

# **Law 314: Law of Crimes II**

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**OFFENCES AFFECTING  
THE HUMAN BODY**

**S. M. Saiful Haque**



## Sec. 299. Culpable homicide.

• Whoever causes death by doing an act with the intention of causing death or with the intention of causing such bodily injury as is likely to cause death or with the knowledge that he is likely by such act to cause death, commits the offence of culpable homicide.

### Illustrations

(a) A lays sticks and turf over a pit, with the intention of thereby causing death, or with the knowledge that death is likely to be thereby caused. Z, believing the ground to be firm, treads on it, falls in and is killed. A has committed the offence of culpable homicide.

(b) A knows Z to be behind a bush. B does not know it. A, intending to cause, or knowing it to be likely to cause Z's death induces B to fire at the bush. B fires and kills Z. Here B may be guilty of no offence; but A has committed the offence of culpable homicide.

Explanation 1. • A person who causes bodily injury to another who is labouring under a disorder, disease or bodily infirmity, and thereby accelerates the death of that other, shall be deemed to have caused his death.

Explanation 2. • Where death is caused by bodily injury, the person who causes such bodily injury shall be deemed to have caused the death, although by resorting to proper remedies and skilful treatment the death might have been prevented.

Explanation 3. • The causing of the death of a child in the mother's womb is not homicide. But it may amount to culpable homicide to cause the death of a living child, if any part of that child has been brought forth, though the child may not have breathed or been completely born.

## Sec. 300. Murder.

• Except in the cases hereinafter excepted, culpable homicide is murder, if the act by which the death is caused is done with the intention of causing death or-

Secondly. • If it is done with the intention of causing such bodily injury as the offender knows to be likely to cause the death of the person to whom the harm is caused or –

Thirdly. • If it is done with the intention of causing bodily injury to any person and the bodily injury intended to be inflicted is sufficient in the ordinary course of nature to cause death or –

Fourthly. • If the person committing the act knows that it is so imminently dangerous that it must, in all probability, cause death, or such bodily injury as is likely to cause death, and commits such act without any excuse for incurring the risk of causing death or such injury as aforesaid.

When culpable homicide is not murder: ▪

Exception 1. ▪ Culpable homicide is not murder if the offender, whilst deprived of the power of self-control by grave and sudden provocation, causes the death of the person who gave the provocation or cause the death of any other person by mistake or accident.

The above exception is subject to the following provisos: ▪

Firstly. ▪ That the provocation is not sought or voluntarily provoked by the offender as an excuse for killing or doing harm to any person.

Secondly. ▪ That the provocation is not given by anything done in obedience to the law, or by a public servant in the lawful exercise of the powers of such public servant.

Thirdly. ▪ That the provocation is not given by anything done in the lawful exercise of the right of private defense.

Explanation. ▪ Whether the provocation was grave and sudden enough to prevent the offence from amounting to murder is a question of fact.

Exception 2. - Culpable homicide is not murder if the offender, in the exercise in good faith of the right of private defense of person or property, exceeds the powers given to him by law and causes the death of the person against whom he is exercising such right of defense without premeditation, and without any intention of doing more harm than is necessary for the purpose of such defense.

### Illustration

Z attempts to horsewhip A, not in such a manner as to cause grievous hurt to A. A draws out a pistol. Z persists in the assault. A believing in good faith that can by no other means prevent himself from being horsewhipped, shoots Z dead. A has not committed murder, but only culpable homicide.

Exception 3. - 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, and causes death by doing an act which he, in good faith, believes to be lawful and necessary for the due discharge of his duty as such public servant and without ill-will towards the person whose death is caused.

Exception 4. • Culpable homicide is not murder if it is committed without premeditation in a sudden fight in the heat of passion upon a sudden quarrel and without the offender's having taken undue advantage or acted in a cruel or unusual manner.

Explanation. • It is immaterial in such cases which party offers the provocation or commits the first assault.

