International Journal of Law and Society
2026, Vol. 9, No. 1, pp. 104–108
https://doi.org/10.11648/j.ijls.20260901.20

SciencePG
Science Publishing Group

Research Article

Court Precedent in the Anglo-Saxon Legal Family

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Abstract

Judicial precedent in the Anglo-Saxon legal family is seen as an institutional mechanism for the production and stabilization of law through judicial interpretation and application of norms. The study analyzes the elements of the stare decisis doctrine, the ratio decidendi allocation methodology, vertical and horizontal connectivity, and flexibility tools (distinguishing, overruling, per incuriam). Special attention is paid to how the highest courts (primarily the Supreme Court of Great Britain, the Supreme Court of the United States and the Supreme Court of Canada) balance legal certainty and the development of law in the face of accelerating social and technological changes, including the digitalization of law enforcement and the growing role of algorithmic tools. The article concluded that judicial precedent in the Anglo-Saxon legal family is not just a source of law, but integral institutional technology. It provides predictability through the cohesion of the courts, allows law to develop through structured mechanisms of flexibility, and maintains the legitimacy of the judiciary through consistency of argument. Digitalization of justice changes not only access to judicial practice, but also the structure of the doctrine of precedent itself. Judicial precedent sets not only the result, but also the procedural format of thinking: legal argumentation must be verifiable, comparable and reproducible. This dramatically reduces the risk of arbitrariness, because arbitrariness is not just a "bad decision," but a decision without verifiable logic in the system.

Keywords

Judicial Precedent, Stare Decisis, Ratio Decidendi, Obiter Dictum, Overruling, Distinguishing, Anglo-Saxon Legal Family

1. Introduction

Case law is traditionally perceived as the "calling card" of the Anglo-Saxon (common law) legal family. However, its real role is broader: precedent is not only a source of norms, but also uncertainty management technology that binds courts, disciplines argumentation and ensures predictability of the behavior of participants in the turnover. That is why the question of judicial precedent inevitably goes beyond the formal hierarchy of court decisions and becomes a question of the design of the legal system: how much stability the law needs and how much flexibility it can afford [1]. In common law, precedent works as an infrastructure of legal certainty and as a mechanism for institutional self-control. If we understand precedent only as "another source," the illusion arises that it is functionally identical to the statute: there is a rule, it is applied. But the precedent array is arranged differently:

1) the rule is not "written out" in the finished form, it is extracted from the ratio decidendi;

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Received: 4 January 2026; **Accepted:** 16 January 2026; **Published:** 26 February 2026

2) the boundaries of the rule depend on the actual composition and argumentation;
3) subsequent courts do not just "obey," but constantly clarify and calibrate the scope of the rule through distinguishing and other techniques.

Uncertainty in law is inevitable: the language of norms is open, the facts are infinitely variable, social relations evolve faster than the legislator. Precedent governs this uncertainty in three ways.

(a) Consolidation of legal meaning around model situations. The court's decision "attaches" legal qualifications to a specific configuration of facts. Unlike the abstract norm of the statute, precedent fixes a bunch: if facts of this type are such and such a legal conclusion. This reduces the guessspace for turnover participants: they see not only "what is written," but also "how it works on real cases."

(b) Variability control via the "like cases alike" rule. Precedent turns individual judicial discretion into manageable: a judge cannot start from scratch every time. The system seems to say: "if you want to retreat - explain why this is not the same case." Uncertainty does not disappear, but becomes predictable in form: any deviations must pass through an argumentative filter.

(c) Reduce transaction costs. For business and citizens, it is not the ideal coincidence of legal reality with the "book" norm that is important, but the ability to plan risks. Precedent reduces the cost of forecasting: a lawyer relies on designs already "tested" by courts, and not fortune-telling about how the court will interpret the norm for the first time.

In the precedent system, it is not enough to say "so fair" or "so reasonable." It is necessary: to show the place of the decision in the existing precedent landscape; explain whether the court follows the former case, distinguishes it, limits it, or cancels it; highlight ratio and justify why it is applicable. In other words, precedent sets not only the result, but also the procedural format of thinking: legal argumentation must be verifiable, comparable and reproducible. This dramatically reduces the risk of arbitrariness, because arbitrariness is not just a "bad decision," but a decision without verifiable logic in the system.

Predictability in common law is achieved not by the promise of "the norm is clear," but by the promise of "change will be manageable." Turnover participants receive: guidelines for structuring transactions and compliance; ability to assess litigation risk; signals about how the courts relate to certain models of behavior (for example, conscientiousness, reasonableness, standards of professional care).

If judicial precedent is uncertainty management technology, then the main professional skill of a lawyer in common law is not "finding the right quote," but managing the applicability frame: correctly determine issue, extract ratio, justify (not) the similarity of facts and show an institutionally correct way to change the rule if it is outdated.

2. The Concept of Judicial Precedent and Its Normative Nature

In common law, a judicial precedent is a court decision that formulates a rule (or principle) that is binding on subsequent cases, derived from the circumstances and legal justification of the decision. The key thesis of the stare decisis doctrine is that such rules should apply to "similar" cases, and rejection requires a specially motivated explanation. In other words, precedent turns judicial argumentation into a system of accumulation of legal positions, and not into a set of disparate incidents.

