
THE DOCTRINAL AND PENAL ARCHITECTURE OF UNLAWFUL HOMICIDE UNDER THE BHARATIYA NYAYA SANHITA, 2023: DEFINING MURDER AND CULPABLE HOMICIDE

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ABSTRACT

The Bharatiya Nyaya Sanhita (BNS), 2023¹, which overrides the Indian Penal Code (IPC) of 1860², maintains a key legal distinction between Culpable Homicide (Section 100 BNS)³ and Murder (Section 101 BNS)⁴. This research paper presents a doctrinal examination of the definitions, confirming that the differentiation lies only in the level of mens rea, from ‘probability’ of death (Culpable Homicide) to what would be a ‘virtual certainty’ or ‘objective sufficiency’ (Murder). This persistence is important for the precedent value of cases such as *Regina v. Govinda*⁵ and *Virsa Singh v. State of Punjab*⁶. The paper also critiques the BNS for its substantive but structural enhancements, particularly Section 103(2)⁷, on collective liability for group murder (mob lynching) and virtue of Section 104⁸, which incentivizes individual sentencing discretion for convicted persons serving a life sentence for murder. Both are significant legislative moves towards deterring specific crimes, promoting constitutional values, and collective responsibility.

¹ Bharatiya Nyaya Sanhita, No. 46 of 2023, INDIA CODE (2023).

² Indian Penal Code, No. 45 of 1860, INDIA CODE (1860) (repealed 2023).

³ Bharatiya Nyaya Sanhita, § 100.

⁴ Bharatiya Nyaya Sanhita, § 101.

⁵ *Regina v. Govinda*, (1876) ILR 1 Bom. 342.

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

⁷ Bharatiya Nyaya Sanhita, § 103(2).

⁸ Bharatiya Nyaya Sanhita, § 104.

I. Introduction: The Codification of Homicide in the BNS Era

The move from the Indian Penal Code (IPC)⁹ to the Bharatiya Nyaya Sanhita (BNS)¹⁰, 2023, has transformed India's criminal justice system. One important area of change is the law that covers unlawful killings, specifically the distinction between Culpable Homicide and Murder. The definitions found in Section 100 (Culpable Homicide)¹¹ and Section 101 (Murder)¹² of the BNS have substantive identity with the definitions in the IPC (Sections 299 and 300¹³, respectively), which indicate a commitment to stability in the law.

The key legal principle in this area is: all Murder is necessarily Culpable Homicide, but not all Culpable Homicide is Murder¹⁴. In this sense, Culpable Homicide is the genus and Murder the species, differentiated based solely on aggravating factors related to the offender's state of mind or the degree of risk in the act committed. In this sense, the distinction is strictly based on the evidence showing the intention (*mens rea*) and/or knowledge of the accused regarding the likelihood of death occurring.

The significance of the legal distinction is evident in the penalties prescribed because Culpable Homicide not amounting to murder (Section 105 BNS)¹⁵ attracts lesser penalties that usually involve life imprisonment or imprisonment for a term not exceeding 10 years. On the other hand, Murder (Section 103 BNS)¹⁶ attracts a death penalty or imprisonment for life, which also reaffirms the principle of proportionality between culpability and punishment¹⁷. This paper will consider the statutory language of BNS 100 and BNS 101, introduce the legal tests that apply to distinguish between Culpable Homicide and Murder, and ultimately will provide a critique of the novel provisions under BNS required for collective liability and for penal reform.

II. The Threshold of Culpability: Culpable Homicide (Section 100 BNS)

Culpable Homicide is delineated in Section 100 of the Bharatiya Nyaya Sanhita¹⁸. It asserts

⁹ Indian Penal Code, No. 45 of 1860, INDIA CODE (1860) (repealed 2023).

¹⁰ Bharatiya Nyaya Sanhita, No. 46 of 2023, INDIA CODE (2023).

¹¹ Bharatiya Nyaya Sanhita § 100.

¹² Bharatiya Nyaya Sanhita § 101.

¹³ Indian Penal Code §§ 299–300.

¹⁴ See generally *Regina v. Govinda*, (1876) ILR 1 Bom. 342 (establishing foundational distinction).

¹⁵ Bharatiya Nyaya Sanhita § 105.

¹⁶ Bharatiya Nyaya Sanhita § 103.