Exception 5. • Culpable homicide is not murder when the person whose death is caused, being above the age of eighteen years, suffers death or takes the risk of death with his own consent.

Illustration

A, by instigation, voluntarily causes Z, a person under eighteen years of age, to commit suicide. Here, on account of Z's youth, he was incapable of giving consent to his own death; A has therefore abetted murder.

Case Law

Abdus Sukur Mia vs State 48 DLR 228-When the victim went to bed with her husband and was found subsequently dead there, he bears a serious obligation to account for her death.

State vs Abdul Howlader 48 DLR 257-When all that the accused intended was to strike his wife and the strike by mistake hit their newly born baby which had led to the killing, such of the accused falls within the purview of exception I of section 300.

Md Abdul Majid vs State 40 DLR (AD) 83-The weapon used was a lethal one and the injury grave in nature was caused on the vital part of the body. The act was done with the intention of causing such bodily injury intended to be inflicted as was sufficient in the ordinary course of nature to cause death. It falls clearly within the 1st, 2nd & 3rd clauses of section 300 Penal Code.

Momin Malitha vs State 41 DLR 37-The present case is covered by the exceptions to the section 300 of Penal Code. From the facts and circumstances of the case, we think that the criminal acts of the accused respondents which resulted in the death of the victim constitute culpable homicide not amounting to murder punishable under section 304 Part I of the Penal Code.

On a consideration of the facts and circumstances of the case, it appears that the case is covered by exception-1 to section 300 of the Penal Code and accordingly the conviction of the appellants is altered from section 302 to 304 Part I of the Penal Code and the sentence of each of the appellants is reduced to RI for 10 years each thereunder.



Sec. 302. Punishment for murder. •Whoever commits murder shall be punished with death or imprisonment for life and shall also be liable to fine.

Sec. 303. Punishment for murder by life-convict.

•Whoever, being under sentence of imprisonment for life, commits murder, shall be punished with death.

Sec. 304. Punishment for culpable homicide not amounting to murder. •Whoever commits culpable homicide not amounting to murder, shall be punished with imprisonment for life or imprisonment of either description for a term which may extend to ten years and shall also be liable to fine, if the act by which the death is caused is done with intention of causing death or of causing such bodily injury as is likely to cause death;

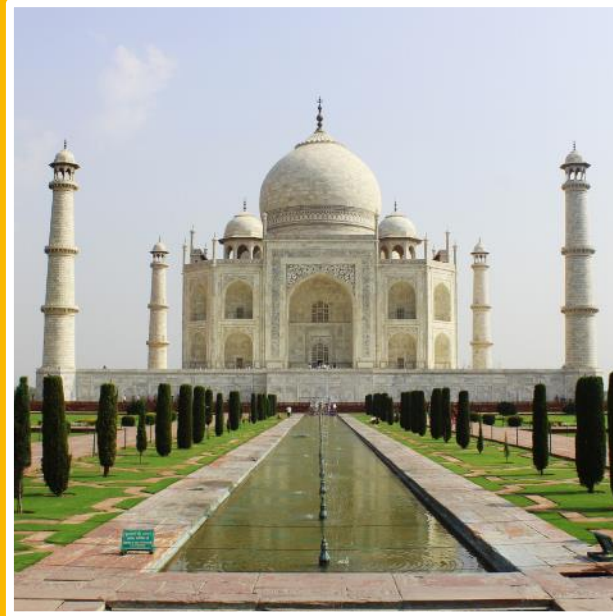
or with imprisonment of either description for a term which may extend to ten years, or with fine, or with both, if the act is done with the knowledge that it is likely to cause death, but without any intention to cause death or to cause such bodily injury as is likely to cause death.