The normative nature of the precedent is fundamentally different from the normative nature of the law. The law sets an abstract model of behavior designed for many situations; precedent, by contrast, is born of a particular conflict and preserves a "trail of facts." This means that the application of the default precedent is analogous: the court compares the actual composition, identifies legally significant elements and decides how much the new situation is "sufficiently similar" to the original one for transferring the rule [2].

This leads to a practical conclusion that is often underestimated when comparing common law and continental tradition: the precedent system does not abolish "textual" law, but forms a special culture of argumentation in which the quality of actual qualifications becomes equivalent to the quality of legal interpretation. In the digital age, this component will intensify because case search and matching algorithms actually make "similarity" a manageable parameter of judicial reasoning.

2.1. Precedent Structure: Ratio Decidendi and Obiter Dictum

The doctrinal construction of precedent relies on the distinction between ratio decidendi (mandatory basis for a decision) and obiter dictum (incidental reasoning). Ratio is the legal position without which the outcome of the case would be different; obiter may be intellectually compelling, but does not bind subsequent courts. This distinction is necessary in order to maintain a balance between stability and development: only that part of the argument that really "worked" in the decision becomes mandatory.

In practice, the allocation of ratio is complicated by two circumstances. Firstly, the decisions of the highest courts are often multi-motivational: different judges can come to the same result through different logical paths. Secondly, modern courts often deliberately formulate "extended" motivations, seeking to guide the evolution of law in advance. Therefore, in the common law system, the question of what exactly is mandatory turns into a separate professional skill - and at the same time into a field for institutional competition between courts [3].

2.2. Vertical and Horizontal Connectedness: Stare Decisis as a Discipline

Stare decisis works in two dimensions. Vertical connectedness means the obligation of lower courts to follow the legal positions of higher courts. Horizontal connectedness refers to the question of how bound a court is by its own former decisions. It is horizontal connectedness that is the "nerve" of the precedent system: it determines whether the highest court remains a source of stability or turns into an ever-changing political and legal center.

A classic expression of rigid horizontal connectedness in English law was the case of London Street Tramways (1898), in which the House of Lords actually recognized itself bound by its own decisions. This position provided maximum predictability, but at the same time created the risk of conservation of erroneous approaches and the accumulation of "bad law," which could only be corrected by Parliament or a long chain of artificial distinctions [4].

The turning point was the Practice Statement 1966, which the House of Lords announced the possibility of retreating from its own decisions "when necessary," while maintaining the priority of legal certainty and caution to retrospective effects. This design is a typical common law compromise: the rule remains stable by default, but the high court receives an "emergency valve" to correct system errors [5].

3. Results

The institutional reform of the early 21st century transferred the jurisdiction of final appeal from the House of Lords to the Supreme Court of Great Britain. Devolution is enshrined in the Constitutional Reform Act 2005; in fact, it strengthened the symbolic and practical autonomy of the judiciary from the legislative and aristocratic tradition. At the same time, the mechanism of working with precedent (including the appeal to Practice Statement 1966) has been preserved and continues to be applied by the Supreme Court as part of legal continuity [6].

Current trends demonstrate that the key challenge is managing the volume and complexity of the precedent array. The answer is to strengthen methodological discipline (clarification of ratio, standardization of motivations, institutional criteria for overruling) and a more explicit understanding of the socio-economic costs of changing law. In the digital age, precedent will not disappear: on the contrary, it will become more "transparent" and more manageable, which can increase both the effectiveness of justice and the requirements for the quality of legal argument.

4. Discussion

The flexibility of the precedent system is provided not only by the possibility of direct overruling (cancellation of precedent), but also by more "subtle" tools. Distinguishing allows the court to recognize the formal relevance of the previous decision, but to bring a new case outside the ratio due to actual differences. As a result, the right develops "modularly": instead of a frontal rejection of the old rule, there is a gradual reconfiguration of the boundaries of its applicability.

Another channel of flexibility is related to the doctrine of per incuriam - the recognition that a previous decision was made with a significant omission (for example, without regard to a mandatory rule or key precedent). In English tradition, the case of Young v Bristol Aeroplane (1944)[1] [7], which formulated exceptions to the Court of Appeal's connectedness by its own decisions, played an important role. These exceptions actually create a "quality filter" within the system, allowing the apparent failures to be corrected without destroying the general stare decisis logic [8].

What is practically significant is that the tools of flexibility are spread across the tiers of the judiciary. Lower courts are more likely to use distinguishing because direct overruling is not available to them; high courts, by contrast, can overrule precedent, but do so rarely and with detailed institutional reasoning. As a result, precedent "evolves" predominantly through the practice of application rather than through declarative discontinuities.

Stare decisis performs not only a technical, but also a legitimizing function: society accepts the judiciary as an arbiter, because it expects consistency and explainability of decisions from it. This is especially evident in constitutional disputes, where every change in approach is perceived as a change in the rules of the political game.

