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IS THE MURDER CLAUSE IN NEED OF REVISION?

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ABSTRACT

Murder gets its name from the Germanic word "morth," which meaning "hidden slaying." A Murder occurs when someone is assassinated by another individual or group of individuals who has the explicit purpose of ending the life of the first person. The clause of murder under the Indian Criminal Law is the most essential thing in terms of human life and dignity also the inviolable rights it confers. Its comprehensive provision is Sec.300 of the Indian Penal Code, 1860, which considers various degrees of intent. However, since the clause was initially drafted, our society has evolved tremendously. As demonstrated by the treatment of the section's clauses by successive courts of justice throughout the previous century, certain sections were worded inaccurately, while others had no purpose. It's past time for significant reforms to be implemented, whether it is eliminating a superfluous clause, reckoning for moral guilt, or ensuring that doctrines are specified more accurately. These modifications will update the provision and the Criminal Code, allowing them to accomplish the goals for which they were designed in the first place. To enhance decision-making accuracy, this article advocates for the further codification of the provisions, updated illustrations, and the entire elimination of Sec.300(2) from the Indian Penal Code.

KEYWORDS - Culpable Homicide, Indian Penal Code, *Mens Rea,* Murder, Probability of Death

INTRODUCTION

In 1893, Sir James Stephen classified the definition of murder under section 300 of the Indian Penal Code as the weakest element of the Code.[2] In assessing criminal liability

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[2] James Fitzjames Stephen, *A History of the Criminal Law of England* 553 (Macmillan and Company, London, 3rd edn., 1883).

for murder, the murder provision contains four clauses that take into consideration varying levels of intent, knowledge, and harm caused. Clause (1) of Section 300 IPC states that done with the purpose of killing someone. The least contentious of the 4 clauses is this one since it assists as the foundational provision of the murder clause that underlies the other 3 clauses. Furthermore, the Second Clause of Section 300 of the IPC prevents Clause (1) from being interpreted too broadly and expanding culpability for murder beyond what the legislators intended. The Secondly Clause says that the harm is done to inflict the physical injury that the criminal knows is likely to result in the death of the person who is harmed. This provision was included in the Criminal Code specifically for India's unique circumstances. Because Indians have big spleens, abuse by British officers, such as kicks to the abdomen, frequently ended in death. A provision like this was required to apportion criminal responsibility for the murder in comparable instances. It was constructed using the "eggshell skull" rule as a guideline, and it also necessitates a special amount of expertise. [3]

In the construction of intention, some norms have emerged and established as a result of the widespread use of inferences in evidential instances. Accordingly, courts have consistently found that intent can be inferred if the offender used deadly weapons to commit the crime[4], but not if agricultural or other equipment was used.[5] The effect of attacking a crucial bodily part is also examined, as is the combined effect of the two. Furthermore, the word "intention to kill" was coined by the Benthamite people and was used with accuracy by them. Nevertheless, it came to signify malice aforethought in the 19th century, which was not what the phrase's originator meant. It implies that English precedents are only relevant in interpreting the sentence to a limited extent. The second clause of Section 300 was omitted from Macaulay's initial draft and current English legislation at the time. It necessitates both a subjective purpose and awareness of the victim's physical state.

[3] Mark McBride, "Section 300(C) of the Indian Penal Code: From First Principles" 26 *Nat'l L. Sch. India Rev.* 77 (2014).
[4] Dr. K.I. Vibhute, *P.S.A. Pillai's Criminal Law* 349 (Lexis Nexis, 11th edn., 2012); See also *Fatte v. State* AIR 1979 SC 1504.
[5] AIR 2000 SC 3602(1).

The concept of 'dangerous weapons', 'vital parts of the body', and other judicial amendments to Clause 1 are covered in Part I of this article.The second clause will be examined in Part II, as well as many inconsistencies that have emerged in this respect. It will also utilize case law to analyze the courts' construction and interpretation of the provisions, as well as any ambiguity or inconsistencies that may arise. Based on the experiences of other states and jurisdictions that employ the same law, Part III of the paper will offer recommendations for needed modifications and methods to make the Code more explicit.