# Homicide, Culpable Homicide and Murder

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Differentiate in among the concepts and meanings







**Relevant**

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- Sec. 304A. Causing death by negligence.
- Whoever causes the death of any person by doing any rash or negligent act not amounting to culpable homicide shall be punished with imprisonment of either description for a term which may extend to five years or with fine or with both.
- Sec. 304B. Causing death by rash driving or riding on a public way. Whoever causes the death of any person by rash or negligent driving of any vehicle or riding on any public way not amounting to culpable homicide shall be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.
- Sec. 305. Abetment of suicide of child or insane person. If any person under eighteen years of age, any insane person, any delirious person, any idiot or any person in a state of intoxication commits suicide, whoever abets the commission of such suicide shall be punished with death or imprisonment for life or imprisonment for a term not exceeding ten years and shall also be liable to fine.





### Sec. 306. Abetment of suicide.

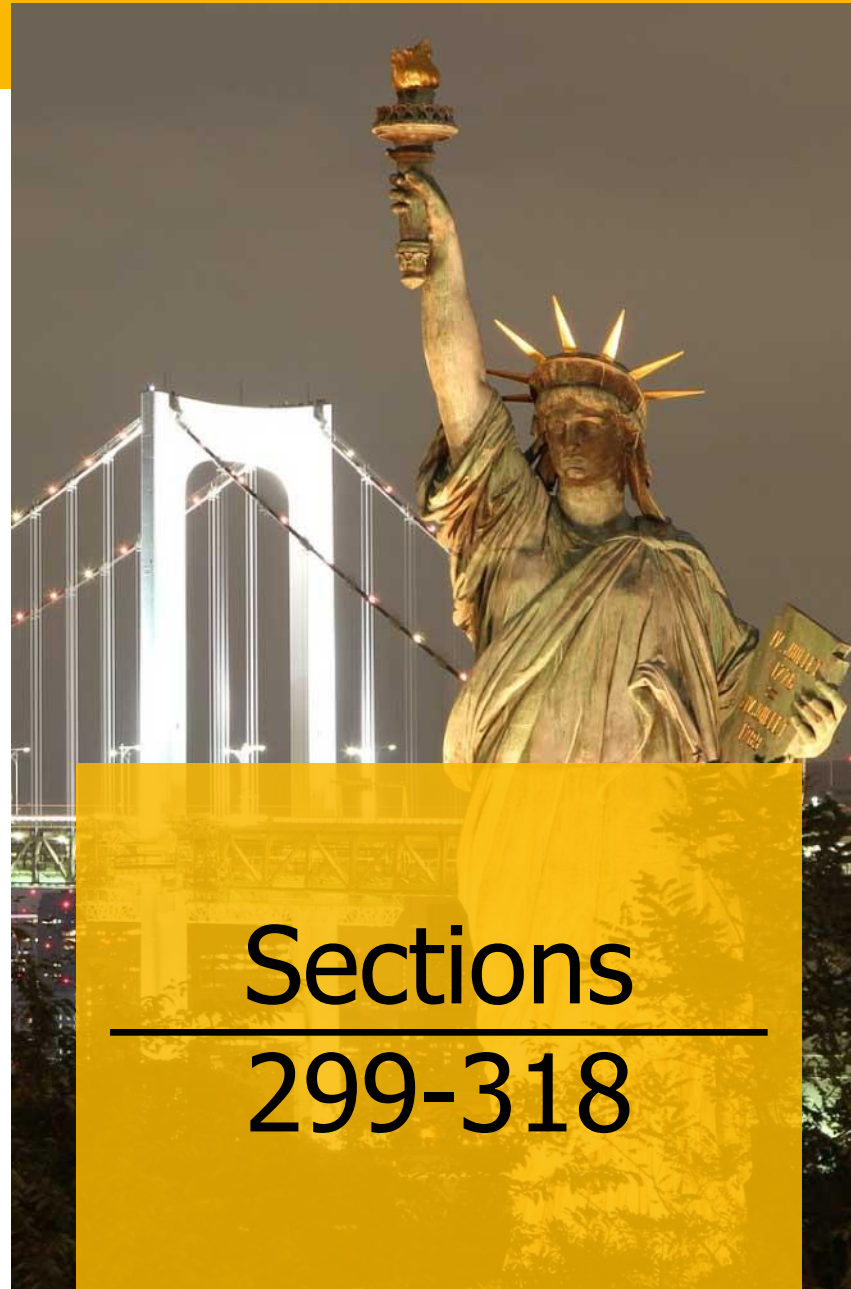
If any person commits suicide, whoever abets the commission of such suicide, shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine.

