EVOLUTION OF CRIMINAL LIABILITY FOR MURDER IN INDIA: A COMPARATIVE STUDY OF THE IPC 1860 AND THE BNS 2023

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INTRODUCTION

Criminal law helps protect the right by defining crimes, explaining when a person can be held legally responsible for their actions and deciding the punishment for those crimes. The court must see what the accused intended. What they knew at that time. The court must decide if any exception in the law applies to this case.

Under the Indian Penal Code, 1860 (IPC), Section 299 dealt with homicide. Under the Bharatiya Nyaya Sanhita, 2023 (BNS), these topics are mainly covered in Sections 101 and 103. The numbers of the sections have changed. Law students and legal professionals need to understand both the Indian Penal Code and the Bharatiya Nyaya Sanhita. It is also important to know how the relevant sections in the IPC match with the sections of BNS. When I do a comparison, I learn which sections remain the same and which sections have actually changed. However, merely comparing the section numbers is not enough. I must examine all the provisions and their wording from the perspective of the court and its judgment. Comparison of both old laws will not give the desired results. This comparison helps me understand how the old laws have evolved and how the new laws emerged, giving judgments for kinds of crimes and making them more convenient.

CONCEPT AND ESSENTIAL ELEMENTS OF MURDER

Meaning of Murder: In simple words, murder means the unlawful killing of a person under circumstances that meet the requirements of criminal law. However, the death of a person alone is not enough to prove murder. The court must also examine what the accused did, what they intended or knew at the time, and the circumstances in which the incident took place. Under Section 300 of the IPC, the law explains the circumstances in which culpable homicide amounts

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to murder, along with certain exceptions. Under the BNS, Section 101 deals with murder and the exceptions that may apply in such cases. The law treats different cases of causing death differently, depending on the facts and the circumstances. For example, if a person causes someone's death with the intention of killing them, the case may be treated differently from one where the person knew that their act could cause death but did not intend to kill. The final decision depends on the circumstances of the case and the relevant legal provisions.

Actus reus means the physical act or conduct that makes up a crime. In a murder case, it mainly refers to the act that causes the death of a person.

The prosecution must prove what the accused did and show that their act was connected to the death. To prove this, the court may consider eyewitness statements, medical reports, forensic evidence, the weapon allegedly used and other facts related to the incident.

For example, if a person dies after being hit with a weapon, the court must examine whether the accused caused the injury, whether that injury led to the person's death, and whether all the other legal requirements for proving murder have been fulfilled.

Mens rea means the mental element of a crime. In murder cases, it is important to understand the difference between intention and knowledge because both can affect the criminal liability of the accused.

Intention means that a person does something with a particular purpose, such as causing someone's death or causing a specific injury. Knowledge means that a person is aware that their actions are likely to cause a particular result. Although intention and knowledge may be related in some cases, they have different meanings under criminal law.

Culpable Homicide and Murder: Culpable homicide is a broader category of offence, while murder is a more serious form of culpable homicide. Under Section 299 of the IPC, culpable homicide is defined based on the intention or knowledge of the person causing death. Section 300 explains the circumstances in which culpable homicide becomes murder.

Under the BNS, these provisions are covered by Sections 100 and 101, respectively. This distinction is important because murder generally carries a more severe punishment than culpable homicide not amounting to murder.

Difference Between Murder, Culpable Homicide, and Death by Negligence: Criminal law treats murder, culpable homicide not amounting to murder, and causing death by negligence as separate offences. The difference between them depends on what the accused intended or knew and the circumstances in which the death occurred. The court examines these factors to decide which offence applies to the case.

Murder is established when the accused's intention or knowledge and the circumstances of the case meet the conditions given under the law of murder. Culpable homicide not amounting to murder applies when the act involves the required intention or knowledge but does not fulfil all the conditions of murder, or when one of the legal exceptions applies. On the other hand, causing death by negligence is a separate offence. It applies when a person's rash or careless act causes death without amounting to culpable homicide.

Under the BNS, Section 105 provides the punishment for culpable homicide not amounting to murder, while Section 106 deals with causing death by negligence. These sections explain the punishment for these offences and help distinguish them from murder under the law.

