



HOMICIDE LAWS: MURDER, MANSLAUGHTER, AND CULPABLE HOMICIDE

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ABSTRACT

Homicide laws, which offer a legal framework to address the unlawful killing of people, are an essential part of criminal justice systems around the world. This article investigates the classification and legal differences between culpable homicide, murder, and manslaughter, looking at how circumstances, recklessness, and intent affect the results of court cases. Each shows a different level of moral blameworthiness and legal culpability, based on different levels of intent (mens rea), foreseeability, and justifiability. The highest level of criminal condemnation is represented by murder, which is defined by mens rea of the highest order—intentional or knowing infliction of death. In contrast, manslaughter, which includes both voluntary acts carried out in response to provocation and involuntary deaths brought on by egregious negligence, falls into a lower category of blameworthiness. A common category in common law systems like those in Canada and India, culpable homicide serves as a doctrinal bridge, making deadly behaviour that falls below the threshold of lawful harm but lacks the necessary intent for murder illegal. This study critically examines case precedents and conducts a comparative legal analysis. It questions how flexible these categories are and what they mean for sentencing, the law, and the moral hierarchy of taking a life. The investigation shows how important it is to have clear legal boundaries to uphold the principles of justice.

Keywords: Homicide, Murder, Intent.

CULPABLE HOMICIDE

Homicide is the worst kind of physical harm that can happen to a person.¹ It arises from Latin words ‘homo’ and ‘cide’, which mean man and to kill, respectively. However, not every case of killing is punishable by law.

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¹ Stephen’s A History of the Criminal Law of England, (1883) Vol. III

Section 299 of the Indian Penal Code (IPC) highlights the circumstances under which causing death can be treated as a criminal offence, not amounting to murder. It occurs when someone causes death by acting with the intent to kill, by intending to cause bodily injury that could likely lead to death, or by knowing that their actions are likely to cause death.²

Different Cases: If A causes bodily injury to B, who is suffering from an existing disease, disorder, or physical infirmity, and accelerates his death, then A shall be deemed to have caused B's death. If A causes physical injury to B and B dies, then A shall be liable for his death, since if skilful medical treatment had been given to B, he could have escaped death. The fact that B died due to the unavailability of proper treatment cannot be a ground for completely negating the guilt of A in this matter.

Causing the death of a child in the mother's womb is not seen as homicide. However, it can be considered culpable homicide if the child is living and any part of the child has been born, even if the child has not breathed or been fully delivered.

Essential ingredients of Culpable Homicide:

1. There must be the death of a person.
2. Another person must have caused the death.
3. The act that caused the death must have been done with:
4. The intention to cause death, or
5. The intention to cause bodily injury likely to lead to death, or c. Knowledge that the act was likely to cause death.

DIFFERENCE BETWEEN INTENTION AND KNOWLEDGE IN CULPABLE HOMICIDE

Intention and knowledge are often used interchangeably in culpable homicide, but they are quite different. The Supreme Court clarified the distinction in *Basdev v. State of Pepsu*, 1956.

The appellant, Basdev, was a retired military Jamadar from Harigarh village who shot a young boy of about 15 or 16 in the abdomen during a wedding. The shot proved to be fatal, and he was charged with murder. Since he was excessively drunk, almost to the point of unconsciousness, any motive or intention to kill was absent. This was taken into consideration,

² Indian Penal Code S. 299

and Basdev was given the lesser penalty. The question that arose was whether the offence fell under Section 302 or Section 304 of the Indian Penal Code, i.e., culpable homicide amounting to murder or culpable homicide not amounting to murder. The court differentiated between motive, intention, and knowledge -³ Motive is what encourages a person to set an intention. Knowledge is being aware of the outcomes of the action. In many cases, intention and knowledge merge into one another and mean the same thing, more or less, and intention can be inferred from knowledge. The demarcating line between intention and knowledge is thin, but it is not difficult to perceive that they connote different things.

MENS REA

Mens rea generally means some mental condition, whether intentional or with knowledge, the absence of which negates the possibility of a crime. An act is considered criminal when it is done with a guilty mind. The doctrine of mens rea is not mentioned in the Indian Penal Code, unlike the common law. However, it has been incorporated by adding provisions for the state of mind required to commit a particular offence in sections such as “intentionally, knowingly, voluntarily, negligently, recklessly, fraudulently, dishonestly, etc.” The Supreme Court of India states that unless a law clearly or indirectly rules out mens rea as a part of a crime, a person should not be found guilty of an offence without a guilty mind.

MURDER

Murder comes from the Proto-Indo-European root ‘mer’, which means ‘to die’. Culpable homicide is considered murder if the act by which the death is caused is done to cause death.⁴, or, if a person acts with the intent to cause bodily harm that they know could likely result in death to the individual harmed, or if they intend to inflict bodily injury that would typically lead to death, or, if they know their actions are so unsafe that they will probably cause death or serious injury, and they proceed without any justification for risking death or such injury.

WHEN IS CULPABLE HOMICIDE NOT MURDER?

Murder falls under the ambit of culpable homicide. Not every culpable homicide is murder, with there being five exceptions-

³ Chandrasekhara Aiyar’s judgment in Basdev v. State of Pepsu

⁴ Indian Penal Code S. 300

Grave and sudden provocation: If the offender, on account of grave and sudden provocation, is deprived of his power of self-control and causes the death of another person, the culpable homicide will not be murder. The debate of whether this exception should be applied was seen in a landmark case-

KM Nanavati v. State of Maharashtra, 1962:⁵ The accused was a naval officer whose wife confessed that she had been intimate with another man. Enraged by this, the accused went to his ship. He took a semi-automatic revolver and six cartridges from the ship's supply. Then, he went to the apartment of his wife's lover. He later turned himself in, but the Supreme Court was left with the question of whether this act fell under exception 1 of Section 300.