### Sec. 307. Attempt to murder.

Whoever does any act with such intention or knowledge, and under such circumstances that, if he by that act caused death, he would be guilty of murder, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and, if hurt is caused to any person by such act, the offender shall be liable either to imprisonment for life, or to such punishment as is hereinbefore mentioned.

Attempts by life-convicts. When any person offending under this section is under sentence of imprisonment for life, he may, if hurt is caused, be punished with death.

- Sec. 308. Attempt to commit culpable homicide.
- Whoever does any act with such intention or knowledge and under such circumstances that, if he by that act caused death, he would be guilty of culpable homicide not amounting to murder, shall be punished with imprisonment of either description for a term which may extend to three years or with fine or with both; and, if hurt is caused to any person by such act, shall be punished with imprisonment of either description for a term which may extend to seven years or with fine or with both.



## Sections 299-318

- Sec. 309. Attempt to commit suicide.
- Whoever attempts to commit suicide and does any act towards the commission of such offence, shall be punished with simple imprisonment for a term which may extend to one year or with fine or with both.
- Sec. 310. Thug.
- Whoever, at any time after the passing of this Act, shall have been habitually associated with any other or others for the purpose of committing robbery or child-stealing by means of or accompanied with murder, is a thug.
- Sec. 311. Punishment.
- Whoever is a thug, shall be punished with imprisonment for life, and shall also be liable to fine.



**Causing of Miscarriage, of Injuries to unborn Children, of the Exposure of Infants, and of the Concealment of Births.**

**Sec. 312. Causing miscarriage.**

Whoever voluntarily causes a woman with child to miscarry, shall, if such miscarriage be not caused in good faith for the purpose of saving the life of the woman, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and, if the woman be quick with child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine.



**Sec. 313. Causing miscarriage without women's consent.**— Whoever commits the offence defined in the last preceding section without the consent of the woman, whether the woman is quick with child or not, shall be punished with imprisonment for life or with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine.

**Sec. 314. Death caused by act done with intent to cause miscarriage.**—Whoever, with intent to cause the miscarriage of a woman with child, does any act which causes the death of such woman, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine,







**Sec. 315. Act done with intent to prevent child being born alive or to cause it to die after birth.**—Whoever before the birth of any child does any act with the intention of thereby preventing that child from being born alive or causing it to die after its birth and does by such act prevent that child from being born alive or causes it to die after its birth, shall, if such act be not caused in good faith for the purpose of saving the life of the mother, be punished with imprisonment of either description for a term which may extend to ten years or with fine or with both.

**Sec. 316. Causing death of quick unborn child by act amounting to culpable homicide.**—Whoever does any act under such circumstances, that if he thereby caused death he would be guilty of culpable homicide, and does by such act cause the death of a quick unborn child, shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine.

Sec. 317. Exposure and abandonment of child under twelve years by parent or person having care of it.

Whoever being the father or mother of a child under the age of twelve years, or having the care of such child, shall expose or leave such child in any place with the intention of wholly abandoning such child, shall be punished with imprisonment of either description for a term which may extend to seven years or with fine or with both.

Explanation This section is not intended to prevent the trial of the offender for murder or culpable homicide, as the case may be, if the child die in consequence of the exposure.

Sec. 318. Concealment of birth by secret disposal of dead body.

Whoever, by secretly burying or otherwise disposing of the dead body of a child whether such child die before or after or during its birth, intentionally conceals or endeavours to conceal the birth of such child, shall be punished with imprisonment of either description for a term which may extend to two years or with fine or with both.



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