I. First Clause of Sec. 300 of the Indian Penal Code,1860

The first clause says that culpable homicide is murder if the act that causes death is done with the purpose to cause death, except in the situations listed below. In comparison to the other clauses in the murder provision, this one is the clearest and has generated the least amount of debate and discussion in court over its interpretation. The prosecutor must infer "intent to cause death" from the facts and circumstances surrounding the accused's conduct, and since the purpose is concealed inside the boundaries of his mind & cannot be utilized by the prosecutor to build their case, and establish the culpability.[6] It is worth noting that this clause is similar to section 299(a), and any act of offense that falls under section 300(1) will also fall under section 299(a), and the legal term for it is "Culpable Homicide Amounting to Murder." Various theories based on court precedents have been established to deduce the intent of the accused from their conduct. The concept of dangerous weaponry, vital body part theory, and the cumulative impact of the two are among these theories. Almost every court has constructed an intention, and while one court's building is typically in line with another's there have been a few grounds of contention.

i. Court precedents that have developed procedures and doctrines for determining intent

In the case of ***Rawalpenta Venkalu v. State of Hyderabad***[7], it was decided that, as a general rule, a man's purpose or intention can only be deduced from his actions.

[6] Ronan Patrick Keane, "Murder: The Mental Element" 53 *N. IR. Legal Q.*1 (2002).
[7] *Supra* note 3.

Moreover, the court stated in ***Fatta v. State of Uttar Pradesh***[8] that while assessing motive, the court must consider the type of weapon used, the body part where the strike was delivered, and the force employed in delivering the blow, all of which might be used to infer purpose. The test for a lethal weapon, for a crucial body part, and the force which the damage was delivered were therefore the three tests put forth in this case. Judicial precedents and erudite opinion have concluded that the only way to show purpose or intention is through external manifestations. Hence, when a critical portion of the body is injured using sharp-edged devices, the offender's intent to murder can be inferred.[9] It was ruled in ***Devaramani Bheemanna v. the State of Karnataka***, that the degree of damage visible on the corpse demonstrated the accused's intent to murder.[10] In the case of ***Nashik v. the State of Maharashtra***[11], the nature of the injuries caused can be utilized to prove the accused's intent to cause death. In this instance, the accused used a knife to damage a vital part of the deceased's body. According to the case of ***Chahat Khan v. State of Haryana***[12], if a person injures a critical organ, the accused might be charged with intent and in ***Bhaskar Pandit Kadam v. State of Maharashtra***[13], the same was reiterated. The court decided in ***Ram Jatan v. State of Haryana***[14] that "the nature of the weapon used, the region of the body on which the harm occurred, and occasionally both are essential to establish intent to kill." The expression "sometimes" adds a level of ambiguity and vagueness to the different criteria and theories. It allows the court to prioritize some parts of the accused's actions above others. When evaluating the intent of the accused, the court may, for example, place more emphasis on the type of weapon used rather than the body portion that was wounded. This may be essential in most situations due to the unique circumstances of each case, but it also raises the risk of contradictory conclusions since various factors of the accused's conduct are given variable weight-age.

ii. Court Precedents that have used Section 300(1) of the IPC to infer intent

[8] AIR 1979 SC 1504.
[9] Dr. K.I. Vibhute, *P.S.A. Pillai's Criminal Law* 349 (Lexis Nexis, 11th edn., 2012).
[10] S.K. Sarvaria, *R.A. Nelson's Indian Penal Code* 786 (Lexis Nexis, 9th edn., 2003).
[11] AIR 1993 SC 1485.
[12] AIR 1972 SC 2574
[13] 1984 (2) Bom. CR 769.
[14] 1995 Cri. LJ 3904.