The decision was that, since a reasonable time of three hours had passed after his wife confessed, the accused had sufficient time to regain his lost self-control and the provisions of the exception were not attracted. The person was found guilty of murder and received a life sentence.

Exceeding the Right of Private Defence: Culpable homicide is not considered murder if the offender, in good faith, is exercising the right to defend themselves or their property. This is the case even if they go beyond what the law allows and cause the death of the person against whom they are defending themselves. This applies as long as there is no premeditation and no intent to cause more harm than necessary for the defence.

Mohinder Pal Jolly v. State of Punjab, 1979:⁶ The deceased and his colleagues were workers in the factory of the accused-appellant. There was a dispute between them, and the workers had assembled outside the factory, raising slogans and damaging and endangering the appellant's property to further damage. The accused came out and fired a shot from his revolver, killing the deceased instantly. The Supreme Court held that although the accused had a right of private defence of his body, he need not have apprehension that death or grievous hurt would be the consequence if his right was not exercised. The Exception 2 of Section 300 did not apply, and he was found guilty.

Act of a Public Servant: Culpable homicide is not murder if the offender, being a public servant or aiding a public servant acting for the advancement of public justice, exceeds the powers given to him by law. It causes death when someone does something that he believes in

⁵ KM Nanavati v. State of Maharashtra, AIR 1962 SC 605

⁶ Mohinder Pal Jolly v. State of Punjab, AIR 1979 SC 577

good faith is lawful and necessary to properly perform his duty as a public servant. This occurs without any ill will towards the person whose death results from his actions.⁷

Sudden Fight: This exception covers acts that require certain requisites-

1. The murder should have been committed without premeditation
2. It should have been committed in a sudden fight
3. It should have happened in the heat of passion.
4. It should have occurred during a sudden quarrel.
5. It should have been committed without the offender having taken undue advantage or acted cruelly or unusually.

Death by Consent: Culpable homicide is not considered murder if the person who dies, and who is over eighteen years old, either suffers death or risks death with their consent.⁸ Consent of the deceased to suffer death reduces the crime from murder to culpable homicide not amounting to murder.

Dasrath Paswan v. State of Bihar:⁹ The appellant was a student of the tenth class who had failed in his annual examinations thrice in succession. Upset and frustrated by these failures, he decided to end his life and informed his wife, a literate girl of about nineteen years, of the same. The wife asked him to kill her first and then to take his own life. According to the pact, he killed her, but was arrested before he could end his life.

On behalf of the prosecution, it was contended that the consent of the wife was obtained by putting pressure on her, the pressure being communication by the appellant that he wanted to end his life. So, the prospect of widowhood prompted the woman to agree to suffer death. This contention was rejected by the court, saying it cannot be accepted that the deceased gave consent under fear of injury or a misconception of fact. The conviction was altered from murder under Section 302 of the Indian Penal Code¹⁰ to culpable homicide not amounting to murder under Section 304 of the Indian Penal Code.¹¹ The court sentenced the appellant to five years of hard prison time.

⁷ Indian Penal Code S. 300

⁸ Indian Penal Code S. 304

⁹ Dasrath Paswan v. State of Bihar, AIR 1958 Pat 190

¹⁰ Indian Penal Code S. 302

¹¹ Indian Penal Code S. 304

MANSLAUGHTER

Manslaughter is a homicide that is less culpable than murder. It can be defined as an unlawful homicide without malice or the specific intent to kill the victim. The term 'manslaughter' does not appear in the Indian Penal Code, but it is used in common law jurisdictions.

Voluntary Manslaughter: This involves an intentional killing or death that occurs during the commission of some unlawful act. Some circumstances mitigate moral culpability, such as:

1. **Heat of Passion** - When the killing occurs after a person is provoked, not thinking clearly, or loses self-control.
2. **Imperfect Self-Defence** - When the person kills, believing himself to be in danger, but the belief is unreasonable.
3. **Diminished Capacity to Think** - The person might be intoxicated or suffering from a mental illness, thus reducing murder to manslaughter.

Involuntary Manslaughter: Involuntary manslaughter occurs when a victim dies during the reckless commission of a lawful act. For example, in 2021, Alec Baldwin was practising a scene for the movie 'Rust' when the gun he held fired, killing the cinematographer, Halyna Hutchins. He was initially charged with involuntary manslaughter along with Ms. Gutierrez-Reed; however, the charges against him were dropped and not pursued again.¹²

CONCLUSION

Homicide laws are crucial to distinguish between culpable homicide, murder, and manslaughter. Murder is the most severe form, which involves unlawful killing with 'malice aforethought',¹³ indicating a premeditated intent to kill, and is punishable by life imprisonment. Manslaughter, on the other hand, addresses cases where a death occurs without deliberate intent, either due to sudden provocation or through reckless or negligent actions. Culpable Homicide, a broader term, encompasses both murder and manslaughter, depending on intent, knowledge, recklessness, and circumstances.

The Indian Penal Code's Sections 299 and 300 are not clearly distinguished from one another. Homicide laws are already changing and offering a more lucid view of the legal language since

¹² Jacobs, Julia (February 23, 2023) [Alec Baldwin Pleads Not Guilty to Involuntary Manslaughter](#)" New York Times

¹³ Allen MJ and Edwards IES, '9. Homicide' 363

the Bharatiya Nyaya Sanhita (BNS), 2023, replaced the Indian Penal Code. By addressing contemporary socio-political realities, the BNS seeks to modernise criminal law and replace the Indian Penal Code, which dates back to the colonial era. In conclusion, taking a life will always rank among the worst crimes committed by humans, and a fair verdict depends on knowledge of the facts, transparency, and compassion.