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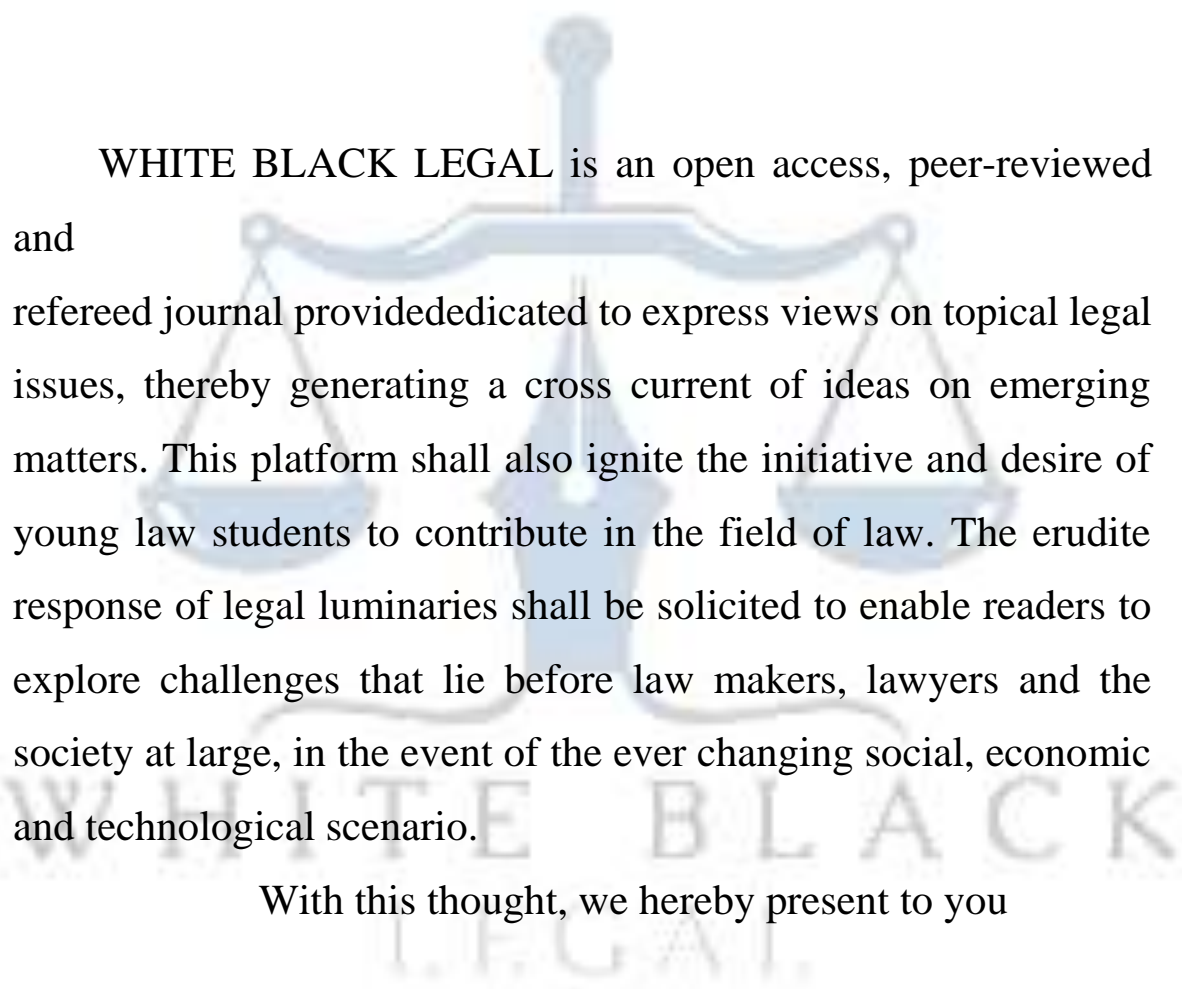


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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal providededicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

REFORMING LAWS ON CULPABLE HOMICIDE: A CASE FOR DEGREES OF MURDER

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ABSTRACT

This research paper delves into the urgent need for reforming the Indian law on culpable homicide, particularly the definition under Section 300 of the Indian Penal Code (IPC), in terms of degrees of murder. It studies the current difficulties as the existing typology offers no scope for any judicial differentiation drawing upon the intent and its circumstance because of the vast and general categorizations of culpable homicide and murder. This doctrinal research takes a practical route in the following way, by looking into the Indian statutory framework, case laws and judicial instructions on how Section 300 is in practice. The paper also carries out a study of other legal systems, especially in the United States of America, the United Kingdom and Canada, which have well established definitions of the degrees of murder, so as to explain advantages of having a more graduated approach to homicide. The study also addresses some important aspects observed within the Indian legal system, more specifically the conflict between the definitions of murder and culpable homicide and how this causes disagreements in judgment. Hopeful cases such as Virsa Singh v. State of Punjab (1958) and K.M. Nanavati v. State of Maharashtra (1962) demonstrate the challenges present with respect to the understanding of intention and effect. The paper proposes that it would be better if there were existing categories like 1st degree murder or 2nd degree in our jurisdiction since it would help in classification of offences and the punishment meted out thereof will fit the crime.