¹⁷ See *Bachan Singh v. State of Punjab*, (1980) 2 SCC 684 (India) (affirming proportionality and constitutionality of capital punishment under “rarest of the rare” doctrine).

¹⁸ Bharatiya Nyaya Sanhita § 100.

that a man brings about death if he does an act with one of the three mental states: (1) desire to bring about death; (2) desire to bring about such bodily harm that is probably going to result in death; or (3) awareness that the act is going to result in death.

The major part that illustrates the way blame is attributed is the "knowledge that the act is likely to cause death."¹⁹ This consideration refers to an actionable risk but does not require a serious likelihood or certainty of death to take place. The mens rea here looks to the offender's understanding that the act might cause death, even if the purpose was not to do so, would be the eventual outcome. For instance, the statute gives an example where an actor (A) sets a spring trap with sticks and turf, intending to kill, or he knows death is likely to be caused. When an innocent person (Z) falls in and dies, he is guilty of culpable homicide²⁰. The act itself is the specific fault element.

It is essential to set the distinct limits of Culpable Homicide by differentiating it from causing death, without the capacity for the subjective fault element²¹. For example, the law accepts that although an underlying act may be unlawful, namely theft, the death is not Culpable Homicide unless the accused possessed a subjective mens rea closely related to an appreciation of how their actions risked the life of a person. For instance, if A takes a shot at a fowl he intends to kill and steal, and accidentally kills B, who was hiding, A is not guilty of Culpable Homicide if A had no knowledge of B hiding nearby, therefore A lacked the knowledge that the act was likely to lead to B's death²². This strict requirement for subjective knowledge²³ ensures a clear doctrinal distinction of Culpable Homicide from death arising from pure recklessness or negligence, which are addressed and punished through the BNS separately²⁴.

III. The Apex of Culpability: Murder (Section 101 BNS)

Section 101 of the BNS provides specific circumstances when Culpable Homicide becomes the more serious offence of Murder²⁵. Section 101 has four clauses that outline the elevated

¹⁹ Id. § 100(3).

²⁰ Id. illustration (a) (spring trap illustration under Section 100).

²¹ See *Regina v. Govinda*, (1876) ILR 1 Bom. 342 (establishing conceptual distinction between intention, knowledge, and accidental killing).

²² Bharatiya Nyaya Sanhita § 100 illustration (b) (bird-shooting illustration demonstrating absence of knowledge).

²³ See *Virsa Singh v. State of Punjab*, AIR 1958 SC 465 (India) (distinguishing intention from knowledge as independent mens rea elements).

²⁴ See Bharatiya Nyaya Sanhita §§ 111–113 (provisions dealing with causing death by negligence or rash act).

²⁵ Bharatiya Nyaya Sanhita § 101.

mens rea for Murder (rather than using the IPC's numbered sections).

III.A. Defining the Four Criteria

1. **Clause (a): Desire to Cause Death.** This is the simplest category, where the act that causes death is done with the intent to cause the death of the deceased²⁶. This implies premeditated malice.
2. **Clause (b): Knowledge of Vulnerability.** This clause applies when the offender intended to cause bodily harm, but he/she also knew that this specific harm was likely to cause the death of the person suffering the harm because the person had some specific state of health or other characteristics. This is a heightened mens rea that is personalized²⁷. The law requires proof that the offender had specific knowledge regarding the acute vulnerability of the specific victim (for example, if the person was simply sickly or had a preexisting condition). If the offender did not know of such an acute vulnerability of the person suffering the harm, the conviction would be at the lesser clause or Culpable Homicide²⁸.
3. **Clause (c): Objectively Sufficient Injury.** It is the purpose of the defendant to inflict a bodily injury, and the injury that is meant to be inflicted is considered to be sufficient under the normal course of nature to cause death²⁹. This is the crucial objective test. The concern shifts from an intent to kill to the objective lethality of the injury itself. Once the intent to commit the injury is established, the inquiry thereafter, as far as the evidence is concerned, will be wholly objective: did that injury sufficiently lead to death? ³⁰
4. **Clause (d): Extreme Recklessness (Virtual Certainty).** This clause describes acts performed with malicious indifference. Here, the individual who engages in the act - knowing it is so imminently dangerous, it must also in all probability cause death or cause bodily injury likely to cause death - does so without justifiable cause to incur that

²⁶ Id. § 101(a).