Scores of cases have been used to analyze intent and assign criminal liability using the criteria outlined in the preceding cases to determine intent. The appellant in ***Ashok Laxman Sohoni v. State of Maharastra***[15] was convinced that his wife was performing voodoo, and he attacked her in front of his sister at her instigation. He assaulted her till she died, after which he cremated her hurriedly. It was ruled that this was a pure example of premeditated killing and that it was punishable under section 300(1) of the Indian Penal Code. There was a dispute between the dead and the accused in the case of ***Sreedharan Satheesan v. State of Kerala***[16] about the payment of a definite amount of money. The accused was a professional driver who inflicted significant injuries to the dead when his minibus collided with him in the center of his body. The court found evident tire tracks on the deceased's thigh, concluding that there was a manifest intent to kill, and the case was under sec. 300(1) may be filed. The SC ruled in ***Vasanth v. State of Maharashtra***[17] that the accused had no valid justification for driving his vehicle in the wrong way and run over the victim. In ***Prabhu Dayal v. State of Rajasthan***[18], a bride-burning case, where a bride was wholly burned and died as a result of the fire's 100% burn injuries. The accused used a half-burned postcard, intending it to be passed off as a suicide note. Moreover, the accused witnessed the entire incident without alarming or attempting to help the dead. As a result, it was concluded that it was an apparent example of deliberate death and that the inference of purpose was unmistakable. In the case of ***Nandkumar Natha v. State of Maharastra***[19], the accused doused the dead with kerosene and lit her on fire, resulting in 30% burn damage. As a natural outcome of the burning, a secondary illness developed. The court concluded that it was evident that the accused murdered the deceased with the intent to murder her. After pouring kerosene on the corpse of the victim, the accused lit him on fire in the case of ***Bandampalli Venkateshwaru v. State of Maharashtra***[20], demonstrating a strong intent to kill. The two defendants in ***Rohtas v. State of Uttar Pradesh***[21] appeared with spears drawn and ready to battle. The victim was struck in the chest, puncturing

[15] AIR 1977 SC 1319.
[16] 1995 (2) ALT Cri 598.
[17] AIR 1983 SC 361.
[18] AIR 1993 SC 2164.
[19] 1987 (3) Bom. CR 139.
[20] (1975) 3 SCC 492.
[21] AIR 1997 SC 2444.

his heart and lungs, resulting in a large amount of blood and death. In this case, it was clear that the accused had intended to murder him. A dispute regarding the property arose between the accused and the dead in the case of ***Maniben v. State of Gujarat***[22]**.** The deceased died after the accused poured kerosene on him, causing him to burn. Because the accused's intent to kill was apparent, the Supreme Court judged him guilty of murder. When the defendants in ***Satvir v. State of Uttar Pradesh***[23] laid the deceased on the ground, they were armed with knives. Because of the irreversible harm, his crucial organs were destroyed, and he died as a result. The SC determined that the intent to kill had been established and that a lawsuit under Sec. 300 Clause 1 may be brought. The accused in the 2017 case of ***State of Gujarat v. Puriya***[24] delivered several swords blows on the deceased's body, resulting in death. According to the court, the 17 visible wounds, the deadly instrument used, and the fact that there was not a single unintentional hit demonstrated the accused's evident intent to cause death. As a result, the court has inferred murder intent in a range of factual circumstances, setting important precedents and strengthening previously established judicial rules.

(iii) Dissensions between established Theories

While there are several precedents of theories relating to the inference of intention, there have been instances when uncertainty and the risk of misinterpretation have occurred. In ***Namdeo v. State of Maharashtra***[25], the accused used an axe to strike the dead on his head. The doctor stated that the damage was adequate to induce death in the natural run of things. The Supreme Court ruled that the intention to kill was obvious under section 300(1). Because the "firstly" clause is a subjective test[26], adopting the objective test of "ordinary course of nature" would go outside Sec. 300(3) scope.[27] The court should have either avoided using the "ordinary course of nature" test or if it did, assigned liability under Sec. 300(3). A similar issue happened in ***Jaspal Singh v. State***

[22] 2007 Cr. LJ 3187.
[23] 2009 (4) SCC 289.
[24] (2018) 1 GLR 288.
[25] AIR 1977 SC 381.
[26] Stanley Yeo, Neil Morgan et al., *Criminal Law in Malaysia and Singapore* 48 (Lexis Nexis, 2nd edn., 2013).
[27] Wing Cheong Chan, "What's Wrong with Section 300(c) Murder" 2005 *Singapore J.L.S.* 2 (2005).

of Himachal Pradesh[28], where the accused stabbed the victim in the crotch and back of the chest with a knife was lethal enough to cause death in the "ordinary course of things." The court concluded that the accused meant to kill the victim based on the evidence. They should have allocated responsibility under section 300(3) in this case because it removes the subjective aspect of knowing, as in section 300(2), or building intent from facts and circumstances, as in section 300(1). They shouldn't have applied the "ordinary course of nature" test and subsequently ruled the accused responsible under section 300(1).[29] This is due to the ambiguity it creates about the distinction between the clauses, as well as inferences about intent and the level and type of information required to establish an offense. Assigning a case to Sec. 300(3) rather than Sec. 300(1), for example, this will lead to erroneous thinking in future decisions, and there may be a circumstance where criminal responsibility could be assigned under either section 300(1) or 300(3), but no criminal culpability is acknowledged or ascribed to the accused due to judicial misinterpretation.