Specific recommendations expected include the modification of Section 300 of the IPC in a manner that stipulates the existence of first-degree murder, second-degree murder, and manslaughter among others in order to satisfy the present-day court and society requirements. This change would not only improve equity in the management of sentences imposed but would also ensure coherence in legal standards, ultimately contributing to a more transparent and just legal system.

KEY WORDS: Culpable Homicide, Murder, Indian Penal Code, Manslaughter, Reformation

INTRODUCTION

The concept of culpable homicide as provided in the Indian criminal law is basic as well as complex. It consists of different acts that consider the death of a person and these are majorly affected by the differentiating levels of intention and situations. This complexity mainly arises from the classification of culpable homicide into two totally different kinds under the Indian Penal Code (IPC) and Bharatiya Nyay Sanhita (BNS), such as "culpable homicide not amounting to murder" according to Section 299¹ (Section 100 of BNS²) and "murder" according to Section 300³ (Section 101 of BNS⁴). Although these categories try to differentiate between various degrees of murder or killing, the definitions often become problematic for the courts to interpret accordingly, and the outcome comes out to be varied in sentences and judgments. So, a question does arise as to whether Indian law should make a change in their approach by making degrees of murder. This kind of framework, as implemented in other jurisdictions, would provide clearer guidelines so that the courts exercise discretion fairly and thereby strengthens the justice system.

The Indian Penal Code, enacted in 1860, gives a generic distinction between culpable homicide and murder. The law enacted in the colonial period, is not apt for looking into the problems of modern cases. The section 299 of the Indian Penal Code defines culpable homicide as any action which is done with the intention of causing another person's death or with the knowledge that the death is likely to occur by such an act, whereas section 300 of the Indian Penal Code says about grievous form of culpable homicide which makes it murder such as the act of brutality. Regardless of the differences, both the terms are unclear which makes it difficult for the judges to interpret them properly. This in result makes unpredictability in the judgements. This invokes an important question: *Whether India should adopt a system where murder is categorised in degrees to enhance clarity and fairness in judgements?* By creating a clear hierarchy in crimes like homicide can help in reducing the long-standing ambiguity in Indian legal system.

¹ Indian Penal Code, 1860, § 299, No. 45, Acts of Parliament, 1860 (India)

² Bharatiya Nyay Sanhita, 2023, § 100, No. 43, Acts of Parliament, 2023 (India)

³ Indian Penal Code, 1860, § 300, No. 45, Acts of Parliament, 1860 (India)

⁴ Bharatiya Nyay Sanhita, 2023, § 101, No. 43, Acts of Parliament, 2023 (India)

The overlap between Sections 299 and 300 has long created difficulties for Indian courts, particularly when cases do not fit neatly within these existing definitions. For example, in *K.M. Nanavati v. State of Maharashtra*⁵, the court had to consider factors like sudden provocation and emotional state, illustrating the fine line between culpable homicide and murder. Similarly, the Supreme Court's ruling in *Virsa Singh v. State of Punjab*⁶ attempted to clarify the distinctions between "intention" and "knowledge" when interpreting culpable homicide versus murder. However, the guidance provided in such cases is not always uniformly applied, leading to disparities in rulings and sentencing. These challenges underscore the need for reforms that would clarify and organize culpable homicide definitions, creating a framework to lessen subjective interpretation under Indian law.

The central premise of this paper is that India would be served well by a structured system of culpable homicide degrees akin to the American model. A comparative perspective might be drawn from models elsewhere, such as the United States which allows for first- and second-degree murder and manslaughter that focuses on intent and circumstances. This method reserves first-degree murder for planned or particularly horrible crimes and second-degree murder for non-planned but lethal crimes with no prior intent. The same goes for manslaughter, which is when someone dies as a result of reckless or negligent conduct with no intent to kill. A similar architecture could establish a concrete template in Indian jurisprudence that would help the prosecutors and judges with manner one can be determined on grounds of settled principles, limiting subjectivity and fostering uniformity in punishment.

The probability that such a change would in fact be implemented also applies to a variety of other constituencies, those in the legal profession, policymakers and society in general. On the other hand, it might well be a rather uncomplicated matter for the lawyers to get a rather complicated understanding of as to how to handle the clients in homicide cases, if they "understood" what each degree of culpable homicide really means and what it normally covered. [But] there is much less reason in the policymaking context, for example, to enact legislation when it may be brought within the scope of a strengthened system of justice and of equity principles. Social change would also be noticeable in the extent that a more knowledgeable body of law exists, both societies now serve to be provided more effectively by

⁵ *K.M. Nanavati v. State of Maharashtra*, AIR 1962 SC 605

⁶ *Virsa Singh v. State of Punjab*, AIR 1958 SC 465

the legal system as the way in which punishments are meted out across the legal system must be an appropriate response to the offences committed. Taken on its own terms, the reform is the most likely to be an ethics red flag—reform that tries only to stop crime without standing at an aesthetic precipice overlooking the distance between levels of culpability that could be variable in their punishment. Justice delivery should be fair, on the one side, as there is the balancing of retribution and context and motive of the person to be penalized. Further it should be simpler to be made accessible in the framework of the (pre) founded notion of the requirement of disproportionate responses in order to get to a specific level of culpability in a crime, and therefore an equally fairer sanction in the criminal justice world.