In American doctrine, the Supreme Court does not consider precedent as an "iron chain," but when assessing the possibility of derogation, it usually takes into account factors such as the quality of the previous justification, the practical feasibility of the rule, and reliance interests - the degree to which society and institutions have already "invested" in the existing legal structure. This shows the pragmatic nature of precedent: it protects not the past per se, but the sustainability of expectations and the institutional costs of change [8].

5. Conclusion

The recent dynamics of American administrative law are also indicative: in the case of Loper Bright (2024) [4], the Supreme Court revised the scope of judicial control over the in-

[1] Young v Bristol Aeroplane Co Ltd (1944) is a leading English Court of Appeal case on stare decisis (when the Court of Appeal is bound by precedent). Citation: (1944) KB 718 (CA). The Court of Appeal held it must follow its own previous decisions (and those of courts of coordinate jurisdiction), subject to three classic exceptions: 1. Conflicting CA authorities: if there are two inconsistent Court of Appeal decisions, it must choose which to follow. 2. Conflict with a higher court: it must refuse to follow its own decision if it cannot stand with a House of Lords (now UK Supreme Court) decision. 3. Per incuriam: it may depart from its own decision if it was reached per incuriam (e.g., a relevant statute/rule with statutory effect was overlooked).

terpretation of laws by federal agencies, effectively abandoning the previously dominant Chevron-deferential approach. Regardless of the assessment of this step, it demonstrates that the precedent in common law is not a "graveyard of decisions," but a mechanism for redistributing power between institutions, which can be launched at a time when the highest court considers the previous equilibrium to be erroneous or outdated [7].

Canadian practice shows a different style: the Supreme Court of Canada more often emphasizes institutional reasons for following precedent and generally avoids sharp doctrinal reversals. In R. v. Sullivan (2022)[2], the Court explicitly affirmed the basic rules of stare decisis and emphasized that their task is to ensure uniformity and predictability, and derogation requires good reason. In this approach, the orientation towards the "managed development" of law through cautious clarifications is noticeable [9].

Supreme courts common law effectively create a "procedural framework" to deal with their own precedents. In the UK, key logic is framed as the need for extreme caution: derogation is permissible but must be justified given legal certainty, implications for enforcement and trust in the court as an institution [10].

From the point of view of institutional design, this means the following: the highest court turns into a body of controlled evolution, and not into a "second parliament." Even when the court departs from precedent, it seeks to minimize the destruction of the system: limits the retrospective effect, builds transitional arguments and (ideally) demonstrates why the previous approach has ceased to be compatible with the current structure of law [10].

A separate problem is the definition of ratio in collegial decisions. Modern courts of appeal often produce "split" decisions (plurality), where only the result coincides. Studies indicate that formal rules (ignoring reasoning that is not necessary for the result, and excluding dissents when searching for ratio) perform a rational function: they reduce the risk of internal inconsistency and simplify the subsequent application of the solution [3].

Judicial precedent in the Anglo-Saxon legal family is not just a source of law, but integral institutional technology. It provides predictability through the cohesion of the courts, allows law to develop through structured mechanisms of flexibility, and maintains the legitimacy of the judiciary through consistency of argument [11].

6. Recommendations

Digitalization of justice changes not only access to judicial practice, but also the structure of the doctrine of precedent itself. Firstly, search platforms and analytical systems stimulate a more "granular" allocation ratio: judges and lawyers find close factual scenarios faster, which means that distinguishing becomes more accurate and more frequent. Secondly, the importance of a standardized statement of motivations increases: the more machine-processed the text of the decision becomes, the higher the pressure on the court to formulate the rule clearly and structurally [5].

From a practical point of view, common law is likely to evolve towards "managed precedence" in the coming years: higher courts will more often give methodological guidance on how to read their decisions, what to count ratio, how to take into account individual opinions and how to deal with the conflict of practice lines. This is not a "theory for the sake of theory," but a reaction to the growth of the volume of the precedent array: without procedural self-control, the precedent turns from a resource of predictability into a source of chaos.

The practical recommendation for an enforcer in a common law environment is simple, but tough: the success of argumentation is increasingly determined not by the number of cited cases, but by the accuracy of the reconstruction ratio and the honesty of working with actual differences. A lawyer who knows how to correctly "sort" an array of practice by force of obligation and by actual proximity acquires a competitive advantage, which increases as the search for court materials is automated.

Author Contributions

Grudtsina Ludmila Yu is the sole author. The author read and approved the final manuscript.

Conflicts of Interest

The author declares no conflicts of interest.

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[2] R. v. Sullivan (2022) is a Supreme Court of Canada criminal-law decision: 2022 SCC 19 (judgment May 13, 2022). The case (heard together with R. v. Chan) concerns whether a person who commits violence while in a rare state of drug-induced automatism (loss of voluntary control) can rely on that as a defence. Core legal issue: Section 33.1 of Canada's Criminal Code tried to block the "extreme intoxication / automatism" defence for certain violent offences (assault, etc.); Sullivan (and Chan) argued s. 33.1 violates Charter rights (notably s. 7 and s. 11(d)).

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