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CULPABLE HOMICIDE NOT AMOUNTING TO MURDER: A STUDY

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ABSTRACT

In substantive criminal law, one of the most important distinctions is the concept that culpable homicide is not murder. This idea is fundamental to criminal law. The Bharatiya Nyaya Sanhita, 2023 (BNS) has modified the interpretations of these clauses but retains the essential principles listed in the Indian Penal Code (IPC), 1860¹, with the addition of specifying Sections 100-106. This paper aims to provide a comprehensive account of the crime of culpable homicide not amounting to murder, its elements and legal interpretation, and distinguishing it from murder.

Through a literature review of statutory interpretation, cases and jurisprudence, and scholarly analysis of culpable homicide, this analysis demonstrates the BNS maintains even balance between the preservation of human life and ensuring proportionate punishment. This analysis concludes the restructured BNS does maintain moral and legal essence of culpable homicide, while simultaneously advancing accessibility and clarity in criminal law through a doctrinal and comparative methodology.

1. INTRODUCTION

The difference between murder and culpable homicide has been one of the most contentious and confusing issues in Indian criminal law for many decades. The confusion exists mainly because the terms in the statutes used to define murder and culpable homicide

¹ Indian Penal Code 1860.

are very similar in wording, and the distinction between intention and knowledge, which are the two elements of mens rea, have always been a fine line of distinction. This distinction has led to various interpretations across the courts and thus, a complex but insightful discussion in judicial decisions trying to distinguish between the two. The two concepts were widely articulated in the context of unlawful homicide under Sections 299 and 300² of the Indian Penal Code (IPC), 1860, and were a significant feature of India's law on unlawful homicide. However, with the publication of the Bharatiya Nyaya Sanhita (BNS), 2023, these statutory provisions have been revised and updated. They are now organized and brought to life in statutory language in sections 100 to 106³ and the structure reflects the evident will of the legislature to modernize, streamline and rationalize criminal law, while maintaining the fundamental principles of criminal law in India.

Under the revised structure, Section 100 of the new BNS describes culpable homicide and Section 101⁴ describes murder. Sections 102 to 106 establish premeditated murder, exceptions to premeditated murder and gradations of punishment based on the seriousness of the offense and degree of culpability. The restructured presentation of the law intends to communicate law more straightforwardly and accessibly for lawyers and laypersons alike by eliminating linguistic complexities and overlapping terminology found in the IPC to have a more coherent sequence and organization within the provision. Ultimately, the changes do not alter the substantive principals of criminal liability but serve to provide clearer interpretive guide lines and practical application.

Culpable homicide in its broad and general sense is the unlawful killing of another human being with some degree of intention or knowledge of the likely result being death⁵. Culpable homicide covers a variety of situations where a large number of cases of death are the result of an act that the perpetrator either intended to cause the death or knew death was likely to result, however, these crimes may not be considered murder since the killing was probably not with malice aforethought or the aggravating circumstances were absent. Since culpable homicide is considered broader to the category of the crime, it is essentially

² Indian Penal Code 1860§ 300.

³ Bharatiya Nyaya Sanhita (BNS), 2023.

⁴ Bharatiya Nyaya Sanhita (BNS), 2023, §101.

⁵ Bharatiya Nyaya Sanhita (BNS), 2023, §100.

the genus of which murder is only one species. In other words, all acts of murder are culpable homicides, and sometimes, as stated above, however not all culpable homicide would be considered murder. The difference would be the degree of mens rea or the mental element at the time of the act.

Under both the IPC and the BNS, this demarcation is still based on the moral and psychological assessment of the perpetrator's state of mind—the greater the intention or premeditation, the more the act approaches murder; similarly, the lesser the degree, such as where death is caused by an impulsive or careless act, the more the act approaches culpable homicide not amounting to murder. Hence, though no substantive change has been made to the law under the BNS, it aims to clarify the different levels of culpability in order to be fair and consistent in judicial interpretation. This clarification is of significant importance, as the law of crime needs to impose punishment and, at the same time, to draw distinctions between different degrees of moral blameworthiness.

In summary, the differentiation between murder and culpable homicide, in this context, is central to the preservation of fairness, justice, and proportionality of criminal sentences to an offender's moral culpability. The consequence of killing a human being must reflect the offender's blameworthiness in terms of their mental state, motive, and overall circumstances surrounding the person being killed. A nuanced distinction between these options allows judges to set a sentence worthy of calibration and preserve the delicate balance between victimization in favor of the victimization in favor of the accused. Thus, in preserving the substantive principles of the IPC and reducing its expression in the BNS, the law is now relatively more accessible, systematic, and fit for the contemporary legal environment of India.