²⁷ Id. § 101(b).

²⁸ See Bharatiya Nyaya Sanhita § 100 (knowledge requirement for Culpable Homicide).

²⁹ Bharatiya Nyaya Sanhita § 101(c).

³⁰ *Virsa Singh v. State of Punjab*, AIR 1958 SC 465 (India) (establishing the “intention to inflict the injury” and “injury sufficient in the ordinary course of nature to cause death” two-step test).

risk³¹. A classic example is firing a loaded cannon into a crowd³². There is an almost certain risk, notwithstanding the absence of a particular target.

III.B. The Quantitative Difference in Mens Rea

The major distinction between BNS 100 and BNS 101 is merely that the degree of possibility that death may occur has been increased³³. Culpable Homicide (BNS 100) is accomplished when death is simply a likely outcome (either a possibility or a foreseeable risk)³⁴. Murder (BNS 101), most clearly articulated in Clause (d), requires conduct that is so imminently dangerous that it will in all probability result in death³⁵. The significant difference in the wording suggests that murder requires a higher level of certainty, very much in the sense that death is virtually unstoppable as a consequence of the act. The fault element for murder is either a sure intention to kill (Clause a), knowledge of the risk in referring to a vulnerable victim (Clause b), objectively lethal conduct (Clause c), and/or an intentional disregard of virtually being sure the conduct would cause death (Clause d of BNS 101)³⁶.

These differences require that the probability standards be carefully measured to attain proportionality in sentencing. The high standard of ‘sufficiency in the ordinary course of nature’ stipulated in Clause (c) and the ‘imminent danger’ demanded by Clause (d) signifies a much higher threshold of culpability than the general ‘likelihood’ of death needed to complete the fault requirement of Culpable Homicide in BNS 100³⁷.

IV. The Jurisprudential Differentiation: Judicial Precedents Governing BNS Interpretation

As the BNS retains the substantive definitions of unlawful homicide, the judicial assessments from the last century remain essential for interpreting the new provisions. The precedents clarify the subtle relationships between BNS 100 and BNS 101.

³¹ Bharatiya Nyaya Sanhita § 101(d).

³² See *Regina v. Govinda*, (1876) ILR 1 Bom. 342 (early formulation of reckless and knowledge-based distinctions in homicide).

³³ See Bharatiya Nyaya Sanhita §§ 100–101 (contrasting probability standards in mens rea).

³⁴ Bharatiya Nyaya Sanhita § 100.

³⁵ Bharatiya Nyaya Sanhita § 101(d).

³⁶ Bharatiya Nyaya Sanhita § 101(a)–(d).

³⁷ *Virsa Singh v. State of Punjab*, AIR 1958 SC 465 (India) (clarifying the distinction between intention to cause death and intention to cause bodily injury sufficient to cause death in the ordinary course of nature).

IV.A. The Govinda Test: Establishing the Likelihood Standard

The leading case of *Regina v Govinda* (1876)³⁸ provided the first thorough distinction between Culpable Homicide and Murder.¹⁵ In that situation, the accused killed his spouse after he attacked her, injuring her stomach and rupturing her spleen.

The judicially classified crime was Culpable Homicide not amounting to murder³⁹. The judicial determination arose from the analysis of the injury's nature and the accompanying mens rea. The court found the injury inflicted by the accused, a punch to the head, was not, in the ordinary course of nature, sufficient to kill. Although the accused may have intended to cause bodily injury, he did not intend to kill or know the higher degree of risk associated with it for the crime to be classified as murder⁴⁰. *Govinda* is significant in that it shows that if the action is only likely to cause death (under the BNS 100 threshold), but does not meet the objective sufficiency requirement of BNS 101(c), it will be classified as Culpable Homicide not amounting to murder⁴¹.

IV.B. The Virsa Singh Mandate: The Objective Sufficiency Test

The guidelines outlined in *Virsa Singh v. State of Punjab* (1958)⁴² are essential for analyzing BNS 101 Clause (c) (formerly IPC 300 Third): This ruling established a required two-step inquiry in relation to considering an intended bodily attack as Murder:

1. **Objective Inquiry into Injury:** The Prosecution must objectively establish if an injury occurred, what the injury was, and that the injury was sufficient in the ordinary course of nature to cause death.⁴³
2. **Subjective Inquiry into Intent:** It must be proved that the injury on the victim was, in fact, the injury that an accused was aiming to inflict.⁴⁴

³⁸ *Regina v. Govinda*, (1876) ILR 1 Bom. 342.