COMPARATIVE ANALYSIS OF THE IPC AND THE BNS

Under the IPC, Section 299 explained culpable homicide, Section 300 explained when culpable homicide amounts to murder, Section 302 provided the punishment for murder, and Section 304 dealt with the punishment for culpable homicide not amounting to murder.

Under the BNS, these provisions are covered under Sections 100, 101, 103 and 105, respectively. This change in section numbers makes it important to understand how the relevant provisions of the old and new laws correspond to each other. These changes are important while preparing complaints, framing charges, giving legal opinions and presenting arguments before a court. Lawyers and investigating officers must refer to the correct legal provision that applies to the offence. However, a change in the section number does not automatically mean that the law itself has changed. The actual wording of the provision must be carefully examined to understand whether there is any real change in the law.

Continuity in the Definition of Murder: The BNS follows most of the principles relating to murder that were present under the IPC. Under both laws, the court examines the intention or knowledge of the accused, the injury caused, and the circumstances in which the death

took place before deciding whether the offence amounts to murder. The difference between murder and culpable homicide not amounting to murder remains an important part of criminal law. Earlier court judgments that explained the provisions of the IPC can still help courts understand the corresponding provisions of the BNS. However, these judgments must be applied carefully, keeping in mind the wording of the new law. However, courts should not apply earlier judgments to cases under the BNS without proper examination.

They must compare the relevant provisions of both laws and decide whether the legal principle from the earlier judgment applies to the facts of the present case.

Punishment for Murder: Under Section 302 of the IPC, a person convicted of murder could be punished with the death penalty or imprisonment for life, along with a fine. Section 103(1) of the BNS provides for the same main punishments for murder. Therefore, the basic forms of punishment for murder remain the same under both laws. Murder is a very serious crime, which is why the law provides strict punishments for it. However, a person convicted of murder does not automatically receive the death penalty in every case. The court must follow the legal principles for deciding punishment and carefully consider the circumstances of the crime as well as the background and situation of the offender.

Section 104 of the BNS deals with cases where a person who is already serving a life sentence commits murder. In such cases, the law provides for the death penalty or imprisonment for the rest of the person's natural life.

Group Murder on Specified Grounds: Section 103(2) of the BNS deals with cases where five or more people act together and commit murder on certain grounds. These grounds include race, caste, community, sex, place of birth, language, personal belief or similar reasons. This provision specifically addresses murder committed by a group of people based on such grounds. Under this provision, every member of the group found guilty can be punished with the death penalty or imprisonment for life, along with a fine. This provision does not apply simply because several people were involved in a killing.

The prosecution must prove that at least five people acted together, that murder was committed, and that the incident was based on one of the grounds mentioned in the law. Therefore, the court must carefully examine the facts and legal requirements of each case instead of relying only on the name or label given to the incident in public discussions.

Statutory Exceptions to Murder: Section 300 of the IPC provided certain exceptions under which culpable homicide would not be treated as murder if the required legal conditions were satisfied. These exceptions included grave and sudden provocation, certain situations involving the right of private defence, and other circumstances mentioned in the law.

Section 101 of the BNS also provides exceptions to murder. These exceptions recognise that the circumstances in which a killing takes place can affect how the offence is classified under the law. However, they do not mean that a person can escape criminal liability simply by giving a reason for using violence. The conditions of the relevant exception must be fulfilled in each case.

Commencement and Transitional Issues: The BNS came into force on 1 July 2024, subject to the exception mentioned in the commencement notification. Therefore, the date on which the alleged offence took place is important because it helps determine whether the IPC or the BNS applies to the case. The repeal and savings provisions are also important for offences committed earlier and cases that were already pending when the BNS came into force. The introduction of the BNS does not mean that every case registered under the IPC automatically comes under the new law. The applicable law must be decided by considering the date of the offence and the relevant legal provisions.

IMPORTANT JUDICIAL DECISIONS

State of Andhra Pradesh v Rayavarapu Punnayya (1976): It is a landmark Supreme Court of India judgment that established the definitive framework for distinguishing between "culpable homicide" (Section 299) and "murder" (Section 300) under the Indian Penal Code (IPC). In this case, the accused brutally assaulted a political rival with heavy sticks, deliberately targeting his limbs and causing 19 to 20 fractures that resulted in death from shock and haemorrhage. While the High Court downgraded the offence to culpable homicide because no vital organs were targeted, the Supreme Court reversed this decision and restored the murder conviction, famously declaring that "culpable homicide is the genus, and murder is its species."