To systematically explore this topic, the paper is organized into distinct sections. The introduction establishes the context, bringing to light pressing issues within Indian criminal law and prompting a critical discussion on the existing classification of culpable homicide. Following the introduction, the research methodology section explains the doctrinal and comparative research approach used, with particular focus on analysing Sections 299 and 300 of the IPC alongside homicide laws from jurisdictions such as the U.S. and the U.K. In the main analysis, the distinctions and overlaps between culpable homicide and murder are examined in-depth. The comparative framework considers legal precedents and statutory interpretation. The case of *Bachan Singh v. State of Punjab*⁷, in which the Supreme Court introduced the "rarest of rare" doctrine for capital punishment, highlights the judiciary's challenge in deciding cases involving the death penalty. These examples demonstrate the need for a principled methodology to allow more effective control of culpability gradients, which is in turn the basis of the call for change.

Research is limited to the competence of judicial interpretation at the limits of the current conception of criminal responsibility for homicide blameworthy. E.g., the judicial annotations in the *State of Andhra Pradesh v. R. Punnayya*⁸, which tried to distinguish culpably homicide from murder on the basis of the intensity of the intention, shows how a graduated system may be instrumental to achieve consistency. Hypotheses, based on compartmental description of jurisdictions like Canada where homicide may be allocated to categories, demonstrate how judicial discretion can be described as a boundary condition and the consequence of adopting

⁷ *Bachan Singh v. State of Punjab*, AIR 1980 SC 898

⁸ *State of Andhra Pradesh v. R. Punnayya*, AIR 1977 SC 45

it as fairer decisions. In an attempt to make the judicial processes better in India, especially in homicidal/murders cases, it is hard to differentiate between those usage of terms.

According to the end of the paper, the topics of the research findings have been summarized as well as the usefulness of introducing murder degrees to the Indian legal system. Comparative analysis of national legal systems will help to support the argument for giving weight to a more codified system (of homicidal categorisation) in India to better delineate levels of potential culpability. [W]ith this approach the Indian criminal justice system can now be seen to be able to deliver better, fairer sentencing scales on the basis of culpability levels as regards various degrees of homicide, thereby proving that justice is not only done but may also be done well.

In actuality, by extending the scope of the notion of culpable homicide (the death caused by an unlawful act) to the corresponding notion of the degree of murder, Indian law gets more modern then (more justly) by elaborating the idea of the modern notions of justice, fairness, and public confidence. Based on a structured framework and using examples from all over the world, this paper argues that reform is realizable which would make the Indian statute of homicide both more consonant, more humane and more proscriptive to the rich moral issues of homicide leading to death. By doing so, it is not only possible for the justice system that (among other contributions) may be able to make an appropriate contribution, but also to have demonstrably affirm the integrity of the justice system in getting fair and proportional punishment for society, courts and legal study.

LITERATURE REVIEW

Jacqueline Beard & Benjamin Politowsk (2016)⁹ provides a comprehensive examination of the current legal framework governing homicide in England and Wales, including offences, sentencing, and the controversial doctrine of "joint enterprise." It highlights key recommendations by the Law Commission, such as introducing partial defences, restructuring murder into degrees, and reforms in manslaughter. The document also summarizes government responses, including amendments under the Coroners and Justice Act 2009, and ongoing debates in Parliament. This resource serves as a critical reference for discussions on

⁹ Jacqueline Beard & Benjamin Politowski, *Reforming the Law on Homicide*, Debate Pack No. 2016/94, House of Commons Library (June 23, 2016)

modernizing homicide laws to address inconsistencies and evolving societal needs.

Saket Prakash (2023)¹⁰, offers an analytical comparison between the concepts of culpable homicide and murder under Indian criminal law. It explores the distinctions in intent and knowledge as outlined in Sections 299 and 300 of the Indian Penal Code (IPC). The paper discusses judicial interpretations and practical challenges in differentiating these offences, supported by landmark cases and statutory provisions. It emphasizes the thin line separating the two crimes and underscores the judiciary's role in ensuring justice by carefully examining intent and circumstances in each case.

Mahima Chauhan & Anita Verma (2023)¹¹ provides an in-depth exploration of the distinctions between murder and culpable homicide as defined under criminal law, particularly in the Indian Penal Code (IPC). It elucidates the critical role of intent and knowledge in differentiating these offenses, noting that while murder is a subset of culpable homicide, it is characterized by a higher degree of mens rea and intent to cause death. Through detailed discussions on Sections 299 and 300 of the IPC, the authors examine scenarios where culpable homicide escalates to murder or falls under specific exceptions. By analysing case laws and statutory interpretations, the study underscores the importance of judicial discretion in evaluating intent, circumstances, and the degree of risk involved. This nuanced analysis contributes to a deeper understanding of the legal framework governing these complex offenses.

Justice K.N. Basha (2017)¹² provides a comprehensive analysis of the legal distinction between culpable homicide and murder under Indian Penal Code Sections 299 and 300. It emphasizes the nuanced differences between intent and knowledge in both offenses, offering examples from landmark judgments such as *K.M. Nanavati v. State of Maharashtra* and *State of A.P. v. Rayavarappu Punnaya*. The paper elaborates on exceptions under Section 300, including sudden provocation, self-defense, and acts by public servants, while highlighting evolving judicial interpretations to mitigate ambiguities in these legal definitions.