Certain court interpretations of the terms "single blow" and "dangerous weapons" are also contradictory.[30] For example, simple bamboo sticks or "lathis" are not deadly weapons, according to ***Dhanai Mahto v. the State of Bihar***[31] and it was decided in ***Joseph v. State of Kerala***[32] that a "lathi" is not a lethal weapon. In ***Bhagwan Swaroop v. State of Madhya Pradesh***[33], however, it was ruled that a simple lathi can cause both simple and lethal injury. Another qualification to the term "lathi" as a weapon was given in the case of ***Inder Singh Bagga Singh v. State of PEPSU***[34]. Because the "lathi" was not a pipe of iron and the dead was man of strong build, the court held that the accused could not be held actuated to cause the deceased's death, furthermore, given that he was living for 3weeks before he died and the damage was medicable, the injury could not be regarded sufficient in the natural order of things to kill him. It was held in ***Ramaotar v. State of Madhya Pradesh***[35] that the damages were not inflicted solely to cause death,

[28] AIR 1986 SC 683.
[29] S.C. Sarkar, *Commentary on the Indian Penal Code 1860* (Dwivedi Law Agency, 3rd edn., 2011).

[30] R.P. Kathuria, Supreme Court on Criminal Law 324 (Lexis Nexis India, 7th edn., 2009).
[31] *Supra* note 4.
[32] AIR 1994 SC 34.
[33] AIR 1992 SC 675.
[34] AIR 1955 SC 439.
[35] AIR 1993 SC 302.

but the accused should have known that using the 'lathi' with force on the deceased's skull would result in death. It was held in the case of ***Sarman Singh v. State of Madhya Pradesh***[36] that, while the post-mortem report revealed that the deceased's death may have been caused by any number of injuries, its hard to conclude that the accused intended to kill him; nonetheless, they could be aware that the blows would almost certainly kill them. It was ruled in the case ***Ranjit Singh v. State***[37], that, while an assault on the head with a "lathi" was not meant to kill anyone, but an assault on the deceased's chest with a "lathi" had made it obvious that he intended to assassinate. As a result, there has been a wide variety of decisions on the subject, each maintaining a different concept or drawing highly detailed or nuanced differences that prevents the emergence of a clear, well-established norm.

II. Second Clause of Sec. 300 of the Indian Penal Code,1860

The second clause says that culpable homicide constitutes murder if the act that results in the death is done with the intent of causing such bodily injury as the offender knows would result in the death of the person to whom the harm is inflicted, except in the specified circumstances outlined below. Courts have frequently confused this provision with Sec.300(3) since the only difference between the two is the subjective and objective requirement of awareness of the damage caused and its likelihood of causing death. It's worth noting that s.299(b) is similar to s.300(2); however, there's one significant difference, i.e., the 'knowledge' that the harm is likely to result in death is not present and conceptualized in s.299(b) as it is in s.300(2). Furthermore, subjective knowledge on the part of the accused is not mentioned or required in s.299(b), but it is an essential requisite in this provision. As a result, the only point of contrast between the provisions is "knowledge," or more precisely "subjective knowledge" on the side of the accused. Another contrast between the two, is that the term "likely" in s. 299(b) only implies the possibility or likelihood of death as a result of the harm inflicted, but the word "likely" in s.300(2) denotes a certainty of death as a result of the injury inflicted. Illustration (b) to s. 300 confirms this. As a result, the only contrast between the two

[36] AIR 1993 SC 40.
[37] 67 PLR 1175.

