignorance of a relevant law or precedent), and obiter dicta (judicial remarks not essential to the decision and therefore not binding).

Additionally, legislatures can override judicial precedents through statutory amendments or new enactments, further altering the binding force of case law. In this context, the role of precedent becomes a delicate balancing act between the need for legal certainty and the demand for justice in individual cases.

This research paper aims to explore and critically analyze the various circumstances under which a precedent may lose its binding authority. By examining Indian legal jurisprudence along with comparative perspectives from other common law jurisdictions, this study seeks to understand the rationale behind these judicial departures and their implications for the doctrine of *stare decisis*. The objective is to provide a comprehensive insight into how legal systems maintain both continuity and adaptability through the careful and principled treatment of precedent.

II. DOCTRINE OF PRECENDENT

The doctrine of precedent, or *stare decisis*, serves as a fundamental principle in the administration of justice in common law countries. It ensures that similar cases are adjudicated in a similar manner, thereby promoting legal certainty, uniformity, and the efficient functioning of the judicial system. This doctrine obliges judges to follow earlier judicial decisions when the same points of law are involved, provided those decisions were rendered by courts of competent jurisdiction.

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The doctrine consists of two principal components:

a) *Ratio Decidendi: Ratio decidendi* is the legal reasoning or principle that forms the basis of a judicial decision. It is the core of a judgment that directly relates to the material facts of the case and the legal rule applied to resolve the issue. This portion of the judgment has binding authority and must be followed by courts that are lower in the judicial hierarchy, or by coordinate benches in cases of equal strength, unless overruled by a larger bench. For example, in *Kesavananda Bharati v. State of Kerala*, the Supreme Court's ratio that the "basic structure" of the Constitution cannot be amended became binding precedent, shaping the interpretation of constitutional amendments thereafter.

b) *Obiter Dicta: Obiter dicta* (singular: *obiter dictum*) are incidental or supplementary opinions expressed by judges that are not essential to the decision in a case. These may include illustrations, hypothetical examples, or commentary on broader legal principles. Although not binding, obiter dicta carry significant persuasive value, especially when emanating from higher courts like the Supreme Court. They may influence future judgments or be cited by courts when the *ratio decidendi* is silent or ambiguous.

A. *Hierarchy of Courts and the Binding Nature of Precedent*

The authority of precedent is inextricably linked to the hierarchical structure of the judiciary. The higher the court that has delivered a judgment, the greater its binding effect. In India, the hierarchy is constitutionally and statutorily defined.

1) *Supreme Court of India*: As the apex judicial authority, the decisions of the Supreme Court are binding on all subordinate courts and tribunals across the country, as enshrined under Article 141 of the Constitution of India. It declares: *"The law declared by the Supreme Court shall be binding on all courts within the territory of India."* However, the Supreme Court itself is not bound by its previous decisions and may overrule them through a larger bench if required in the interest of justice.
2) *High Courts*: High Court decisions are binding on all subordinate courts within their territorial jurisdiction. However, a High Court's decision does not have binding effect on another High Court, though it may have persuasive value. In the absence of a contrary ruling from the concerned High Court or the Supreme Court, a court may choose to follow the ruling of another High Court as a matter of judicial discipline and consistency.
3) *Subordinate Courts*: Subordinate or trial courts are strictly bound by the decisions of the High Court under whose jurisdiction they fall, as well as by the rulings of the Supreme Court.

This hierarchical adherence ensures orderly administration of justice and prevents conflicting interpretations of law by different courts. At the same time, the flexibility built into the system—such as the power of a higher court to overrule previous judgments or for courts to distinguish cases—allows the law to evolve with time.

III. CIRCUMSTANCES DESTROYING THE BINDING FORCE OF PRECEDENT

Although judicial precedents form a cornerstone of legal interpretation and application, there are well-recognized legal doctrines and practical mechanisms that allow courts and legislatures to limit or completely negate their binding authority. These exceptions are essential to prevent the perpetuation of erroneous rulings, to accommodate changing social realities, and to uphold the dynamic nature of law.