¹⁰ Saket Prakash, *Culpable Homicide and Murder: A Critical Study*, 4 Indian J.L. & Legal Rsch. 1 (2023)

¹¹ Mahima Chauhan & Anita Verma, *Understanding the Dichotomy of Murder and Culpable Homicide: A Legal Analysis*, 5 Indian J.L. & Legal Rsch. 20 (2023)

¹² K.N. Basha, *Culpable Homicide and Murder: Distinction Under Indian Penal Code*, Tamil Nadu State Judicial Academy, Refresher Course for District Judges (Batch-II), Nov. 25-26, 2017

Nishish Shukla & Taru Mishra (2024)¹³ The paper critically examines culpable homicide and murder under the Indian Penal Code, highlighting the nuanced distinctions in mens rea and actus reus between Sections 299 and 300. It explores legal defenses like provocation and self-defense, addressing systemic biases and socio-cultural factors influencing judicial outcomes. By analyzing doctrinal ambiguities and ethical concerns, the study underscores the need for a context-sensitive approach to adjudication. The authors advocate for legal reforms that integrate fairness, equity, and accountability in addressing these serious offenses. Their analysis emphasizes balancing legal principles with ethical and social realities.

Duntley (2015)¹⁴ This review delves into the historical development of homicide law, tracing its origins from ancient legal codes to modern statutory frameworks. It examines key historical milestones, such as the emergence of mens rea requirements and the gradual codification of murder and manslaughter offenses. By analysing landmark cases and legal treatises, this review elucidates how societal norms, religious beliefs, and political influences have shaped the evolution of culpable homicide laws over time.

Fletcher (2015)¹⁵ This review explores the philosophical underpinnings of culpable homicide and murder, interrogating fundamental questions of moral responsibility and culpability. Drawing on philosophical perspectives ranging from utilitarianism to deontological ethics, it examines the normative principles that inform legal conceptions of intentionality, foreseeability, and blameworthiness. Through a critical analysis of ethical dilemmas and thought experiments, this review seeks to elucidate the moral reasoning behind legal doctrines governing homicide offenses.

Pranav Raj & Siva Reddy (2023)¹⁶ offers a comprehensive investigation into homicide patterns across Indian districts from 1990 to 2020. It highlights significant socio-demographic factors influencing homicide rates, including gender inequality, literacy, and the proportion of Scheduled Tribe populations. The study reveals unique trends, such as the lack of correlation

¹³ Nishish Shukla & Taru Mishra, *Culpable Homicide and Murder: A Critical Appraisal*, 12 Int'l J. Creative Res. Thoughts (IJCRT) 830 (2024)

¹⁴ Joshua D. Duntley & David M. Buss, *The Origins of Homicide*, in *Evolutionary Forensic Psychology: Darwinian Foundations of Crime and Law* 57 (Joshua D. Duntley & Todd K. Shackelford eds., 2008), <https://doi.org/10.1093/acprof:oso/9780195325188.003.0003> (last visited Dec. 19, 2024)

¹⁵ George P. Fletcher, *The Conceptual Foundations of Culpable Homicide and Murder: A Philosophical Inquiry*, *Rethinking Criminal Law* 178 (2015)

¹⁶ Pranav Raj & Siva Reddy, *Understanding Homicides in India: A District Level Analysis*, SSRN, <https://ssrn.com/abstract=4493811> or <http://dx.doi.org/10.2139/ssrn.4493811> (last visited Dec. 19, 2024)

between urbanization and homicide rates in India, contrasting with developed countries. This nuanced analysis underscores the necessity for region-specific approaches to addressing homicides in developing economies.

Law Reform Commission (2008)¹⁷ provides a critical examination of the legal distinctions between murder and involuntary manslaughter, focusing on moral culpability and appropriate labelling of offenses. It highlights challenges in defining the mental elements of murder and manslaughter, such as intent and recklessness, while addressing reform options, including statutory definitions and sentencing frameworks. The report advocates for retaining the murder/manslaughter distinction to preserve the moral and legal gravity of these offenses and proposes reforms for more consistent and fair judicial outcomes.

McDiarmid (2021)¹⁸ critically examines the broad scope of culpable homicide within Scottish law, highlighting its position between non-criminal killings and murder. The study explores the varying degrees of seriousness encompassed by culpable homicide, the distinctions between voluntary and involuntary forms, and the evolving legal definitions of recklessness and intent.

J. Tarunika & K. Roja (2018)¹⁹ critically analyzes the conceptual distinctions between murder and culpable homicide under the Indian Penal Code, focusing on Sections 299 and 300. It highlights the role of intent, probability of death, and the degree of harm caused as key differentiators between the two offenses. The study explores judicial interpretations, case laws, and exceptions to these provisions, providing comparative insights with American classifications of homicide. The research emphasizes the importance of clear legal definitions to minimize interpretational ambiguities and ensure consistent application of justice.

Sidhartha Sekhar Dash, H.C. Padhi & Biswadeep Das (2022)²⁰ critically analyzes the principle of causation in homicidal crimes under Indian criminal jurisprudence, focusing on

¹⁷ Law Reform Commission, *Homicide: Murder and Involuntary Manslaughter*, Report No. LRC 87-2008 (2008)

¹⁸ Claire McDiarmid, *Between Accidental Killing and Murder: Culpable Homicide*, Juridical Rev. 19-47 (2023), first published on Scottish Law Commission's website (Mar. 2021), <http://scotlawcom.gov.uk> (last visited Dec. 20, 2023)

¹⁹ J. Tarunika & K. Roja, *A Comparative Study on Murder and Culpable Homicide*, 120 Int'l J. Pure & Applied Math. 735-744 (2018), <http://www.acadpubl.eu/hub/>

²⁰ Sidhartha Sekhar Dash, H.C. Padhi & Biswadeep Das, *Analysis of Homicidal Causation in Indian Criminal Jurisprudence*, 6 J. Positive Sch. Psychol. 4591 (2022), <http://journalppw.com/>

Sections 299 and 300 of the Indian Penal Code. It explores the causal relationship between an act and its consequences, emphasizing the nuanced distinctions between culpable homicide and murder. By examining judicial interpretations and the role of intent and knowledge, the study highlights the complexities of establishing liability, including factors like omissions and statutory presumptions. The work underscores the significance of normative and evidentiary considerations in determining legal responsibility.