clauses is the degree of possibility of death. To assign responsibility for a specific act under this provision, *mens rea* is required in two ways. The first stage is to intend to inflict physical injury,and the second is to have "knowledge" that death is a "likely" outcome of such physical injury.[38] In this context, the term "knowledge" refers to the accused's personal knowledge or the accused's observation of the outcomes of his conduct. It's also worth noting that the terms "likely" and "knowledge" used collectively indicate certainty or definiteness of death rather than simple likelihood.[39] T. Bhattacharya[40] also weighs in, stating that two critical aspects must be established.The first is the purpose to inflict bodily damage, and the second is subjective awareness that the injury being inflicted on the victim is likely to result in his death because the victim has a physical injury. *R. A. Nelson* explains his point of view and differentiates section 300(2) from section 300(3). Clause (2) is distinguished from clause (3) by the fact that clause (3) refers to damage severe enough to cause death in the usual course of nature. It considers injuries to a healthy adult and ignores the injured person's unique physical state, resulting in his death being hastened.Clause (2), on the other hand, pertains to knowledge of the victim's unusually poor health as a result of age, illness, or previous injuries. Sec.300(2) would be irrelevant to the facts if the damages would not normally result in death or perpetrators were ignorant of the situation.

Secondly clause necessitates a dual mental attitude, according to ***Rajwant Singh v. State of Kerala[41].*** The impulse to do physical harm comes first, followed by the subjective awareness that the intentional injury would almost certainly result in death. The term "subjective" is important in interpreting this sentence since the third clause rejects the test of subjective knowledge, which divides the two clauses. The word "subjective" is crucial in interpreting this sentence since the *thirdly* clause of sec. 300 eliminates the subjective knowledge test, which is what distinguishes the two clauses.

i. Section 300(2) precedents from the courts to establish subjective knowledge tests

[38] *Supra* note 8 at 350.
[39] Ibid.
[40] Prof. T. Bhattacharya, *The Indian Penal Code* 331 (Central Law Agency, 8th edn., 2014).

[41] AIR 1996 SC 1874.

The facts were as follows in ***Willie (William) Slaney v. State of Madhya Pradesh***[42], a landmark case. In this case, the accused was having an affair with Donald's sister, Beryl. Donald didn't enjoy their friendship, and they had a furious argument one day. Donald raised his fist when the accused smacked him on the cheek. The accused struck his head with a hockey stick once, fracturing his skull. Then after ten days, Donald passed away at a hospital. The HC did not consider the essence of the crime, instead of inferring that the appellant's intent to murder the dead was self-evident (following the single-blow doctrine). Despite the doctor's opinion that the injury was likely to be lethal, the court determined that this was insufficient to bring the into compliance with the definition of Section 300. The court ruled that because Donald was a strong and a youthful man, and the hockey stick was made of wood, there was no basis to infer that the appellant had any specific knowledge that the injury would almost certainly result in death. The fact that Donald survived for 10 days later proves that death did not occur as a result of natural causes. The court in ***Arun Nivalaji More v. the State of Maharashtra***[43] overturned murder laws that had nothing to do with the circumstances of the case. It underlined the usage of the term "knowledge" in the phrase. Knowledge is defined as the condition of being conscious, knowledgeable, or aware of something. As a result, it conveyed a degree of certainty rather than just a likelihood. Consequently, the court stated that the accused caused the harm in order to cause such bodily injury that the accused knew would likely end in the deceased's death. Hence, under this basis, clause (2) was not relevant to the case.

ii. Court Precedents have addressed inconsistencies in Section 300 implementation.

It has been suggested that s. 300(2) is seldom used in practice since scenarios with such a high level of culpability usually lead to conclusions of intent to kill or knowledge under s. 300(3) or s. 300(4).[44] In reality, this implies that assigning criminal culpability under the other clauses of the provision is more suitable than assigning criminal liability by the 'secondly' clause because the accused's activities generally reveal a high degree of intent or awareness, which is more in line with the wordings and interpretations of

[42] 1956 AIR SC 1166.
[43] 2006 (2) SCC 613.