A. *Overruling*

a) *Definition*: Overruling occurs when a higher court or a larger bench of the same court explicitly declares that a previous decision, whether of a coordinate bench or a smaller one, was incorrect in law. Overruling results in the replacement of the old precedent with a new one.

b) *Legal Effect*: The legal principle laid down in the earlier decision ceases to have binding authority from the moment it is overruled. The new judgment becomes the operative law, which must be followed henceforth.

c) *Case Law*: *State of Punjab v. Devans Modern Breweries Ltd.*, (2004) 11 SCC 26: The Supreme Court emphasized that overruling a judgment generally operates prospectively unless the court explicitly states it has retrospective effect.

d) *Sasikala v. State through Superintendent of Police*, (2017) 2 SCC 630: The Court overruled the earlier position taken in *Babu v. State of Tamil Nadu*, regarding the requirement of corroboration in dying declarations, signaling a shift in legal reasoning.

e) Principle: Overruling does not invalidate the past legal consequence of the overruled decision (*i.e.*, it is not void ab initio). Instead, it denotes a new interpretation going forward. This enables legal evolution while protecting past reliance.

B. Distinguishing

a) *Definition*: Distinguishing is a judicial method whereby a court decides not to follow an existing precedent because the facts in the case before it are materially different from those in the precedent case.

b) *Legal Effect*: The precedent remains good law but is deemed inapplicable to the present case. Thus, the court avoids the binding effect of the earlier decision without overruling it.

c) *Case Law*: *Union of India v. Dhanwanti Devi*, (1996) 6 SCC 44: The Supreme Court distinguished the *M.C. Mehta* case on the grounds that the factual matrix and the legal context were different.

d) *Bengal Immunity Co. v. State of Bihar*, AIR 1955 SC 661: The court distinguished previous rulings to clarify and reinterpret the scope of Article 286 concerning state taxation.

e) Principle: This technique helps courts maintain flexibility in decision-making while preserving the authority of earlier judgments in appropriately similar contexts. It prevents rigid adherence to precedent and promotes nuanced interpretation.

C. Per Incuriam Decisions

a) *Definition*: A decision is said to be *per incuriam* (Latin for "through lack of care") when it is rendered in ignorance or disregard of a binding precedent or a statutory provision. Such decisions are considered legally flawed.

b) *Legal Effect*: A *per incuriam* decision lacks binding force and may be ignored by subsequent benches, even of coordinate strength, without the need for formal overruling.

c) *Case Law*: *Municipal Corporation of Delhi v. Gurnam Kaur*, AIR 1989 SC 38: The Supreme Court held that a decision rendered without reference to a relevant statutory provision or binding precedent is *per incuriam* and cannot be treated as authoritative.

d) *State of U.P. v. Synthetics and Chemicals Ltd.*, (1991) 4 SCC 139: The Court disregarded an earlier decision for having been passed without considering relevant statutory provisions.

e) Principle: The doctrine serves as a safeguard against judicial oversight and ensures that incorrect decisions do not continue to distort the law.

D. Sub Silentio Decisions

a) *Definition*: A decision is said to be rendered *sub silentio* ("under silence") when a particular point of law, though involved in the case, was not consciously addressed or argued upon by the court.

b) *Legal Effect*: Such a decision does not carry binding force on the unconsidered issue. Courts may choose to ignore it in subsequent cases where the issue is specifically argued.

c) *Case Law*: *A-One Granites v. State of U.P.*, (2001) 3 SCC 537: The Court ruled that certain legal points decided *sub silentio* lacked precedential value.

d) *Arnit Das v. State of Bihar*, (2000) 5 SCC 488: The earlier decision in *Gauri Shankar* was declared *sub silentio* as the issue of jurisdiction was not argued in that case.

e) Principle: A precedent must reflect judicial consciousness and deliberate reasoning. If a point of law is unintentionally passed over, it cannot bind future decisions.

E. Obiter Dicta

a) *Definition*: *Obiter dicta* (meaning “things said by the way”) are judicial statements or opinions made in the course of a judgment that are not crucial to the final decision. These may include general observations, hypothetical scenarios, or broader interpretations.

b) *Legal Effect*: Although *obiter dicta* are not binding, they carry persuasive value, especially when emanating from constitutional benches or respected jurists.

c) *Case Law*: *Jayant Verma v. Union of India*, (2018) 4 SCC 743: The Court clearly demarcated the difference between binding *ratio decidendi* and persuasive *obiter dicta*.

d) *Sundarjas Kanyalal Bhatija v. Collector, Thane*, (1989) 3 SCC 396: The Supreme Court reiterated that *obiter dicta* are not binding and should not be relied upon as authoritative statements of law.

e) Principle: *Obiter dicta* can guide the development of future case law but do not compel judicial adherence.

