

LAWFOYER INTERNATIONAL JOURNAL OF DOCTRINAL LEGAL RESEARCH

SUBMISSION GUIDELINES

1. GENERAL INSTRUCTIONS

- Long Articles and Short Articles must be accompanied by an abstract of a maximum of 250 to 300 words.
- Up to one Co-author is allowed for all categories of submissions.
- All submissions shall be the author's original work, not previously published anywhere, and not under consideration by any other journal at the time of submission. Articles that are plagiarised, in part or whole, will be immediately disqualified for publication by LIJDLR.
- The Authors shall be completely liable for any dispute that arises out of my or our manuscript, including copyright, defamation, offensive content, or contempt, and they undertake to bear the loss (if any) that is caused by breaching copyright or any other rights.
- Even though it is recommended that the author sticks to the prescribed word limits of each category, the journal may be willing to be flexible on the word limit based on the quality of the article as long as it meets publication criteria.

2. FORMAT OF SHORT AND LONG ARTICLES

- On the first page of the manuscript, the author should include the title of the paper, the names of the authors, and their affiliation with the respective institutions, along with email ids, followed by an abstract and keywords. The

abstract needs to be clear and concise, while still conveying all the necessary information.

- Footnotes should be written in Times New Roman style, font size 10, with 1.0 line spacing and the main body of the book should be written in Times New Roman style, font size 12, with 1.5 line spacing. Each heading is required to have a structure that is consistent throughout.
- There must be a standard citation style used throughout both the text and the footnotes. Eg: Bluebook 20th Edition, OSCOLA.
- Microsoft Office word is the recommended file format for any articles (2003 or above). It is necessary to insert illustrations at the right points throughout the paper. It's important to take care of the numbering. No borders or other decorative implementations shall be entertained anywhere in the entire text. The following sections must be included in the manuscript:
 - i. Title page
 - ii. Abstract
 - iii. Keywords
 - iv. Introduction
 - v. Research & Analysis divided into various Sub-Headings
 - vi. Conclusion and Suggestions
 - vii. References

3. FORMAT OF CASE ANALYSES

- *Case Name & Citation*
- *Table of Contents*
- *Index of Authorities (list of cases referred with page numbers)*
- *Head Notes (at most 5 to 6 lines per head note, use hyphens (-) adjoin phrases)*
- *Abstract (at most 250 to 300 words)*
- *Primary Details of the Case (in two-column table format)*
 - o *General Details (like Court Name, Case Number, etc.)*

- **Specific Details** (case-specific details like witnesses in a criminal case)
 - **Prosecution Witnesses** (list of names of the witnesses)
 - **Defence Witnesses** (list of names of the witnesses)
- **Brief facts of the Case** (in at most 4 to 5 paragraphs)
- **Issues raised in the Case** (as stated in judgment – questions of law)
- **Arguments Advanced by the Parties** (only material arguments to which emphasis is applied in the judgment in almost 4 to 5 paragraphs)
- **Evidences Produced by the Parties (if any)** (only material evidences in almost 2 to 3 paragraphs)
- **Judgement** (Analysis by the Judge on each issue)
- **Ratio Decidendi** (issue-wise analysis in not more than 2 to 3 paragraphs per issue)
 - **Analysing Issue No. 1**
 - **Analysing Issue No. 2**
 - **Analysing Issue No. 3 ... etc.**
- **Obitur Dictum** (opinion of judges which is material for the interpretation of the judgment or any remarkable statement made by Hon'ble Judges)
- **Commentary**
 - **Author's Comment**
 - **Judgements Overruled / Surpassed (Partly or Wholly) (if any)**, (mention about the judgment which overruled the judgment being analyzed)
- **References**
 - **Sources referred for commentary** (in bullet points as per the citation standards being followed – ILI / Harvard Bluebook / OSCOLA)
 - **Important Cases or Cases Referred** (with a citation in bullet form)

BASIC ELEMENTS OF A CASE ANALYSIS

- Head Notes

Head Note generally refers to a summary of a particular point of law that is added to the text of a court decision to aid readers in locating a discussion of a legal issue in an opinion. As the term implies, head notes appear at the beginning of the published opinion.¹ But, to write a case analysis a head note refers to a precise brief of facts, the *ratio decidendi*, the provisions involved in the case, and the issue in the question of law divided into precise phrases of 4 to 5 words adjoined with hyphens (-). The basic format of a head note is:

< Key Provisions > - < Issue in question of law > - < Material facts which are directly related to the ratio decidendi in 2 to 3 phrases > - < The Ratio Decidendi beginning with the word 'held that' > - < obitur dictum (if necessary)>

For example, in the case of *MC Mehta v. Union of India*² which was concerned with the 'Rule of Absolute Liability' the head note may be as follows:

Article 32 – Rule of Absolute Liability – Rylands v. Fletcher – Scope of Article 32 challenged– Right to Health – Right to Life – Oleum Gas Leak – Plant established in Residential Area of Delhi – 470 Children Hospitalised – a Lawyer died – Petition filed thereto – Scope of Article 32 enlarged – Rule of Absolute Liability Applied – Held that Plant must be established at isolated areas – No benefit to the economy at cost of human health considerable (Dicta).