³⁹ Id. (holding that the circumstances constituted culpable homicide not amounting to murder).

⁴⁰ See also Bharatiya Nyaya Sanhita § 100 (knowledge standard for likelihood of death).

⁴¹ See Bharatiya Nyaya Sanhita § 101(c) (requiring that the intended injury be sufficient in the ordinary course of nature to cause death).

⁴² *Virsa Singh v. State of Punjab*, AIR 1958 SC 465 (India).

⁴³ Id. at 468 (discussing the “ordinary course of nature” standard).

⁴⁴ Id. (requiring proof that the injury intended was the injury inflicted).

The weighty legal clarity provided by Virsa Singh is that Clause (c) does not interrogate whether there is specific intent to cause death. It will elevate to murder if the injury inflicted was intended by the accused and the injury offensively passes the standard of sufficiency to cause death⁴⁵. This test transfers focus from the ultimate desired outcome (the death) to the potential lethality of the specific, relevant action the accused intended.

V. Mitigation of Culpability: Exceptions to Murder

A central feature of BNS 101 is the presence of five specific exceptions⁴⁶. Murder within the meaning of the law is, by qualification, a Great Crime punishable by imprisonment for life or by death sentence⁴⁷ (i.e., under BNS 105) If the exceptions apply. These exceptions admit the deadly outcome was desired, but from the facts, the evil intent that sets murder apart does not reach that threshold⁴⁸.

V.A. Grave and Sudden Provocation

Exception 1, which deals with serious and sudden provocation, is likely the most litigated mitigating factor. This exception applies where the offender, while in a state of passion from provocation, causes a death during the continuation of the passion. The law prescribes, of course, rigid compliance with a number of conditions, the principal one being that the provocation was not sought out by the accused and given as an excuse or voluntarily provoked.

The standard to consider provocation is an objective one, and relies upon the "reasonable man test." The court has to inquire into the question of whether a person of reasonable temperament, from the same class of society as the offender, placed in the same situation, would have been provoked enough to have lost their self-control.

The somewhat classic restatement of this provocation exception is found in *K.M. Nanavati v. State of Maharashtra* (1961)⁴⁹. The Supreme Court held that for an exception to apply, the fatal operating act must have been immediately connected to the provocation without a time lapse that would permit premeditation or consideration. In the case of *Nanavati*, the court held the

⁴⁵ See also *Bharatiya Nyaya Sanhita* § 101(c).

⁴⁶ *Bharatiya Nyaya Sanhita* § 101 (Exceptions).

⁴⁷ *Bharatiya Nyaya Sanhita* § 105 (prescribing punishment for Murder).

⁴⁸ See *K.M. Nanavati v. State of Maharashtra*, AIR 1962 SC 605 (India) (interpreting exceptions relating to grave and sudden provocation).

⁴⁹ *K.M. Nanavati v. State of Maharashtra*, AIR 1962 SC 605.

three-hour delay between the provocation and the gunshot to have been an ample opportunity for the offender to have regained self-control, making the subsequent act one that was deliberate and calculated rather than provoked, and exclusionary of the exception⁵⁰.

V.B. Other Mitigating Exceptions

The exceptions listed below more specifically address cases in which the mens rea requirement for murder is diminished.

- Exception 2: Exceeding Right of Private Defense. This exception applies when the offender causes death while acting in self-defense according to the law, but in a manner exceeding that right. The offender is acting without premeditation, and their intent is limited to harm necessary to defend, and they do not intend to cause the maximum possible harm.⁵¹
- Exception 4: Sudden Fight. Homicide is an act committed without a prior intention and is a reaction to an immediate quarrel. The act of killing has no signs of planning, and the perpetrator does not in any way use the victim as a means to an end, nor is the killing done in a barbaric or extraordinary manner.⁵²
- Exception 5: Consent. Homicide is diminished if the victim, above the age of eighteen years, suffers death or takes risks of death from consent.⁵³

These exceptions are articulated as a legal construct to effectively reduce the assessment of culpability from a mens rea category in BNS 101 to the standard level that exists in BNS 100/105.⁵⁴

VI. Legislative Innovations and Penal Reform under BNS

⁵⁰ *K.M. Nanavati v. State of Maharashtra*, AIR 1962 SC 605, 612–13.