2. RESEARCH METHODOLOGY

The research here draws from both primary and secondary legal sources, and is doctrinal and analytical. The primary sources are the Bharatiya Nyaya Sanhita, 2023, assigned court decisions, and the judicial structure. The secondary sources include scholarly commentary, including K.D. Gaur's Textbook on Indian Penal Code, Ratanlal & Dhirajlal's Law of

Crimes, and a variety of articles from journals. In order to understand continuity and change, the research also draws comparisons with the IPC, 1860.

3. LITERATURE REVIEW

The Indian Criminal Law has been the very centre of long discussions and debates among jurists and scholars around the concept of culpable homicide, and in its thorny areas of definition and classification. Ratanlal & Dhirajlal classify culpable homicide as the unlawful killing of a human being with the perpetrator either having the explicit intent to kill or being aware that such an act is going to probably lead to death. The said definition lays great stress on the mental aspect of the act as the main criterion for differentiating culpable homicide from mere accidental or negligent killing. K.D. Gaur has a similar viewpoint and he also notices that although the distinction between culpable homicide and murder is very thin and often difficult to draw, it is still very important for deciding the right sentence. The law can then assign criminal liability in a proportionate manner relying on the moral culpability of the offender's mental state. The very fine distinction between intention and knowledge has, therefore, been the cause of scholarly and judicial debate over years, thereby also stressing out the need for using accurate statutory language and having consistent interpretation.

The judicial system has always recognized and developed this difference conceptually. In the famous case of *Reg. v. Govinda*, (1876) 1 Bom 342, Justice Melvill provided one of the earliest and most cited judicial clarifications. He stated that culpable homicide was the genus that included all unlawful killings with some intention or knowledge, while murder was the species, a group that restricts only the killings with the highest degree of moral blameworthiness or aggravating circumstances. This distinction has led courts to use the concept of genus and species for their analysis of homicide cases and it has enabled them to distinguish whether a given act deserves the harsher punishment of murder or the relatively lesser penalty of culpable homicide not amounting to murder.

Modern-day academics have drawn a finer line to this explanation, stressing that the needed *mens rea* for homicide cannot be generally accepted and must be considered according to the particular facts and conditions of each case. The kind of act, death's foreseeability, the

existence of provocation, and the accused's will are all factors influencing the degree of criminal liability assigned. Such a delicate approach guarantees that the law is not only responsive to the moral as well as social aspects of human behavior, but also prudently applying penalties without considering the matter involved in the case. It also brings to light the continuous contribution of judicial interpretation in delineating the scope of criminal law.

The Law Commission of India has been vocal about its proposals to make the existing legal text regarding homicide clearer and easier to understand by advocating reforms to simplify and modernize the legal text while retaining the substance of the law. Accordingly, the Bharatiya Nyaya Sanhita (BNS), 2023 has codified the law on delict under Sections 100 to 106, moderating the framework and being more explicit in terms of the preservation of the judicial constructs established by the earlier courts. In this way, the BNS achieves a twofold purpose: it renders clearer statutory guidance for legal practitioners and judges, and it also has continuity with the vast and rich body of judicial interpretation that has historically laid down the limits of culpable homicide and murder in India. This prudent blend of legislative reform and judicial precedent not only makes the law accessible but also doctrinally sound, thereby minimizing the gap between scholarly analysis, judicial practice, and statutory clarity.

4. ANALYSIS

Regarding its treatment of offenses relating to killing, the Bharatiya Nyaya Sanhita (BNS) embodies a significant step forward in modernizing India's substantive criminal law. While the Indian Penal Code (IPC) laid a solid framework, the BNS is more contemporary and restates these laws in a way that is easier to read and understand. These provisions seek to keep the essence of the traditional legal principles regarding culpable homicide and murder while articulating them in a clearer and more precise manner.

The modern drafting will go towards reducing the outdated principles, linguistic ambiguities, and varied interpretations of the prior framework. The specific sections in the BNS that address culpable homicide and murder also demonstrate a purposeful legislative

attempt to ensure justice, proportionality, and moral equivalence when assessing criminal culpability and sentencing.