¹ WIKIPEDIA, HEADNOTE (<https://en.wikipedia.org/wiki/Headnote>)

² *MC Mehta v. Union of India*, AIR 1987 SC 1086.

Every reader has a purpose for research. The Head Note helps the reader to have an overview of the case and to adjudge as to whether the instant case analysis is relevant for his or her purpose of research. It is the only thing that differentiates all the law journals and manuals like AIR (All India Reporter), SCC (Supreme Court Cases), etc. The more comprehensive & precise the Head Note, the more ease will be for the reader in doing legal research.

- Abstract

Abstracts generally follow one of two styles, narrative or structured. A narrative abstract consists of a short version of the whole paper. There are no headings within the narrative abstract. The author simply tries to summarize the paper into a story that flows logically. Whereas, in a structured abstract sub-headings are used.³

For case analysis, a '*narrative abstract*' is preferred which is divided into 3 to 4 paragraphs. An abstract must contain a brief on the following:

- a) Summary of the '*material facts*' in 4 to 5 lines;
- b) The questions of law involved;
- c) The *Ratio Decidendi*;
- d) The date of pronouncement of the judgment;
- e) The key provisions & statutes involved (*only titles like Article 32, 226, 139 or Section 133, etc.*);
- f) The name of the Hon'ble Court & the Hon'ble Justices;
- g) The type of bench (*division bench, social bench, etc.*);
- h) Key Words (*including the Latin Legal maxims like 'locus stand, 'animus manendi' etc.*)

- Primary Details of a case

³ THE JOURNAL OF CANADIAN CHIROPATIC ASSOCIATION, NCBI – PMC <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2597880/> (last visited on 14th September, 2021)

Primary Details of a case include the case number, jurisdiction (*name of the forum / Court / Tribunal and provision defining the jurisdiction*), date of pronouncement of judgment, Name of the Judges, Legal Provisions Involved, and name of the person who has prepared the case analysis, and other case-specific particulars, for example,

- a. if the case is concerned with a Writ Petition then the size and type of the Bench (*division bench, social bench, or single bench*) are to be included; *or*
- b. if the case is a Criminal Writ Petition then the name of the Prosecution Witnesses & Defence Witnesses are to be included under a separate sub-heading; *etc.*

Therefore, the primary details may be classified further in two sub-headings titled: General Details and Specific Details: (*for example*)

<i>General Details</i>			
Case Number		W.P. (Civil) 1234 / 20XX	
Name of the Forum		Hon'ble Supreme Court of India	
<i>Specific Details</i>			
Prosecution Witnesses		Defense Witnesses	
P.W. 1	A	D.W. 1	B

{**Note:** All the categories of general and specific details are not covered in the aforementioned example. The analyst has to mention every preliminary detail of the case.}

- Brief Facts of the Case

This heading must be classified into three sub-headings:

- a) Parties to the suit
- b) Factual Background

c) Procedural Background

All the material facts of the case should be elucidated in brief in '*Factual Background*'. The major issue which arises here is related to the identification of 'material facts. Now, for determining as to which fact is material and which is not we use *Goodhart's Rule of Determining the Ratio* which was published in the Yale Law Journal. Identification of the material facts not only helps in differentiating between the *ratio decidendi* and the *obiter dictum* but it also helps in culling out the major legal arguments and in knowing what part of judgment must be mentioned and what not. The rule is further elucidated in Chapter - VI. Whereas, in the *procedural background* the series of events related to the Court Procedure or *lex fora* must be elucidated chronologically.

- Issues

Generally, the judgment is *per se* explicit on the issues dealt with in the case but if the judgment has dealt with the issues '*simultaneously*' and not '*subsequently*' then all the issues about the questions of law shall be included in the case analysis. Questions of fact may be avoided if not crucial for determining the *ratio decidendi*.