[44] *Supra* note 25 at 50.

the other clauses, which are objective and deal with 'ordinariness.' The case of ***Dhansai Sahu v. State of Orissa***[45] is a great illustration of this. The accused used a wooden rod to strike a 70-year-old man, injuring him 19 times, some of which were too vital organs. According to the High Court, the case would be classified as a Sec.300(2) case since the accused had subjective awareness that the injuries were likely to result in the deceased's death. But, the Supreme Court modified the condemnation to one under s.300(3) since, in the natural course of things, the injuries were supposed to result in death, and the accused's knowledge of the victim's age could not be considered subjective. As a consequence, we can observe that in most of the cases, the level of intent is so high that the subjective knowledge aspect is pushed to the side, and it is more suitable to assess the guilt of the accused under another provision or clause. Furthermore, the applicabilty of *Secondly* clause has been frequently confused with *thirdly* clause. The peculiar facts of the case ***Dhanni and Anr. v. State of Rajasthan***[46] is crucial to comprehend why the clause was interpreted wrongly. Using a 'pharsi,' the accused struck the dead in the head and leg twice. It resulted in the accused's immediate death on the scene, and he was found guilty of acting in a "cruel and unusual manner." Because the act was done with the intent to cause physical injury that was likely to result in death, the court concluded that the case of the accused was covered by s. 300(2). The reasoning of the court aligned with the application of s. 300(3) rather than s. 300(2), and hence the latter's application was erroneous. The case should have been excluded from the scope of s. 300(2), which is the second and the essential stage of *mens-rea* in order to assign criminal responsibility under this clause. because the accused had no particular knowledge of any element of the deceased's physical health. The deceased in ***B.N. Srikantiah v. The State of Mysore***[47] sustained 24 injuries because of the numerous actions of the accused, 21 of which were incision injuries. The deceased's head, neck, and shoulders were all injured. Hence, the court determined that the activities were done with the intent to inflict bodily harm that was likely to result in the accused's death since the injuries were on vital body parts and sharp weapons were used. Criminal culpability should have been imposed under s. 300(3) in this case as the injuries were adequate to

[45] 1969 Cri. LJ 626.
[46] 1973 Cri. LJ 1336.

[47] AIR 1958 SC 672.

induce death in the natural order of things, and the accused lacked real subjective knowledge that contributed to their action that resulted in the victim's death.

The accused in the case of ***State of Maharashtra v. Sadanand Laxman Tawde***[48] was found guilty of inflicting the deceased's first external injury to his stomach. When the accused attempted to leave after the initial injury, he caused more damage to the deceased's back. After that, the dead died. The deceased's liver was determined to be fatty and enlarged by the post-mortem report. The court concluded that the matter would fall under both Sections 300(2) and 300(3). (3). While the last phrase may have been a legitimate basis for assigning criminal responsibility as none of the criteria of Section 300(2) were met. The accused was unaware of the victim's liver or any other specific ailment. The court's argument that the accused was well aware that causing the second injury nearly invariably resulted in death should be dismissed. This is owing to the fact that in a significant proportion of cases, the victim flees and is captured only a short distance from the deadly blow. All of these scenarios cannot and don't come under Section 300(2) since the provision's wording and intent do not allow for them. To assign criminal culpability under Sections 299(b) or 300(3), the court should have focused only on the nature of the injuries inflicted, the body part to which they were delivered, and the weapon used. In the case of ***State of Uttar Pradesh v. Ram Sagar Yadav***[49], the dead was the plaintiff. Based on a bogus accusation of dacoity, he was seized and taken to the police station and was brutally assaulted by officers. He died as a result of his many injuries. The Supreme Court ruled that their beating constituted an effort to inflict bodily damage with the intention that the injuries would likely result in death under art. 300(2). Nevertheless,as the accused had no subjective awareness of the deceased's physical state, the court appeared to have erred in applying the *secondly* clause, and the clause could not be applied without it. They may not have used Section 300(3) because, according to ***Virsa Singh v. State of Punjab***[50], it must be established that the damage was intended to be inflicted, as well as the fact that it was not incidental or inadvertent, or that a different type of harm was intended, which in this case was not established. The Court should have made use of Section 299(b) rather than Section

[48] 1987 (1) BomCR 656.
[49] AIR 1985 SC 416.
[50] AIR 1958 SC 465.