4.1 DEFINITION AND SCOPE OF THE BHARATIYA NYAYA SANHITA

Culpable homicide is comprehensively defined in Section 100 of the BNS⁶. The offense consists of causing a human being to die by doing an act in one of three states of mind: first, intention of causing death; second, intention of causing bodily harm that is likely to cause death; or third, knowledge that the act is likely to result in death. This is mostly a restatement of the definition of culpable homicide included in Section 299 of the IPC⁷, but is expressed using clearer, more contemporary language that is more accessible and flexible with respect to the modern considerations of judges.

Section 101 further expands to stipulate that culpable homicide is aggravated to murder if the act causing death occurs in circumstances of extreme cruelty, grievous depravity, or deliberate or premeditated intent to kill the human being. The distinction made here demonstrates how the law expresses that while both crimes are fatal by definition, the moral culpability is attached to the circumstances and state of the mind of the offender.

The BNS provision, Section 105⁸, is similar to provision, Section 304 of the IPC⁹, that deals with penalty for culpable homicide not amounting to murder. It establishes a regime of penalties that correlate with the offender's state of knowledge/intention. Notably, as we saw during Parliamentary discussions, the intent of Parliament was to maintain the planning continuity with defined provisions of the IPC and lessen any chance for differences in interpretation based upon the wording of the provision. The attempt to modernize guarantees that criminal liability under the BNS appropriately conveys the mental state of the accused at the time of the offense, as well as moral culpability.

4.2 IMPORTANT FEATURES OF CULPABLE MURDER

⁶ Bharatiya Nyaya Sanhita (BNS), 2023, §100.

⁷ Indian Penal Code 1860§ 299.

⁸ Bharatiya Nyaya Sanhita (BNS), 2023, §105.

⁹ Indian Penal Code 1860§ 304.

Section 100 of the BNS specifies three key features of culpable murder. First, the act must bring about the death of a human being, which is ineluctably a physical result. Second, there must be knowledge or intent as those terms are defined in the section; the act must be done with knowledge that death is likely to ensue, or there must be an actual intention to kill, or to cause bodily injury that is likely to cause death. Third, the act must be done without lawful justification or excuse. The essence of the crime, the mens rea, must include knowledge or intent. Courts consider what the accused's state of mind was by considering his or her actions, the act itself, and the surrounding circumstances to convict the accused under this section.

In *State of A.P. v. Rayavarapu Punnayya*¹⁰, the Supreme Court emphasized that intention and awareness are the most important circumstances that differentiate culpable homicide from murder. Culpable homicide is usually murder when the intent to kill is deliberate and premeditated. Culpable homicide is when a person has knowledge of the likelihood of death when they act, but do not intend to kill. In a similar manner, the Supreme Court asserted in *Virsa Singh v. State of Punjab*¹¹, that when a specific injury is deliberately inflicted, and the injury is sufficient to cause death in the ordinary course of nature, it is murder. This ruling still serves as a rationale for separating these offenses and guides judicial construction under the BNS.

4.3 These circumstances, which are similar to some of the unreasonable circumstances in Section 300¹² of the IPC (Indian Penal Code), include defensible things such as 'grave and sudden provocation,' 'exceeding the right of private defense,' acts committed in the 'absence of intention' without premeditation, and death inflicted on another with 'the consent of the victim.' These situations 'humanize' the law to a degree, since human conduct is often determined by 'human' conditions or circumstances that impair functioning abilities or self-restraint for some period of time. For instance, in *K.M. Nanavati v. State of Maharashtra*¹³, the Supreme Court adopted the theory of sudden and grave provocation and stated that homicide may not be considered murder when an individual ceases to have 'self-control'

¹⁰ *State of A.P. v. Rayavarapu Punnayya*, (1976) 4 SCC 382.

¹¹ *Virsa Singh v. State of Punjab*, 1958 SCC OnLine SC 37.

¹² Indian Penal Code 1860 § 300.

¹³ *K.M. Nanavati v. State of Maharashtra*, 1961 SCC OnLine SC 69.

due to provocation from certain circumstances. Likewise, in *Sukhbir Singh v. State of Haryana*¹⁴, the Court held that violating the lawful right of private defense does not amount to murder since the accused did not act purposely or with forethought. These decisions boldly ensure that every case is assessed not only by the outcome of the circumstances but also by the situational and mental nature in which the act or act associated with the outcome was demonstrated.