- Provisions involved

All the statutes and provisions which are involved in the case must be elucidated in the case analysis to make it easy for the reader to understand the use of those provisions. Provisions not only include the Statutes but also other components of the 'Rule of Law'. The 'Rule of Law' included, *inter alia*, the following:

- a) Statutory Provisions;
- b) Decided Judicial Precedents (which are not overruled or surpassed);
- c) Jurisprudential Principles;
- d) International Law Principles;
- e) Principles of Common Law; or
- f) And any other legal principle used in the judgment.

- Party's Arguments

An argument that is substantiated by material facts to which emphasis was applied by either of the judges in the judgment is known as a '*material argument*'. Only '*material arguments*' which are related to the *ratio decidendi* of the case must be included in the case analysis. Arguments of both parties must be included in the case analysis.

- Judgement

A judgment has various parts including, *inter alia*, the *ratio decidendi*, and the *obiter dictum*. This heading must thus be classified into two parts, i.e., the *Ratio Decidendi* and the *Obiter Dictum*. The analysis of the Court on each issue must be explicated under separate sub-headings. Further, there must be a clear distinction between the *ratio* and *dicta* by making use of *Goodhart's Rule* which is explained further in detail in Chapter - IV.

- Commentary

A case comment, as the name suggests, is an extended commentary on a particular court case. The purpose of a case comment is to allow a writer to assess not only how a specific case was disposed of in court, but also: (1) to survey the development of that area of the law represented by the selected case; and (2) socio-political consequences of the decision.

A case comment should therefore be regarded as a type of interpretative essay which focuses on a particular case, but which is not limited to a simple exposition of its details. A successful case comment combines description and analysis. The case itself needs to be described succinctly. At the same time, the judgment must be analyzed. The analysis will be helped by some understanding of the state of the law with which the case in question is concerned.⁴

Understanding the state of the law means having some knowledge of precedent decisions in the area under investigation. Hence a commentary

⁴ https://www.yorku.ca/khoosh/PPAS%202200/case_commentary.htm

will almost invariably include a brief chronicle of how the court has decided on similar cases. The point of supplying such a legal context is to help determine not only what the law has been in a certain area but also the extent to which the subject case affirms or departs from a line of precedents. In short, a legal history helps highlight why the chosen case is important.⁵

*“How does one determine the legal history of a particular subject matter that has come before the courts? To begin with, the Judgment you are examining invariably will contain a list of cases that the Court considered when reaching its decision in the present case. These cases are in one way or another relevant precedents so you can quickly look at them to see what courts have decided in the past in this particular area of the law. Two general texts on Canadian constitutional law that help point out how courts have decided broad areas of the law are.”*⁶

-Peter W. Hogg, Constitutional Law of Canada Student Edition, & Patrick Monahan, Constitutional Law.

Describing the details of a case and its legal context does not exhaust the requirements of an effective case comment cases have not only legal but social and political significance. In other words, court rulings often have weighty social and political consequences, indeed, may not be understood outside the social and political environment that gave rise to them. Hence in most instances, a successful case comment will draw on a wider political and social context to better explain and analyze a specific ruling. Such a wider context may help illuminate where, why, and how certain legal controversies arise. The broader social and political context may be key to identifying why a case is important enough to warrant an extended commentary.⁷ One thing which must be noted is that the comment must be fair i.e. based on facts and appropriate reasoning & must be *bonafide* to avoid contempt of court.

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

{*Note: An analyst may include the cases overruled by the instant case and the cases which overruled the instant judgment and the rationale behind such judgment.*}

What should be included in your case brief?

After gaining knowledge of the basic elements of a case brief another question that comes to mind of an analyst is that “*what information is important to include under each element?*” The simple answer is: whatever is relevant. But what parts of a case are relevant? When you read your first few cases, you may think that everything that the judge said was relevant to his ultimate conclusion. Even if this were true, what is relevant for the judge to make his decision is not always relevant for you to include in your brief. Remember, the reason to make a brief is not to persuade the world that the ultimate decision in the case is a sound one, but rather to aid in refreshing your memory concerning the most important parts of the case.⁸

MUST DO FOR THE CASE NOTE

1. Your case note must be concise, clear, useful, and relevant. This increases the readability of the work. The more readable is the work, the easier it is for the reader to ascertain your opinion.
2. However, to make it more effective, you should try to inculcate the essential elements in it, and eliminate the non-essential things which simply reduce your efficiency. An effective case note should have the following:⁹ (1) When did the cause of action arise? (2) When the complaint was registered? (3) What legal issues were involved? and (4) What statutory provisions were used in declaring the verdict?

⁸ Michael *Supra* note 1 at page 3.

⁹ *Id.*