Suraj Nath ²¹provides a detailed analysis of the distinctions between 'murder' and 'culpable homicide not amounting to murder' under Sections 299 and 300 of the Indian Penal Code. It emphasizes the importance of understanding the offender's intent and knowledge, particularly regarding the victim's health condition, in determining the appropriate charge. The discussion highlights the nuanced differences in the degree of probability of death resulting from the inflicted injury, which is crucial for accurate legal classification and ensuring justice.

Nikki Logan (2014)²² provides a concise overview of various homicide classifications, distinguishing between degrees of murder and forms of manslaughter. It outlines first to fourth-degree murders, including aggravated felony murder and justifiable homicide, emphasizing the varying levels of intent and premeditation involved. Additionally, the piece explains voluntary and involuntary manslaughter, highlighting the absence of intent to kill in these cases. This categorization aids in understanding the legal nuances and culpability associated with different homicidal acts.

Horder (2012)²³ critically examines the complexities of categorizing culpable homicide and advocates for a nuanced classification system that introduces degrees of murder. He argues that such a system would more accurately reflect the varying levels of moral culpability and intent associated with different homicidal acts. Horder's analysis delves into the challenges of legal reform in this area, considering both historical contexts and contemporary debates, and emphasizes the need for a more refined legal framework to ensure just and proportionate sentencing.

²¹ Suraj Nath, *Guidelines as to whether the offence is murder or culpable homicide not amounting to murder (Indian Penal Code, 1860)*, Share Your Essays, <https://www.shareyouressays.com/knowledge/guidelines-as-to-whether-the-offence-is-murder-or-culpable-homicide-not-amounting-to-murder-indian-penal-code-1860/111705>

²² *Six Types of Murder and Three Types of Manslaughter*, Nikki Logan (May 23, 2014), <https://nikkilogan.com.au/six-types-of-murder-and-three-types-of-manslaughter/>

²³ Jeremy Horder, *Homicide and the Politics of Law Reform* (Oxford University Press 2012)

RESEARCH METHODOLOGY

The research methodology of the paper titled ‘Reforming Laws on Culpable Homicide: A Case for Degrees of Murder’ will adopt a doctrinal approach. This will involve an examination of the existing law and determines on culpable homicide under sections 299 and 300 of the Indian Penal Code (IPC). This will encompass both the evaluation of the appropriate legislation as it is applied in practice and how it has been construed in the leading decisions relating to that legislation. The research will highlight key judgments and examine how the law has been used fairly and effectively, as well as the problem areas that the existing law does not clearly define or does not take into consideration the degrees of intention and/or culpability for homicide. Along with the theoretical framework, a comparative analysis will be conducted concerning the existing laws on the subject matter namely the United States of America and United Kingdom. In this connection, the classification of first-degree and second-degree murders in the United States and the categorization of manslaughter in the United Kingdom will be referred to in evaluating the possibility of introducing the classifications of homicide in India. The same research shall provide case studies from the Indian legal system, to ascertain how the courts have dealt with cases of culpable homicide. The study will also use secondary sources such as scholarly articles, law reviews and expert discussions, all of which will give additional insights on the issue and help strengthen the case for reform of the homicide provisions in India.

CULPABLE HOMICIDE AND MURDER: A CASE FOR REFORMATION

Although culpable homicide is often used in conjunction with murder, it has been easier than most terms to explain and understand within the provisions of Indian law. As given in IPC Section 299²⁴, it’s a term which denotes death or causing bodily injury with the design or knowledge that the act would result in death. For a long time, however, the difference between culpable homicide and murder in the sense of definition given in section 300²⁵ of the IPC has been a black box. As it is achieved by the present structure, there is no clear line that exists between the various degrees of culpability which results to different judges understanding the law differently at some instances leading to chaos. This there being no distinction of distinct degrees of this classification of homicide, creates serious challenges in providing justice in

²⁴ Indian Penal Code, 1860, § 299, No. 45, Acts of Parliament, 1860 (India)

²⁵ Indian Penal Code, 1860, § 300, No. 45, Acts of Parliament, 1860 (India)

relation to punishment. To this end, it will be the purpose of this paper, to show that the Indian laws need to be changed by adding the degrees of murder into them based on the international practice and case law and explain why this kind of improvement would serve the Indian judicial system well.

Section 299 of IPC provides the definition of culpable homicide as death caused through an act with intent to cause death or knowledge that death is a likely result of the act. Even though this definition includes a wide range of killings, it does not cater for the levels of mens rea, mental state or the context of killing. Therefore, it means all culpable homicide cases are treated in the same way by the law, without any proper differentiation of seriousness where necessary.