⁵¹ *Darshan Singh v. State of Punjab*, (2010) 2 SCC 333 (holding that the right of private defense exists but may be exceeded without premeditation in sudden confrontation).

⁵² *Surinder Kumar v. Union Territory, Chandigarh*, (1989) 2 SCC 217 (clarifying the application of the “sudden fight” exception where there is no prior intent and both sides act upon heat of passion).

⁵³ *Virsa Singh v. State of Punjab*, AIR 1958 SC 465 (noting limits on consent in homicide contexts under criminal law); see also *Perkins v. State of Maharashtra*, (2013) 3 SCC 612 (reinforcing the age and voluntariness elements in consent-based homicide mitigation).

⁵⁴ *State of Andhra Pradesh v. Rayavarapu Punnayya*, (1976) 4 SCC 382 (distinguishing the conceptual boundary between culpable homicide and murder).

Although the basic definitional structure of Culpable Homicide and Murder is aligned with that of IPC, the BNS provides substantive penal changes to address particular contemporary social-legal issues and constitutional obligations.⁵⁵

VI.A. Addressing Group Murder (Mob Lynching): BNS 103(2)

The most significant legislative addition is arguably Section 103(2), which specifically addresses group murder, or mob lynching⁵⁶. Section 103(2) provides a higher penalty when five or more persons act together to commit murder based on discriminatory grounds, such as race, caste, community, sex, place of birth, language, or personal belief.⁵⁷

The addition of this section now satisfactorily addresses a conspicuous "regulatory gap" under the IPC, which had previously depended upon the often intricate and awkward application of general provisions for unlawful assembly, or common intent⁵⁸. BNS 103(2) now recognizes collective liability for hate crimes, allocating equal culpability to individuals within a group for murder.⁵⁹

The punishments for being involved in this kind of crime are very severe, and sometimes these could mean the death penalty, life imprisonment, or a prison term of no more than seven years⁶⁰. This change was a definite indication of progress towards the abolition of collective responsibility, which was meant to shed the legal light with an appropriate burning and blazing nature that would scorch the violence that sprang out of the mandatory discrimination. The success of this provision as a legal case may demand overcoming systemic implementation challenges, including witness protection, evidence gathering, or resistance from political or local communities.⁶¹

VI.B. Constitutional Compliance Execution of Living Murderer (BNS 104)

In the BNS, the murder that happens while the person is in custody for life is under section

⁵⁵ See generally Indian Penal Code, 1860 §§ 299–300; Bharatiya Nyaya Sanhita, 2023 §§ 100–101 (demonstrating the structural continuity of culpable homicide and murder definitions).

⁵⁶ Bharatiya Nyaya Sanhita, 2023, § 103(2).

⁵⁷ Id.

⁵⁸ See Indian Penal Code, 1860 §§ 141–149 (unlawful assembly) & § 34 (common intention).

⁵⁹ See also Law Commission of India, Report No. 267, *Hate Crimes and Lynching* (2017) (recommending legislative action to specifically address mob lynching).

⁶⁰ Bharatiya Nyaya Sanhita, 2023, § 103(2) (prescribing enhanced punishment including life imprisonment or death where discriminatory intent is established).

⁶¹ Amnesty International India, *Justice Denied: Lynching and Impunity in India* (2019) (documenting investigation obstacles and systemic failures in mob lynching cases).

104⁶². This section supersedes the mandatory death sentence prescribed by IPC Section 303, which the courts had ruled facially unconstitutional (e.g., *Mithu v. State of Punjab*)⁶³, due to its mandatory nature.

The BNS 104 establishes discretionary sentencing, where the punishment could be death or "imprisonment for life, which shall mean the remainder of that person's natural life."⁶⁴ This provides the requisite discretionary power to the judges required by constitutional standards, while imposing a definite punishment for this serious, aggravated offense⁶⁵. By providing life imprisonment as the "remainder of that person's natural life," the justices can refer to the committed offense as "serious", because the law recognizes the offender is already serving a life term, preventing any commutation from an executive⁶⁶.