The Supreme Court clarified that under Section 300 (Thirdly), the prosecution does not need to prove that the offender intended or knew their actions would cause death. Instead, a two-step objective test applies: first, the prosecution must establish that the bodily injury was intentionally inflicted rather than accidental, and second, that the injury is objectively sufficient in the ordinary course of nature to cause death. The Court ruled that even if injuries are confined

to non-vital body parts, if their cumulative effect is medically deadly enough to kill an ordinary human being, the offence legally amounts to murder.

Virsa Singh v State of Punjab (1958): The Supreme Court took a close look at how we handle cases where someone is injured and dies. The Court made it clear that to prove murder, the prosecution has to show exactly what kind of injury the attacker meant to inflict, and then determine if that specific injury was dangerous enough to kill someone under normal circumstances.

What makes this case so important is how it separates the situation into two distinct questions: first, what did the accused actually intend to do? And second, was the resulting injury medically severe enough to cause death? By drawing this line, the Court reminded everyone that we can't just assume every fatal injury automatically equals murder; instead, judges must carefully look at the evidence and the strict requirements of the law.

K. M. Nanavati v. State of Maharashtra (1962): K. M. Nanavati v. State of Maharashtra is a leading case on grave and sudden provocation. The Supreme Court considered when provocation may affect the legal classification of a killing. The case shows that anger or emotional distress does not, by itself, excuse unlawful violence. The court must decide whether the facts meet the requirements of the statutory exception.

Bachan Singh v State of Punjab (1980): Bachan Singh v. State of Punjab (1980) is the landmark case where the Supreme Court of India saved the death penalty but completely changed how it is used. The Court ruled that judges can only sentence someone to death in the "rarest of rare cases", meaning when the crime is so shockingly brutal that life imprisonment is simply not enough. To make sentencing fair, the Court created a balancing scale for judges. They must weigh the aggravating circumstances (how cruel or calculated the crime was) against the mitigating circumstances (the killer's age, mental state, or chance of reform) before deciding on execution. Essentially, the judgment humanised criminal law by focusing not just on the crime, but on the humanity and backstory of the criminal.

CRITICAL ANALYSIS

Switching from the historic IPC to the new Bharatiya Nyaya Sanhita (BNS) is a massive milestone for India's legal system, but the true impact of this reform will depend entirely on how it works in daily practice. On the bright side, the core legal principles that define murder,

like intent, knowledge, and bodily injury, remain exactly the same. This continuity means judges and lawyers can confidently rely on decades of established legal reasoning. The immediate challenge is simply getting used to the new section numbers.

Police officers, lawyers, and courts need thorough training to avoid paperwork confusion, as an outdated section reference in an investigation report can cause unnecessary delays. A great example of how the BNS introduces change is Section 103(2), which specifically targets group offences like mob lynching. For this new law to be effective and fair, prosecutors must prove every element of the crime with solid evidence, rather than relying on stereotypes or assumptions about who belongs to what group. Since we can never read a person's mind, determining an attacker's intent still requires looking at the whole picture, including the weapon used, where the victim was struck, and how the accused acted before and after the incident. Ultimately, true legal reform isn't just about rewriting words in a codebook. Its real success hinges on the quality of police investigations, reliable evidence, fair trials, and balanced sentencing.

CHALLENGES IN DETERMINING CRIMINAL LIABILITY

Establishing Intention and Knowledge: A major difficulty in murder cases is deciding what the accused intended or knew. These mental elements cannot usually be observed directly, so courts infer them from the conduct and the circumstances proved in evidence. This assessment matters because an intention to cause death, an intention to cause a particular injury, and knowledge that death is likely are not the same. The distinction can affect the final classification of the offence.

Reliability of Medical and Forensic Evidence: Medical and forensic evidence may help establish the cause of death, the nature of the injuries and the possible weapon involved. For such evidence to be useful, it must be collected, preserved and interpreted properly. Mistakes during collection, incomplete reports or gaps in the chain of custody can weaken the reliability of evidence. Scientific findings should be considered alongside the other material in the case.