Murder or culpable homicide as it is better referred to in legal periphery is further elaborated in section 300 of the IPC when it provides that any culpable homicide becomes murder if it is done with the intention of causing death or if any act is being done which is likely to result into death. However, in many cases, it has not been clear whether a homicide should be considered murder in the first degree or if it should fall under the category of culpable homicide not amounting to murder. The line that separates the two forms of classifications is often very thin, lying on intent and knowledge and such vagueness, has been challenging for the judges and legal practitioners.

For example, A victim might be killed by the accused when he is so angry that he doesn't get that estimated time of cooling off period. He doesn't contemplate the killing as within the convictions of murder and such a mental state would be somewhat lacking. In such situations, courts usually grapple with the decision of whether the action amounts to murder or less serious form of culpable homicide. This confusion results in the law not being evenly applied, increasing chances of differing results even in similar cases. The failure to incorporate degrees of homicide under the existing IPC limits has compromised the fairness with which judicial evaluation and sentencing in such occurrences can be done.

❖ Comparative analysis with international systems

Legal systems of numerous countries have incorporated analyst classifications of degrees of homicide in order to make the appropriate levels of culpability in unlawful homicide more accurate. For example, in the USA, the definitions of first-degree murder and second-degree

murder have long existed side-by-side with primary murder being premeditated and secondary murder being without premeditated intent, i.e. intentional killings simply not planned. In some states, there are even more layers of classification with respect to homicide, for example, voluntary and involuntary manslaughter. Voluntary manslaughter, for example, is often posited as a killing that takes place out of passion or some previous provocation while an involuntary manslaughter often pertains to a killing done also without intent but which arises from action taken with reckless or grossly negligent behaviour. Such distinctions make it possible for a more refined judicial system where the degree of punishment corresponds to the levels of intent and the context within which the homicide took place.

Similarly, the English legal system makes a clear distinction between voluntary and involuntary manslaughter, which implies that there is a recognition of varying degrees of blameworthiness in homicides in that jurisdiction. Voluntary manslaughter is often reserved for those who acted on their intent but only because they were provoked or suffered some other mitigating circumstance that lessened their blame. Involuntary as the name suggest means the person did not intend to kill, rather death out of reckless behaviour or negligence due to carelessness. This distinction helps to ensure that the sentence can be more appropriate to the gravity of the crime. As with Canada's legal system, it makes distinction in murder in first degree and second degree. The first-degree murder covers all premeditated killings while second degree murder is the killing with intent but without premeditation. Besides these, killings that happen as a result of recklessness or negligence on the offender's side are referred to as manslaughter. These systems possess a hierarchy of homicide and thus ensure the socially disapproved act of killing is punishably suited according to level of an individual's guilt.

Adopting the above approach in India where all the crimes of the culpable homicide are divided into levels, would make exact alinement of sentences with situations since such sentencing by considering the mode of mental operation of the accused. This will enhance the approach law adopts towards dealing with homicide by ensuring that there are no manifest inconsistencies in punishing an offender for actions of that particular nature.

❖ **Case Analysis and Judicial Interpretations in India**

The current Indian Penal Code (IPC) framework remains somewhat ambiguous, leading to difficulties for the Indian courts in determining culpable homicide as opposed to murder. If the

above definitions appear vague that is because subjectively, they are, and this vagueness leads to unsound subjective assessments. In the landmark case of *Virsa Singh v. State of Punjab (1958)*²⁶, the Apex court held that at a trial for murder, to bring home an offence under Section 300, it must be proved that either the accused intended to kill or cause grievous bodily harm, or he had knowledge that his act is likely to cause death. Still, the Court emphasized that a violent act does not equate to murder if they are not aiming to kill. The judgment also reflects ambiguity in the law as it is not easy to classify a killing as culpable homicide or murder.

*K.M. Nanavati v. State of Maharashtra (1962)*²⁷: The facts pertain to a case where the accused shot at and killed his wife's lover after discovering about their affair in state of temporary passion. The man was originally convicted of murder but the Supreme Court substituted it with a conviction for culpable homicide not amounting to murder on the basis of mitigating factor of provocation. This may serve as an example of the challenges Indian Courts face in applying the existing law, when there are mitigating circumstances influencing a defendant mind suffered from severe emotional disturbance. It's a case that has shown the legal system isn't adequately able to classify homicide in these "mercy killing" situations, and as such there are different levels of punishment.

Analogously, in *State of Rajasthan v. Kashi Ram (2006)*²⁸, the SC observed that the offender had awareness that his actions would almost certainly lead to death but did not do so with premeditation. Consequent thereto conviction of culpable homicide not amounting to murder resulted. Cases such as these point to the inconsistency in judicial understanding which may never be demonstrably definitive for lack of specificity in relation to the mental state and, indeed, the degree of which animus is engendered and which may result in a wrongful conviction for the wrong crime.

These case reviews show that the current provisions of the IPC are insufficiently constructed to facilitate equity in results in regard to homicide. The absence of degrees of homicide effectively hampers the courts by providing minimal direction as to how different intentions and levels of culpability should be treated resulting in the risk of injustice.

