

Controversy of "*Stare Decisis*"

Extracted from:

https://www.law.cornell.edu/wex/stare_decisis

*"Stare decisis is Latin for **“to stand by things decided.”** In short, it is the **doctrine of precedent**. Courts cite to stare decisis when an issue has been previously brought to the court and a ruling already issued.*

According to the Supreme Court, stare decisis “promotes the evenhanded, predictable, and consistent development of legal principles, fosters reliance on judicial decisions, and contributes to the actual and perceived integrity of the judicial process.”

In practice, the Supreme Court will usually defer to its previous decisions even if the soundness of the decision is in doubt. A benefit of this rigidity is that a court need not continuously reevaluate the legal underpinnings of past decisions and accepted doctrines.

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Moreover, proponents argue that the predictability afforded by the doctrine helps clarify constitutional rights for the public. Other commentators point out that courts and society only realize these benefits when decisions are published and made available.

Consequently, stare decisis discourages litigating established precedents, and thus, reduces spending.

Despite the legal stability afforded by stare decisis, it is not without negative externalities. Critics argue that the doctrine occasionally permits erroneous decisions to continue influencing the law and encumbers the legal system's ability to quickly adapt to change.

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Although courts seldom overrule precedent, Justice Rehnquist explained that stare decisis is not an “inexorable command.” On occasion, the Court will decide not to apply the doctrine if a prior decision is deemed unworkable. In addition, significant societal changes may also prompt the Court to overrule precedent; however, any decision to overrule precedent is exercised cautiously.

Courts, however, need not always adhere to precedent of prior courts. Courts are typically bound by decisions either they, or their superior courts, have made. ... Although the precedent may not be binding, it may be extraordinarily persuasive, especially if the facts of the precedent case and the original court's rationale for its decision are very similar to the current case."