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# LLOYD CASE MATERIAL

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Sahiba Maqbool

## INDIAN PENAL CODE

Sahiba Maqbool

Foreword By  
Prof. (Dr.) N.R. Madhava Menon

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# **Indian Penal Code**

**Sahiba Maqbool**

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# **Indian Penal Code**

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## **About Lloyd Law College**

Lloyd Law College, Greater Noida, U.P., India was established 2003 in affiliation with CCS University, Meerut, U.P. (state university established in 1965) and approved by the Bar Council of India (patron of professional legal education in India). We are imparting regular professional degree in the mode of BA.LL.B. - 5 year and LL.B. - 3 year program. During the last sixteen years in BA.LL.B. - 5 year program eleven batches consisted of 1500 approx. students and in LL.B. - 3 year program thirteen batches consisted of 2200 approx. students successfully completed degree from this college and entered Bar, Bench, Law firms and national and multi-national corporations. Currently 2000 approx. students are taught and trained by 75 approx. faculty members from regular academics, visiting practitioners and professionals. The minimum attendance percentage for students in the campus is 75% and students pass percentage is 96%.

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- His Excellency Shri Venkaiah Naidu, the Hon'ble Vice-President of India Awarded Lloyd Law College "SILF - MILAT INSTITUTIONAL EXCELLENCE AWARD" on the occasion of Tenth Law Teachers Day Program 01 Sept. 2018. (Photo Annexed)
- Lloyd ranked among top 03 North India and top 10 all India best law colleges of India - Annual Survey by India Today, Outlook and CSR - June 2018. (Ranking Annexed)

### **ACADEMIC INITIATIVES**

Over the years, we have successfully organized various NCR-level, national-level, SAARC-level, Asia pacific-level thought provoking legal conferences, think tank discussions and legal simulation competitions, judicial and scholarly colloquium, namely;

- Bar Council of Kerala M. K. Nambyar Academy for Continuing Legal Education, Kochi, in association with Lloyd Law College, Greater Noida organised the South Asian Colloquium on Ethics for Judicial Professions on 17th and 18th Feb. 2018. The colloquium was divided into two session, the first

‘Code of Conduct for Lawyers: Teaching, Training and Enforcement’ and second session was on ‘Conduct for Judges: Teaching, Training and Enforcement.’

<http://www.lloydlawcollege.edu.in/website/academics/ActivityReports/pdf/3.2.2%20Report%20of%20the%20South%20Asian%20Colloquium.pdf>

- Professional Development Workshop on New ways of teaching and research for better delivery of legal services by the Bar Council of Kerala & M. K. Nambyar Academy for Continuing Legal Education Kochi In Association with Lloyd Law College held on 7-10 Sept. 2017.  
<http://www.lloydlawcollege.edu.in/website/workshop/files/INVITE.pdf>
- National Law Day celebrated jointly by Law Commission and NITI Aayog organized by Lloyd Law College at Vigyan Bhawan, New Delhi, Mr. Ram Nath Kovind, The Hon’ble President of India inaugurated the event on 25 Nov. 2017 and Mr. Narendra Modi, the Hon’ble Prime Minister of India delivered the Valedictory Address on 26 Nov. 2017.  
<http://pibphoto.nic.in/documents/rlink/2017/nov/p2017112403.pdf>
- Course on Global Constitutionalism by Hon’ble Mr. Justice Mohan Peiris, Former Chief Justice, Supreme Court of Srilanka held during 04 – 08 Dec. 2017 at our Campus.
- Prof. N.R. Madhava Menon SAARCLaw Mooting Competition (National Round – 2015, 2016, 2017) and (SAARC Round – 2016, 2017, 2018) in association with Menon Institute of Legal Advocacy, Trivandrum (MILAT) and Society of Indian Law Firms (SILF). <http://saarcmooting.lloydlawcollege.edu.in>
- National Legal Job Festival – April 2018 opened to all the law graduates passed in 2016-17 or passing in 2017-18 of law schools in India to be organized in association with top 50 legal jobs employers in India.  
<http://internship.lloydlawcollege.edu.in>
- Best Law Teacher / Student Awards in association with MILAT-SILF-Penn State University U.S.A.-LLOYD announces through a rigorous one year process, applicants for the Best Law Students’ award one each Male & Female every year with \$51000 scholarship to study LL.M. at Penn Law School, Pennsylvania, U.S.A. Lloyd Law College and Penn State Law School, U.S.A.

has entered into an MoU for the students' and faculty scholarship, exchange and research initiatives.