²⁶ *Virsa Singh v. State of Punjab*, AIR 1958 SC 465

²⁷ *K.M. Nanavati v. State of Maharashtra*, AIR 1962 SC 605

²⁸ *State of Rajasthan v. Kashi Ram*, AIR 2007 SC 144

❖ Challenges in the Current IPC Framework

One of the main problems with the present IPC framework is the thin line that exists between culpable homicide and murder. The difference between sections 299 and 300 is often intent and knowledge of the accused as assessed through subjective judgments leading to variations in sentencing regimes. For example, an accused who causes death in a fit of rage will be convicted of murder as per section 300 of this act if the court is of the opinion that the accused committed the act knowing that it was likely to cause death, even when the accused never premeditated the killing.

In addition to those, provocation also raises the challenge of how to classify different types of homicide. Section 300(1)²⁹ of the IPC makes a provision of saving murder if the act is committed due to a sudden attack of provocation but does not qualify the degree of provocation necessary to qualify for the exception. This lack of clarity gives rise to different applications by different judges resulting in different outcomes. In cases where it is found that there is no sufficient provocation, an accused may be charged with murder in cases where the killing was done in the heat of passion.

In addition, the existing framework is shortsighted in that it does not deal with such situations, where the accused suffers from mental illness or diminished capacity. This becomes an issue when the courts are left to wonder if the killing should be deemed murder, culpable homicide not amounting to murder, or manslaughter in such cases. If degrees of homicide were introduced, they would provide the legal framework with the capacity to deal with such situations effectively without oppressing any killing offences emanating from reasonable excuses.

❖ Recommendations for Legal Reform

In order to rectify the existing flaws in the IPC structure, we suggest the addition of the various tiers of homicide. This means that in India, there could be first-degree murder, second-degree murder, and manslaughter which would be better informative on what type of crime is committed and what level of wrongdoing it consists.

1. **First-degree murder:** This section would apply to all murders that are pre-planned and executed with intent where the perpetrator has premeditated the killing. Death sentences

²⁹ Indian Penal Code, 1860, § 300(1), No. 45, Acts of Parliament, 1860 (India)

or imprisonment for all the days of the perpetrator's life can be some of the punishments of first-degree murder.

2. **Second-degree murder:** This would apply in respect to the accused that causes death on purpose without planning to kill the person beforehand. This could be in the case where the accused kills the victim while in a state of rage or after being provoked but still delivers the blow on purpose. A colourable imprisonment would be imposed for second-degree murder that would be less than that of a first-degree murder.
3. **Manslaughter:** It would concern killing due to carelessness, absence of malice upon killing a person through unreasonable or careless force or violence. Assuming a situation where the undeliberate killing also involve blameworthy actions on the part of a killer, misdemeanour would be the closest fit.

With the introduction of these classifications, the law will be applied more effectively and punishments would correspond more to the crime committed. Judges would have more chance to examine the state of mind, motive and other situations of the defendant, which will result in fairer decisions.

It has been interpreted that the present framework of the Indian legal system which is intended to delineate culpable homicide is rudimentary which gives rise to challenges when it comes to making judicial determinations and in administering justice. This is because there are no 'levels' as such in the various intentions and appreciations of the guilt as a result it becomes hard to divide and dish out justice on those who kill others without authority. The benefits of the structural reforms will ensure that the offenders are punished for the right amount in relation to the crime committed and even provide better codification and application of the law to enhance fairness in the justice system.

CONCLUSION

The present research has examined in depth the existing problems of burden of proof regarding culpable homicide under the Indian Penal Code (IPC) in particular in regard to sections 299 and 300. The main concern in the research was an inadequate provision of distinct categories of homicide, which of course caused a great deal of ambiguity in understanding the law and even meting out sentences. The overreaching terms of culpable homicide and homicide oftentimes leave an allowance for subjectivity whereby a ruling may not tone up with the intention or the state surrounding the crime. For instance, the cases of Virsa Singh v. State of

Punjab (1958) and K.M. Nanavati v. State of Maharashtra (1962) demonstrate how frustratingly difficult it is for the courts to realize these provisions consistently, particularly in circumstances involving varying emotional attitudes or degrees of purpose. It is this vagueness in the classification of crimes which heightens anxiety as regards justice in sentencing, as the offender may not be proportionately punished for the degree of culpability exhibited.

From an in-depth view of the homicide legislations within the United States of America and the United Kingdom, it is possible to strongly advocate for the adoption of a level-based system in India. In United States of America, the bifurcation of first and second murder degrees helps in the administration of justice by distinguishing between homicide carried out with a clear objective and an unplanned one which however still leads to bodily injury or serious altercation. The U.K. further demonstrates this category by having degrees of murder with the likes of voluntary and involuntary manslaughter, which occur where the act of killings was not entirely devoid of reasons such as reasons that change emotion or carelessness. Yet these categories allow for an execution of justice that is proportional and less arbitrary thus preventing excess and undue severity of punishments.

Based on the above observations, it can be comfortably concluded that the introduction of degrees of homicide in the Indian legal system will be a step in the right direction. Dividing murder into several degrees of the crime like first-degree murder, second-degree murder, and manslaughter – Indian law can accomplish greater precision and equity. This reform would enable judges to render sentences that would be more appropriate to the level of the crime and the state of mind of the defendant, which would in the end serve to enhance the uniformity of the administration of justice.

This reform will have far-reaching consequences not just for sentencing. The implementation of a hierarchy of homicide offenses would simplify the judicial constructions. Justice anticipates the application of the law to produce certain equilibrium results. This structural shift bestows opportunities for other systemic changes in the Indian criminal justice system, aligning it with global best practices and ensuring that the law policymaker is really oriented towards the attainment of social justice. Homicide which is inherently culpable offense should be divided in categories in order to better the justice system in India.