F. Change in Statutory Law

a) *Definition*: If a judicial precedent is based on a statutory provision, and that provision is subsequently amended, repealed, or substituted, the precedent loses its legal force to the extent of inconsistency with the new law.

b) *Legal Effect*: The altered legislative framework overrides the judicial interpretation based on the previous statute, rendering the precedent ineffective or obsolete.

c) *Case Law*: *A.K. Gopalan v. State of Madras*, AIR 1950 SC 27: The decision was based on a narrow interpretation of Article 21, which was later reconsidered and effectively overruled by *Maneka Gandhi v. Union of India*, AIR 1978 SC 597, in light of evolving constitutional jurisprudence.

d) *Dhulabhai v. State of M.P.*, AIR 1969 SC 78: Provided clarification on the scope of jurisdictional bars after statutory amendments, thereby modifying the applicability of earlier precedents.

e) Principle: Legislative developments can reshape the legal context, requiring the judiciary to reinterpret the law in light of the new framework.

G. Legislative Override

a) *Definition*: In a parliamentary democracy like India, the legislature has the constitutional authority to override judicial precedents by enacting a new law, provided it does not violate the basic structure of the Constitution.

b) *Legal Effect*: Once a statute is enacted to nullify a judicial decision, the precedent loses its binding authority. However, such override must conform to constitutional limitations.

c) *Case Law*: *S.R. Bommai v. Union of India*, (1994) 3 SCC 1: Though judicially settled, this judgment triggered legislative clarification regarding the imposition of President's Rule.

d) *Kesavananda Bharati v. State of Kerala*, AIR 1973 SC 1461: While the verdict had a lasting constitutional impact, successive amendments (like the 42nd Amendment) attempted to dilute its scope. Nevertheless, the doctrine of the "basic structure" remained unalterable.

e) Principle: The doctrine of legislative supremacy permits democratically elected legislatures to correct or change judicial interpretations, ensuring accountability and adaptability in lawmaking.

IV. DOCTRINAL TENSIONS: STABILITY VS. FLEXIBILITY

The doctrine of precedent lies at the heart of the common law system, primarily serving the values of stability, consistency, and predictability in judicial decision-making. However, the destruction or dilution of the binding force of precedent often brings into focus an inherent doctrinal tension — the tension between the need for legal certainty on one hand, and the need for judicial innovation and legal reform on the other. In modern jurisprudence, particularly in India, this balance is increasingly nuanced, as courts strive to uphold the sanctity of established precedent while also ensuring that justice is not sacrificed at the altar of outdated or incorrect rulings.

A. Pros of Binding Precedent

a) *Predictability and Legal Certainty*: One of the most important advantages of adhering to binding precedent is that it provides a predictable legal framework. Citizens, legal practitioners, and institutions are able to foresee the likely legal consequences of actions based on established principles. This certainty encourages social and economic stability by enabling individuals and businesses to plan their affairs accordingly.

b) *Efficient Judicial Administration*: Precedents reduce the need to re-litigate settled legal questions. By relying on previous decisions, courts can resolve similar disputes more efficiently, conserving judicial resources and reducing litigation costs. This uniformity also promotes fairness, as similar cases are treated alike.

B. Cons of Binding Precedent

a) *Obstruction to Legal Reform*: Strict adherence to precedent can hinder the development of law. Social values and realities evolve over time, and a rigid application of past decisions may prevent the law from adapting to contemporary needs. Precedents based on outdated societal norms, such as those upholding discriminatory practices, may thus become obstacles to justice if not revisited.

b) *Perpetuation of Errors*: If a precedent is based on flawed reasoning or misinterpretation of the law, blind adherence to it can lead to the continued application of erroneous legal principles. Without mechanisms for correction, such errors can become deeply entrenched in the legal system, undermining the credibility of the judiciary.

C. The Indian Judicial Response: Balancing the Tension

Indian courts have developed specific doctrines and mechanisms to address this tension between stability and flexibility. These include:

a) Prospective Overruling

Origin: Introduced into Indian jurisprudence in *Golaknath v. State of Punjab*, AIR 1967 SC 1643, and later applied in landmark decisions like *Kesavananda Bharati* and *I.R. Coelho.*

Principle: When a court overrules an earlier decision, the new ruling applies only prospectively — that is, to future cases — rather than retrospectively affecting past actions taken under the old rule.