[http://www.lloydlawcollege.edu.in/website/MOU/mou\\_content.html](http://www.lloydlawcollege.edu.in/website/MOU/mou_content.html)

- First Corporate Leadership Development Program – CLDP housed and hosted by Lloyd and organized by Institute of Company Secretaries of India (a statutory body of the Government of India) – ICSI during 28 Aug. – 14 Sept. 2017. [https://www.icsi.edu/WebModules/Announcement\\_and\\_Prospectus.pdf](https://www.icsi.edu/WebModules/Announcement_and_Prospectus.pdf)
- CLEA regional conference in association with Law Commission of India on 'Freedom of speech and expression & Sedition' held at Lloyd Law College on 05 – 06 Nov. 2016.  
<http://www.lloydlawcollege.edu.in/website/Events/event/index.html>
- 'National Round' of 'The Louis M. Brown and Forrest S. Mosten International Client Consultation Competition, 2014. <https://www.lawctopus.com/wp-content/uploads/2014/01/BROCHURE-The-Louis-M.-Brown-and-Forrest-S.-Mosten-International-Client-Counsultation-Competition-National-Round.pdf>
- 30 Bar Council of India Trust All India Inter-University Moot Court Competition, 2013. <https://www.lawctopus.com/30th-bar-council-of-india-trust-moot-2014/>

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## About the Author

Sahiba Maqbool joined Lloyd Law College in August 2017 as an Assistant Professor. She was formerly a Researcher at Indian Society of International Law from 2015-16, where she wrote the Human Rights Committee Report for India. She was also involved in writing a comprehensive declaration by Indian on United Nations Conventions on Law of the Sea. In addition, she has worked as an



Advocacy Intern in Human Rights Watch, Geneva where her main function was to review and follow-up on the notable thematic issue at Human Rights Council and Universal Periodic Review procedures. She also delivered statements on abolition of death penalty and prohibition of torture on behalf of Commonwealth Human Rights Initiatives in Human Rights Council. Moreover, she has also worked as Research Intern in Global Detention Project where she worked on detention related Immigration in the United States and India.

She obtained her LLM from Geneva Academy of International Humanitarian Law and Human Rights from 2013-14, specializing in international humanitarian law, international criminal law and human rights. She pursued her BA LLB from University of Kashmir from 2007-2012. She recently published a paper titled, 'Implications of Use of Drones under International Law' in the 25th Volume of Sri-Lankan Journal of International Law..



# Foreword



Lloyd Law College, Greater NOIDA (U.P) is on the path to academic excellence despite the constraints of being an affiliated college of a Conventional University. Instead of preparing students just to pass the examination for an LL.B Degree, the college seem to have embarked on an ambitious programme of enabling them to be practice-ready if they choose to opt for a legal career.

Looking at the way LAW is taught/learnt, one can make out whether the institutions is offering a professional programme or is aiming only to give a general degree in law as part of liberal education.

Both types of legal education are necessary for a country like India to be able to develop into a modern democratic republic under rule of law, respecting human rights and constitutional governance. Since the objects are different for professional and non-professional legal education, the methods of instruction naturally vary and the learning outcomes change to suit the professional goals. It is in this context, the initiative of undertaking the publication of LLOYD CASE MATERIAL SERIES is to be appreciated. It is a desirable investment for the mission of transforming legal education more and more professional, oriented to problem-solving skills and socially relevant understanding of law-in-society.

## Case Method of Law Study: Why and How?

The two major sources of materials for study of Law are the statutes (laws made by the Legislature and the rules and regulations made by administration for implementation of the laws) and the judgements of courts (clarification given by courts and tribunals while applying/interpreting the law to specific fact situations). Reading a statute and understanding the nature of rights and duties created under it for certain legislative goals, requires certain skills. However, doing the same exercise to understand the scope of the rights and duties in application to problems arising in society require different set of skills. These skill-sets cannot be imparted by lectures in class, where the teacher attempts to summarise the law and its application. A skilful and experienced lecturer may still manage to let the student learn the skills himself/herself by guided reading of the statutes and judgements of select cases. But it rarely happens in conventional legal education. What is missed in the process is creative thinking on the part of the learner and capacity to analyse problems in the way a lawyer has to do in legal practice. This lacuna in lecture method of teaching can, to a large extent, be addressed by what is called Case Method of Teaching/Learning Law. This is a method initially introduced in American law schools in the last century which claimed to have achieved success in making the students "Think Like A Lawyer"! However, it is now being increasingly replaced by the "Problem Method" which is still more advanced, in so far as it incorporates independent thinking, inter-disciplinary analysis and goes beyond court-room advocacy in legal practice.