BIBLIOGRAPHY

1. S. Chitkara, *Culpable Homicide Not Amounting to Murder*, iPleaders (2024).
2. S. Ray, *Exploring IPC Section 300: Defining Murder Under Indian Law, Interpretations, and Landmark Case Studies*, Vanta Legal (2024).
3. A. Mendhiratta, *A Comparative Legal Analysis of Culpable Homicide Under Section 299 of the Indian Penal Code*, BarErudite (2024).
4. Vanta Legal, *Understanding IPC Section 304: The Legal Provisions for Culpable Homicide Not Amounting to Murder* (2024).
5. Parliament of the United Kingdom, *Reforming the Law on Homicide*, Research Briefings (2016).
6. The Indian Penal Code, 1860.
7. Bharatiya Nyaya Sanhita, 2023.
8. Law Commission of India, *Report on Criminal Law* (2015).
9. *Judicial Interpretations of IPC Sections 299 and 300*, Indian Law Rev. (2024).
10. *Landmark Case Studies on Culpable Homicide and Murder*, Indian Legal Sys. J. (2024).
11. Ayush Verma, *Culpable Homicide Under Bharatiya Nyaya Sanhita, 2023*, iPleaders (Nov. 1, 2024), <https://blog.ipleaders.in/culpable-homicide-under-indian-penal-code/>.
12. Syed Atif & Bushra Hasan, *Culpable Homicide and Murder: The Overlapping Offences*, 3 J. Contemp. Issues L., <https://jcil.lsyndicate.com/wp-content/uploads/2023/06/Syed-Bushra.pdf>.
13. Nishish Shukla & Taru Mishra, *Culpable Homicide and Murder: A Critical Appraisal*, 12 Int'l J. Creative Res. Thoughts (2024), <https://www.ijcrt.org/papers/IJCRT2404830.pdf>.
14. Justice K.N. Basha, *Murder and Culpable Homicide Not Amounting to Murder: Distinction*, Tamil Nadu State Judicial Academy (Nov. 2017), <https://www.tnsja.tn.gov.in/article/Culpable%20Homicide%20and%20Murder%20by%20Justice%20KN%20Basha.pdf>.
15. Ian D. Leader-Elliott, *Revising the Law of Murder in the Indian Penal Code: A Macaulayan Reconstruction of Provocation and Sudden Fight*, SSRN J. (2010), <http://www.ssrn.com/abstract=1538643>.
16. *Murder in Indian Law*, Wikipedia (2024), https://en.wikipedia.org/w/index.php?title=Murder_in_Indian_law&oldid=1253110745.
17. Abhishek Bhardwaj & Vasu Agarwal, *Law in the Midst of Murder*, 3 Burnished L.J. (2022), <https://burnishedlawjournal.in/wp-content/uploads/2022/01/Law-In-the-Midst-of-Murder-Author-Abhishek-Bhardwaj-Vasu-Agarwal.pdf>.

18. Lakshya Tandon, *Culpable Homicide Not Amounting to Murder*, 11 J. Emerging Techs. & Innovative Rsch. (2024), <https://www.jetir.org/papers/JETIR2411099.pdf>.
19. Shivam Goel, *Corporate Manslaughter and Corporate Homicide: Scope for a New Legislation in India* (2015).
20. Jeremy Horder, *Homicide and the Politics of Law Reform* (1st ed. 2012).
21. *From Intent to Act: A Legal Overview of Murder and Culpable Homicide*, Jurists' Junction (July 30, 2024), <https://juristsjunction.in/2024/07/31/from-intent-to-act-a-legal-overview-of-murder-and-culpable-homicide/>.
22. *All Murders Are Culpable Homicides but All Culpable Homicides Are Not Murder*, Legal Service India, <https://legalserviceindia.com/legal/article-9850-all-murders-are-culpable-homicides-but-all-culpable-homicides-are-not-murder.html>.
23. EzyLegal, *Culpable Homicide (IPC 299): Detailed Guide*, EzyLegal, <https://www.ezylegal.in/blogs/understanding-ipc-section-299-culpable-homicide-in-india>.
24. *Murder and Culpable Homicide: Complete Explanation IPC*, Mondaq, <https://www.mondaq.com/india/personal-injury/1468218/murder-and-culpable-homicide-complete-explanation-ipc>.
25. S.P. Singh Makkar, *Law of Culpable Homicide, Murder, and Punishment in India* (1988).
26. *Indian Penal Code – Chapter 8 – Culpable Homicide and Murder*, Manupatra, <http://student.manupatra.com/Academic/Abk/Indian-Penal-Code/chapter8.htm>.
27. *Culpable Homicide and Murder*, SlideShare (2018), <https://www.slideshare.net/slideshow/culpable-homicide-and-murder/118559410>.
28. Bharatiya Nyaya Sanhita, 2023, *An Act to Consolidate and Amend the Provisions Relating to Offences and for Matters Connected Therewith or Incidental Thereto* (2023), <http://indiacode.nic.in/handle/123456789/20062>.
29. *Indian Penal Code, 1860 | Bare Acts | Law Library*, AdvocateKhoj, <https://www.advocatekhoj.com/library/bareacts/indianpenalcode/index.php?Title=Indian%20Penal%20Code,%201860>.