Purpose: This doctrine helps mitigate the adverse effects of overruling by protecting parties who may have relied on the earlier precedent in good faith. It allows the law to evolve without disturbing settled rights or creating undue hardship.

b) Curative Petitions

Concept: The doctrine of curative petitions was developed in *Rupa Ashok Hurra v. Ashok Hurra*, (2002) 4 SCC 388, as a last resort remedy for correcting gross miscarriage of justice after the dismissal of a review petition.

Function: It acknowledges that even final judgments may, in rare cases, contain grave errors that violate principles of natural justice or constitutional rights. While not an attack on precedent itself, curative petitions offer a safety valve to correct unjust outcomes resulting from flawed decisions.

Impact: This judicial tool upholds the legitimacy of precedents by showing that the Court is open to correcting serious errors, reinforcing public faith in the justice system.

D. Evolving Constitutional Interpretation

Indian courts often interpret the Constitution in light of changing societal values, thereby allowing judicial flexibility without necessarily overturning precedent outright. For example:

Navtej Singh Johar v. Union of India (2018): Overruled part of *Suresh Kumar Koushal* (2013) and decriminalized homosexuality.

Joseph Shine v. Union of India (2018): Struck down Section 497 IPC (adultery) as unconstitutional, emphasizing the shift toward individual autonomy and gender equality.

E. Balancing Act: A Necessary Judicial Philosophy

Ultimately, the doctrine of *stare decisis* must be understood not as a rigid rule but as a flexible judicial philosophy that promotes fairness and justice. Courts must weigh:

a) When to follow precedent, to ensure legal certainty, equal treatment, and institutional integrity.

b) When to depart from precedent, to correct past errors, reflect constitutional morality, and respond to modern needs.

This balancing act is particularly significant in a pluralistic and rapidly evolving society like India, where courts serve as both interpreters and custodians of the Constitution.

The destruction of the binding force of precedent is not inherently problematic; in fact, it is often necessary for the progressive development of law. However, unchecked or frequent deviations can lead to judicial uncertainty and instability. Therefore, courts must exercise caution, apply doctrinal tools judiciously, and always keep the principles of justice, equity, and constitutional values at the forefront when determining whether to follow or depart from established precedent.

V. JUDICIAL TRENDS AND RECENT DEVELOPMENTS

In recent decades, the Indian judiciary has demonstrated an increasingly proactive role in interpreting the law, balancing respect for precedent with the imperatives of justice and evolving constitutional values. The Supreme Court of India, in particular, has developed several jurisprudential tools and techniques to refine and, when necessary, reshape or discard outdated precedents. Three important judicial trends highlight the ongoing evolution of precedent-based jurisprudence in India: the doctrine of prospective overruling, the use of larger benches, and increased judicial activism.

A. Prospective Overruling

a) Definition & Concept: Prospective overruling is a judicial innovation that allows a court to overrule a previous decision without disturbing the legal consequences of actions taken in accordance with the earlier rule. It ensures that while the old precedent is set aside, the new interpretation of the law applies only to future cases or to the case at hand, without having retrospective effect.

b) Origin in Indian Law: First recognized in Golaknath v. State of Punjab, AIR 1967 SC 1643. The Supreme Court held that amendments curtailing Fundamental Rights under Part III of the Constitution were invalid. However, to avoid creating legal chaos, the Court applied this ruling prospectively, protecting the validity of earlier constitutional amendments.

c) Significance: The doctrine reflects a conscious judicial effort to prevent the unsettling of past transactions and to balance continuity with change. It also provides a cushion to legislatures and individuals who may have relied on the old interpretation of the law.

d) Later Applications: Kesavananda Bharati v. State of Kerala, AIR 1973 SC 1461: Though the Court overruled aspects of *Golaknath*, it continued the use of prospective overruling to maintain institutional credibility and protect past actions.

Saurabh Chaudri v. Union of India, (2003) 11 SCC 146: The Court reaffirmed the use of the doctrine to uphold legal stability.