4.4 CASE LAW & JUDICIAL INTERPRETATIONS

A large part of the law that governs crimes of homicide is explored and developed through the courts. For example, courts will utilize a range of evidence in determining the presence of intent or knowledge, including the nature of the injuries, the nature of the weapon used, the medical evidence, and the defendants behaviour. Courts have recognized the nuanced (but important) distinction between knowledge and intent based on the facts. Consider the Supreme Court's findings in *State of Madhya Pradesh v. Saleem*¹⁵, where the court found an act constitutes culpable homicide not amounting to murder if it was carried out with knowledge of a likely cause of death, but without the intention of deliberately causing it. On the contrary, regardless of any alleged provocation; in *Anda v. State of Rajasthan* (1966) the Court found that intentionally causing an injury known to likely cause death, qualified as murder.

The Court has consistently pursued coherence through its jurisprudence, guaranteeing that comparable acts are treated similarly under the law and avoiding arbitrary criminal sentencing and interpretation.

4.5 FRAMEWORK FOR PENALTIES AND SENTENCING

Section 105 of the BNS¹⁶ lays out a carefully graded punishment structure for culpable homicide, excluding murder. The punishment can involve life imprisonment or rigorous imprisonment for up to 10 years, along with a fine, where the act was accomplished in inferring and either intending to cause death in the act, or bodily harm that the perpetrator

¹⁴ *Sukhbir Singh v. State of Haryana*, (2002) 3 SCC 327.

¹⁵ *State of M.P. v. Saleem*, (2005) 5 SCC 554

¹⁶ *Bharatiya Nyaya Sanhita (BNS)*, 2023, §105.

knew was likely to result in death. The punishment is significantly less, up to 10 years in prison, a fine or both, where the act is accomplished in inferring of the probable consequences, but without the intention of death. This establishes a proportionality principle in criminal law and guarantees the punishment is proportionate to the moral blameworthiness and mens rea of the perpetrator. As regards to Section 106¹⁷ of the BNS, it does also include the concept of negligent homicide, which relates to causing death by negligent action without intention or knowledge. This parallels Section 304A of the IPC and provides safeguards against persons being subject to serious offences where negligence or omission cause death and instead hold those with clear intentional disregard for human life or knowledge of risk to those behaviours.

This clause ensures fairness in the criminal justice system by linking punishment to responsibility. It aligns Indian law with international criminal law, where the differences between intentional, knowing, and negligent actions are carefully considered. The tiered framework of Sections 105 and 106 helps to uphold justice and avoid excessive criminalization.

5. CONCLUSION

The difference between culpable homicide and murder marks the progressive development of Indian criminal law. The legislators aimed at bringing in new terminologies but at the same time retaining the principles of the judiciary by including these concepts in the Bharat Nyaya Sanhita, 2023. The separation of culpable homicide and murder continues to be the key to punishment being corresponding to moral credit and will. Through interpretative consistency, the courts balance the three elements of justice, deterrence, and fairness. The BNS enhances the legal framework by upholding the wisdom of court decisions and providing stability to the criminal justice system. The conclusions drawn from this research indicate that the legislation regarding culpable homicide as presented in Sections 100-106 BNS is still a cornerstone of Indian criminal law and is a gradual change in legal doctrine.

¹⁷ Bharatiya Nyaya Sanhita (BNS), 2023, §106.

The permanent difference that still exists between culpable homicide and murder is, death, a criminal responsibility, and the punishment proportional to the offender's moral culpability and intention. This division admits the fact, that although all murders are perpetrated through culpable homicide, not every culpable homicide gets up to the point of murder. Mentality that is, *mens rea*—the mental element of intention or knowledge—remains pivotal in the category. Within this structure, the law ensures that the intensity of punishment corresponds to the amount of blame, thereby maintaining the basic principles of justice and equity. Such a sophisticated method prevents the criminal justice system from applying excessively severe sentences in cases where the offender's purpose was not to kill, thus confirming the moral reasoning behind the legal punishment.

Additionally, the courts play a crucial role in ensuring consistent interpretation and fairness in this field. For many years, they have carefully examined cases and adhered to established precedents, balancing the complex relationship between justice, deterrence, and fairness. Each case is assessed not only based on its outcome—such as the taking of a life—but also considering the mental state and context that contributed to the event. This ongoing interpretation under the BNS maintains the intellectual rigor and moral integrity of Indian criminal law, making it clearer and more organized, which is advantageous for both legal professionals and the general public.

The Bharatiya Nyaya Sanhita, 2023, through the simplification of the statute, signifies the legislative recognition of the judiciary's wisdom and practical experience. By keeping the core.

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