In case study method, the first requirement is the careful selection of cases in order to cover the syllabus and presenting them in proper order with appropriate questions and notes at the end in order to enable the student to learn the development of law from case to case. Secondly, the method demands prior preparation on the part of both the teacher and the students of particular cases to be discussed in class. This preparation needs to be organized in terms of facts, issues for decision, the ratio

of the judgement and the reasoning in support of the judgement. If there is a dissenting judgement in the case, it also needs to be circulated so that students can see how different judges come to different conclusions on the same set of facts and law.

In the conduct of discussion in class, the teacher may line up students to present facts and argue the case for one side or other, intervening with questions to challenge the position taken by students and learning the judgement open. In the process, the students learn that facts determine the law and how one case can be distinguished from the other even though the facts may appear similar. The importance of reasoning in constructing the conclusion appear clear to them. And they learn how a given problem can be approached differently to evolve another acceptable solution. There is space for creative thinking and advocacy in this approach to law study. In this method of learning the law, though it consumes more time in the class and in preparation, a lot of self-confidence, self-learning and court craft including professional ethics are acquired over a period of time while assuming different roles in case discussion in class.

There are limitations to case study method. The cases for discussion are generally appellate court judgements where the facts are settled and the arguments and decisions are already known. It does not give the students many of the skills essential for trial court practice. However, it does help in learning skill involved in legal research and legal writing, much of which is common to trial and appellate court practice. The importance of language and communication skills in advocacy is appreciated and to some extent acquired, by those who actively participate in the case discussion. Others in the class may not benefit much and will fall back on easy methods of passing the exam rather than learning the law. Therefore, the teacher will have to employ innovative methods to engage the whole class in discussions, if learning were to happen for the entire class. For this, some amount of lecture at the beginning and end of the class maybe of help to those who are silent participants.

Finally, if case method has to be effective, the students should be examined on problem-type questions. After all, every student is concerned with his/her performance at the examination. Instruction is closely related to performance assessment. Hence, examination has to be internal (the teacher should set the questions and evaluate performance according to pre-determined guidelines to ensure objectivity and fairness) and more question papers should be problem-based, which require application of abilities rather than memory skills.

The Way Forward:

My purpose in writing this Foreword is, firstly, to welcome the initiative, congratulate the teachers and management involved and to inform the learners of what they stand to benefit out of case study if they put in the efforts needed. Secondly, I would like the teachers to be aware of the limits in case method of law study and to persuade them to aim towards the 'problem method' which is more broader in objects and well suited to legal education in developing societies.

Language competence is a serious problem outside the metropolitan cities which inhibits learning on the part of average students in India. Given the nature and complexity of problems in India's development, legal study should inevitably be grounded on social realities and negotiated through strategies and tools not necessarily comprehended by precedent-based case study method. Problem method will focus the enquiry more on what justice demands rather than on what logic and consistency dictate under case method. In short, it is time for us, the law teachers, to undertake the transformation of legal education into what may be called "Justice Education", where equity, fair play and humanitarian

considerations are equally important as technicalities of procedure and internal consistency of legal argumentation.

**Concluding Remarks:**

Law is what law does, and what law does is what lawyers and judges make law to do. Indian ethos is conducive to rule of law and orderly change directed to maximising justice in society. Social justice demands social context appreciation for legal transactions including adjudication of disputes. This requires competence and inclination on the part of legally trained persons to adopt inter-disciplinary and multi-disciplinary approaches in analysis of social problems through instrumentalities of law. Hence the need for teachers to modify conventional case method analysis with inquiries on social justice and Constitutional goals including the application of now prevalent concept of “Constitutional morality”

It will be a good idea for teachers involved in implementation of the case method at Lloyd Law College to meet periodically to examine its impact on the learners and to evolve common strategies towards institutionalisation of the new pedagogy under Lloyd Brand. The University may be approached to let the examination have problem-based questions as alternative to every theoretical question, so that students trained under case method may not feel handicapped as compared to others trained through lectures.

The value of the case study method will depend on constant and continuous updating of the cases in the study material. As such, revision of the materials at the end of each academic session is a task which the teachers involved have to undertake.

Things are changing so fast under the influence of technological developments and globalisation, that no one can predict the state of law and justice ten years hence. Legal education therefore necessarily has to change absorbing the changes in society and responding to the demands of the legal market. Let the initiative of Lloyd Law College herald a new beginning in the teaching and learning of law. I wish the project all success and congratulate the young law teachers who have taken courage to force a change in legal pedagogy amidst what a former Prime Minister described as “sea of mediocrity” prevailing in legal education.

15th October, 2018



**Prof. (Dr.) N.R. Madhava Menon**

Hony. Director  
Kerala Bar Council M K Nambyar  
Academy for Continuing Legal Education, Kochi (Kerala)



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