B. Use of Larger Benches

a) *Principle*: In Indian constitutional jurisprudence, a larger bench of the Supreme Court can overrule the decision of a smaller bench. This hierarchy within the Court itself ensures that significant changes to precedent are undertaken with greater deliberation and institutional authority.

b) *Legal Authority*: In Union of India v. Raghubir Singh, AIR 1989 SC 1933, the Supreme Court stated that decisions of coordinate benches (benches of equal strength) are binding on each other unless referred to a larger bench. If a bench disagrees with the decision of another coordinate bench, it must refer the matter for reconsideration by a larger bench rather than overruling it outright.

c) *Purpose and Importance*: This practice ensures consistency and respect for precedent within the apex court itself. It also prevents judicial indiscipline and forum shopping, preserving the integrity of constitutional interpretation.

d) *Example*: *M. Nagaraj v. Union of India*, (2006) 8 SCC 212: A five-judge Constitution Bench clarified and partly reconsidered the legal reasoning laid down in *Indra Sawhney v. Union of India* regarding reservations in promotions.

C. Increased Judicial Activism

a) Overview: In recent years, the Indian judiciary has increasingly embraced a proactive stance, often going beyond mere interpretation to engage with pressing social, moral, and constitutional questions. This form of judicial activism has included a readiness to reevaluate, restrict, or overrule precedents that conflict with the evolving notions of justice, dignity, and constitutional morality.

b) Key Examples:

Navtej Singh Johar v. Union of India, (2018) 10 SCC 1: The Court decriminalized homosexuality by reading down Section 377 of the IPC, explicitly overruling *Suresh Kumar Koushal v. Naz Foundation* (2013). The judgment was grounded in the values of equality, dignity, and privacy under Articles 14, 15, and 21 of the Constitution. This marked a bold departure from traditional notions of morality in law and an affirmation of individual rights.

Joseph Shine v. Union of India, (2018) 2 SCC 189: The Court struck down Section 497 of the IPC, which criminalized adultery, as unconstitutional. The earlier rulings upholding the provision were deemed patriarchal and incompatible with modern constitutional values such as gender equality and personal autonomy.

Indian Young Lawyers Association v. State of Kerala (Sabarimala case), (2019) 11 SCC 1: The Supreme Court overturned a centuries-old religious practice barring entry of women into the Sabarimala temple, holding it violative of Articles 14 and 25. Though controversial, the judgment exemplified the Court's willingness to revisit longstanding precedents and practices through the lens of constitutional morality.

c) Impact:

Judicial activism has allowed the Court to correct past errors, promote progressive values, and enhance the reach of fundamental rights.

However, critics argue that excessive activism may risk encroaching on legislative functions and undermine the doctrine of separation of powers.

These judicial trends illustrate a mature and responsive Indian judiciary that is not afraid to correct itself or adapt the law to the changing needs of society. By using tools like prospective overruling, relying on larger benches for authoritative reconsideration, and embracing judicial activism where necessary, Indian courts have managed to retain the doctrinal discipline of *stare decisis* while ensuring that justice is not sacrificed to legal formalism.

These developments also show that while precedents form the backbone of legal certainty, the spine of justice lies in the ability of the courts to evolve — a hallmark of any progressive legal system.

VI. CONCLUSION

Precedents are the bedrock of the common law tradition, ensuring consistency, predictability, and stability in judicial decision-making. They guide courts in resolving disputes by applying established legal principles to similar factual situations. However, the binding force of precedent is not absolute or immutable. Over time, the judiciary has developed several doctrines—such as overruling, distinguishing, *per incuriam*, and *sub silentio*—that provide courts with the flexibility to depart from earlier decisions when justice so demands. Additionally, obiter dicta, while persuasive, do not carry binding authority, and legislative interventions can explicitly override judicial pronouncements by enacting new laws or amending existing ones.