Witness Testimony: Witnesses may not have seen the whole incident, may remember events imperfectly, or may be affected by fear or personal disputes. Their statements therefore need to be checked against the other evidence. The seriousness of an allegation cannot replace

proof. Courts must assess the reliability of witness testimony and the remaining evidence before concluding.

Classification of the Offence: Sometimes the evidence may show that the accused caused the death but may not establish every element required for murder. The court must then consider whether the offence is culpable homicide not amounting to murder or another offence supported by the evidence. The fact that a death has occurred is not enough, on its own, to prove the legal ingredients of murder.

Transition to the New Law: The shift from the IPC to the BNS requires police officers, prosecutors, defence lawyers and judges to use the correct provisions and understand the transitional rules. The applicable law must be identified by considering the date and circumstances of the alleged offence.

Training, updated legal resources and careful interpretation can help reduce errors and make the application of the law more consistent.

FINDINGS OF THE STUDY

- Murder remains one of the most serious offences under Indian criminal law because it involves the unlawful taking of human life.
- The IPC distinguished culpable homicide from murder through Sections 299 and 300, while the BNS addresses the corresponding subjects through Sections 100 and 101.
- Intention, knowledge, the nature of the act, and the circumstances surrounding the death remain central to determining criminal liability.
- The BNS retains death or imprisonment for life, together with liability to a fine, as the principal punishment for murder under Section 103(1).
- Section 103(2) specifically addresses murder committed by a group of five or more persons acting in concert on specified grounds.
- Statutory exceptions remain important because they may affect whether a killing is legally classified as murder.
- Earlier judicial decisions provide valuable guidance, but their application under the BNS must be consistent with the new statutory wording. Reliable evidence, fair trials,

and reasoned judicial decisions are essential to the effective application of criminal law.

SUGGESTIONS AND RECOMMENDATIONS

First, police officers, prosecutors, defence lawyers, and judicial officers should receive regular training on the BNS provisions relating to murder and culpable homicide. Such training should explain both the new section numbering and the continuing legal principles.

Second, universities and legal institutions should provide updated comparative materials showing the relationship between the relevant IPC and BNS provisions. This would help students and practitioners avoid errors in legal research, drafting, and court submissions.

Third, murder investigations should follow proper evidentiary procedures. Medical reports, forensic findings, witness statements, and physical evidence should be collected and preserved carefully. Scientific evidence should be evaluated by competent professionals and considered with the rest of the case.

Fourth, courts should clearly explain why the facts satisfy the requirements of murder or why the offence falls within culpable homicide not amounting to murder. Reasoned judgments improve transparency and help ensure consistent application of the law.

Fifth, sentencing should follow constitutional and legal principles. The seriousness of murder must be recognised, but punishment should be imposed only after a fair trial and a proper assessment of the applicable sentencing requirements.

Sixth, the application of Section 103(2) should be based on proof of its specific elements. Investigating authorities must establish the required group conduct and relevant grounds rather than relying on general allegations.

Finally, legal institutions should review practical difficulties arising from the implementation of the BNS.

Judicial decisions, training programmes, and reliable legal research can help identify problems and support necessary improvements.

CONCLUSION

The study shows that Indian criminal law continues to place strong importance on protecting human life while requiring punishment to be imposed according to law. The IPC governed murder for many years. The BNS replaced it for offences covered by the new legislation from 1 July 2024 and rearranged the relevant provisions.

The comparison suggests that the basic principles have largely continued. Intention, knowledge, the act committed, the injury caused and the surrounding circumstances remain important when deciding whether a killing amounts to murder. The BNS also expressly deals with a particular form of group murder committed on specified grounds.

The decisions in Rayavarapu Punnayya, Virsa Singh, Nanavati and Bachan Singh remain useful for understanding offence classification, statutory exceptions and sentencing. Their use under the BNS must still be checked against the wording of the new law.

Ultimately, the new framework will work effectively only if investigations are conducted properly, evidence is reliable, courts explain their decisions, and sentencing follows the law. The criminal justice system must hold offenders accountable while protecting constitutional rights and ensuring due process.