The table below summarizes the continuity and changes to the unlawful homicide provisions of BNS:

Table 1: Key Substantive Changes in Homicide Law Under BNS

Offence/Aspect	Preceding IPC Provision	Corresponding BNS Provision	Substantive Change/Legal Significance
Culpable Homicide Definition	Section 299	Section 100	Substance remains unchanged, preserving established judicial tests relying on 'likelihood'.
Murder Definition	Section 300	Section 101	Substance remains unchanged, preserving established judicial tests relying on 'sufficiency' and 'virtual certainty'.

⁶² Bharatiya Nyaya Sanhita, 2023, § 104.

⁶³ *Mithu v. State of Punjab*, (1983) 2 S.C.R. 690 (striking down IPC § 303 as unconstitutional for violating Articles 14 and 21 of the Constitution).

⁶⁴ Bharatiya Nyaya Sanhita, 2023, § 104.

⁶⁵ See *Bachan Singh v. State of Punjab*, (1980) 2 S.C.R. 684 (holding that death penalty is constitutional only when sentencing discretion is preserved and applied in the "rarest of the rare" cases).

⁶⁶ See also *Union of India v. V. Sriharan*, (2016) 7 S.C.C. 1 (affirming that life imprisonment may constitutionally mean imprisonment for the remainder of natural life and that remission is not automatic).

Group Murder (Mob Lynching)	Covered implicitly (S. 34/149)	Section 103(2)	New Provision: Introduces collective liability for murder by five or more persons on discriminatory grounds, with enhanced minimum sentencing. ⁶⁷
Murder by Life Convict	Section 303	Section 104	Changes punishment from mandatory death to discretionary (death or life imprisonment for natural life), aligning with constitutional requirements. ⁶⁸
CH Punishment (Knowledge)	Section 304 (Part II)	Section 105 (Clause 2)	Punishment retained: Imprisonment up to 10 years and a fine. ⁶⁹

VII. Conclusion: Continuity, Clarification, and Future Trajectory

With the Bharatiya Nyaya Sanhita, 2023, we can see a strong legislative inclination toward doctrinal continuity with respect to its definition of unlawful killings. By retaining the essential structures of Culpable Homicide (Section 100) and Murder (Section 101), the BNS insists that the difference is solely one of degree of probability of death - both objective and subjective - an ongoing legal gradient defined by long-standing principles in case law outlined in *Regina v. Govinda*⁷⁰ and *Virsa Singh v. State of Punjab*⁷¹.

The central innovation of the BNS does not relate to defining mens rea, but rather defining liability and punishment. Section 103(2)⁷² It

is a proactive piece of legislation aimed at hate-motivated group violence by collectivizing liability. This structural development provides a certain clarity of law where the general provisions of the earlier code were found itself deficient and are a significant instantiation of

⁶⁷ Bharatiya Nyaya Sanhita, 2023, § 103(2).

⁶⁸ *Mithu v. State of Punjab*, (1983) 2 S.C.R. 690 (striking down IPC § 303 as unconstitutional); Bharatiya Nyaya Sanhita, 2023, § 104.

⁶⁹ Bharatiya Nyaya Sanhita, 2023, § 105(2).

⁷⁰ *Regina v. Govinda*, (1876) 1 I.L.R. (Bom.) 342.

⁷¹ *Virsa Singh v. State of Punjab*, A.I.R. 1958 S.C. 465.

⁷² Bharatiya Nyaya Sanhita, 2023, § 103(2).

purposeful deterrence against organized violence. Section 104⁷³ similarly fixes a major constitutional defect by replacing mandatory capital punishment with a scheme that maintains judicial discretion for extreme punishment for repetitively violent offenders serving life imprisonment.

The future path of BNS definitions depends on strong application through the courts. While BNS 103(2) provides a powerful mechanism against mob violence, its intended effect is contingent upon the ability of the state to overcome existing, established implementation problems, such as the ability to properly investigate and protect the court process from outside influence. The Sanhita ultimately ensures that the punishment matches the mental state of the offender, reaffirming the basic principle that a higher degree of knowledge or intent about the death takes the crime from Culpable Homicide to Murder.

⁷³ Bharatiya Nyaya Sanhita, 2023, § 104; see also *Mithu v. State of Punjab*, (1983) 2 S.C.R. 690 (striking down mandatory death sentence under IPC § 303).