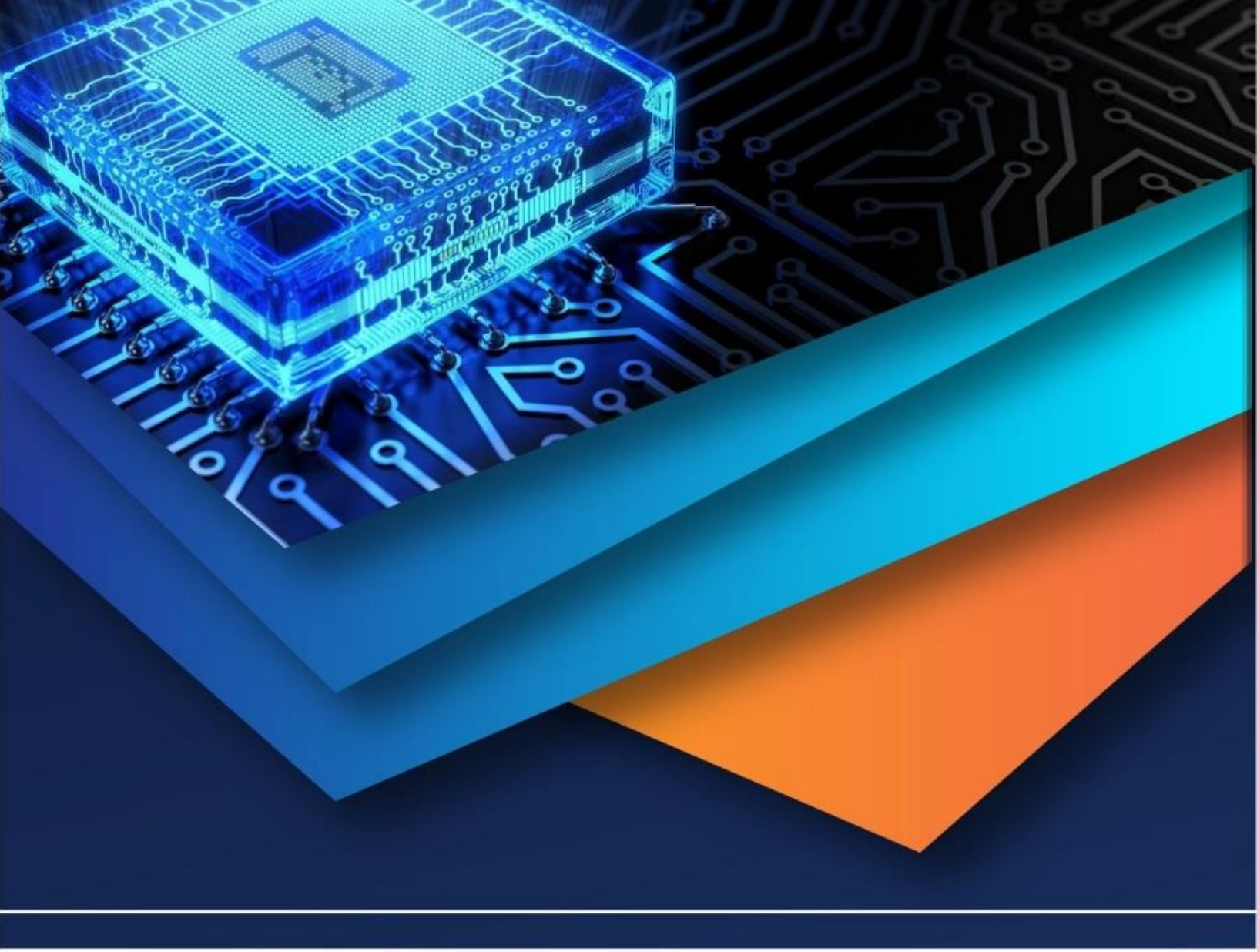
Importantly, societal values, constitutional interpretations, and notions of justice evolve with time. What may have been legally sound decades ago can become obsolete or unjust in a modern context. Therefore, courts play a crucial role not only in preserving the authority of precedents but also in recognizing when such authority must give way to progress. Judicial decisions such as *Navtej Singh Johar*, *Joseph Shine*, and *Maneka Gandhi* exemplify how the Indian judiciary has courageously moved beyond outdated precedents to uphold constitutional values such as equality, liberty, dignity, and privacy.

This delicate balancing act—between legal certainty and legal reform—defines a mature and responsible judiciary. Blind adherence to precedent can perpetuate injustice, but reckless disregard for settled law can lead to legal chaos. The solution lies in a principled and reasoned approach: respecting past decisions while remaining open to their reconsideration in light of new facts, legal arguments, or societal developments.

Ultimately, the evolution of law requires a judiciary that honors the discipline of *stare decisis* but is not shackled by it. A dynamic legal system must allow room for correction, refinement, and advancement. In this way, precedent serves not as a cage, but as a compass—anchoring the legal system while still allowing it to navigate toward justice.

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