300(3) in that case since doing so would have violated its decision in ***Dhansai Sahu v. State of Orissa.***[51]

III.Criticisms and Possible Improvements

Even if the provisions have served their purpose successfully, they may be modified in a number of ways.[52] Several academics have suggested adjustments to the structure of the provision. They argue that the Indian Penal Code, which was written in the nineteenth century, does not represent the ideals and language of today's society. They contend that the examples are likewise insufficient because they depict behaviors from a previous century. The analogies that follow each provision are meant to clarify the law and eliminate ambiguity by offering a pertinent example based on society's existing ethical, judicial, and social fabric. Because the illustrations in the IPC haven't been renewed in a long time, they usually don't resemble or come near to the scenario at hand. Besides, the *mensrea* norm as it now stands has flaws. The distinctions in the *mensrea* requirements between Sec. 299 and Sec. 300 are minor, the degree of risk to human life will decide whether a case falls under the former or the latter and the likelihood of death, both of which are determined on the basis of the evidence in the case. As a result, the dividing line between the two portions is quite hazy. In terms of *mens rea,* it's also stated that the first clause's meaning of the word "intention" doesn't account for the varied levels of moral responsibility.[53] It's a vital component of the offensive that has to be identified, but it's still unclear. The moral culpability assessed must change depending on whether the purpose emerged spontaneously or was pre-planned.[54]

Another criticism that might be directed at the current version of the Indian Penal Code is that it lacks any mechanism for resolving major issues that have evolved over the previous century and a half. Lord Macaulay wanted the Code to be clear, understandable, and beneficial. As a result, a revision procedure to clear up any

[51] *Supra* note 44.
[52] Jonathan Muk Chen Yeen and Chin Wan Yew Rachel, "Sections 299 and 300 of the Penal Code: A Revisit and Further Suggested Amendments" 33 *Sing. L. Rev.* 129 (2015).
[53] Frank Brenner, "The Impulsive Murder and the Degree Device" 22(3) *Fordham Law Review* (1953).
[54] Stanley Yeo, "Staying True to the Indian Penal Code: A Case Study on Judicial Laxity" 4 *NUJS L. Rev.* 2 (2011).

ambiguities is necessary. However, such an institutional procedure has never been created, and judges have twisted and built the wording of the provision to fit the scenario at hand as a result of "piecemeal reforms."

Therefore, there are differences in how words are interpreted and how the provision is construed, particularly when it comes to the single blow concept, dangerous weapon, and vital body part concept. As previously noted, there have been several occasions where the same court has rendered contradictory decisions in comparable fact situations because they understood intention differently and focused on a different external expression of it. Definitions of important words such as intention and knowledge can be provided so that the interpretation of intention is more consistent. [55]This may be found in other countries' criminal codes. The New York Penal Code, for example, provides definitions for terms like homicide and various mental states to assist in interpreting the laws. [56] The Criminal Code of Canada, 1985, and the Australian Commonwealth Criminal Code Act, 1995, both follow a similar pattern.

The second clause's relevancy is debatable. It was not included in Macaulay's original manuscript and was added to reflect the Indian setting, persons who have been subjected to the wrath of British officers, and the unique ailment of enlarged spleens that existed at the time. The situation has drastically altered since then, and neither of these two conditions is still applicable. In reality, this provision is undesirable because there is usually a high level of purpose and culpability that subjective knowledge is unnecessary, and assigning liability under the first, third, or fourth categories is more acceptable. Any circumstance under the second clause can be covered by the first or fourth clauses, with the latter also addressing occasions when the victim's frailty is intentionally abused. Furthermore, the existence of the second clause has been misunderstood many times as the presence of the third clause with the apex court either rectifying the provision under which duty is allocated to correct the error or, more dangerously, going mostly unnoticed and undermining the provisions' meaning. It is

[55] *Supra* note 43.
[56] New York Penal Law U.S.C. (U.S.) §15.05 and §15.00(6) (1967).

critical because it deviates from established interpretation norms and adds a level of ambiguity, which is neither desired nor compatible with India's criminal policy goals.

CONCLUSION

Hence, when it comes to attributing criminal responsibility and the murder provision, the clauses first and second are the most essential provisions. Various conditions and degrees of *mens rea* are addressed in the two clauses. They have been interpreted and refined by the courts throughout time; nevertheless, it is now obvious that this is insufficient, and some revisions are necessary to guarantee that the Code stays faithful to its initial goals and satisfies the standards envisaged by its drafters. It needs to account for moral liability while maintaining the deterrent strategy. The Macaulay Objectives of comprehensibility, approachability, accuracy, and democracy must also be adhered to in any construction or change.[57]

[57] M. Sornarajah, "The Definition of Murder under the Penal Code" 1994 *Singapore J.L.S.* 1 (1994).