

# Desecration Or Desire: Exploring The Legal Conundrum Of Necrophilia In India

Pratikshya Priyadarshini Beura\*

University Law College, Utkal University, NH 5, Vani Vihar, Bhubaneswar, Odisha, 751010

## ABSTRACT

The practice of engaging in sexual intercourse with the corpse or necrophilia lies at the end of the sexuality-death continuum. The Indian penal code as well as the Bhartiya Nyaya Sanhita remains silent on this particular facet of the legal issue. The Karnataka High Court in 2023 overturned the trial court's decision to convict the accused of both murder and rape and drew a picture distinguishing rape from "necrophilia" and exonerated the victim of rape charges. It further held that a dead body does not fall under the ambit of a human or person therefore, the provisions of section 375 or 377 of the Indian penal code would not attract, it will only attract section 302 of the Indian penal code and not the offense punishable under the provisions of section 376 of IPC. If the accused murders the victim before having sexual intercourse then he is exonerated of the charges of rape. In India, a country rich in customs and veneration of the deceased, necrophilia poses a distinct legal quandary. This research aims to investigate the potential impact of India's varied cultural and religious viewpoints of death and the human body on legal interpretations and prosecutions. This paper aims to clarify the intricacies of necrophilia and analyze the grey area. Considering historical narratives of necrophiliac behavior and following its allusions across different eras and civilizations. These instances range from historical events that have been documented to tales and religious rituals from antiquity. This paper delves into advanced comprehension of the legal ambiguities pertaining to necrophilia in India. Through an analysis of pertinent legal provisions, cultural contexts, and evidential barriers, the study seeks to highlight prospective avenues for legal modification and bolster the legal structure in order to tackle this intricate matter.

**Keywords:** Necrophilia, Criminal justice, psychology, Paraphilia, Right to Dignity.

## INTRODUCTION

Necrophilia is derived from the Greek terms 'nekros' (dead body) and 'philios' (attraction to/love) and involves engaging in sexual activities with a corpse. A rare paraphilia such as necrophilia causes people to become erotically drawn to corpses. The term "paraphilia" describes sexual interests, impulses, fantasies, or behaviour that are intense and persistent that include items, activities, or even circumstances that are atypical in nature<sup>1</sup>. Necrophilia is more common among men, much like other paraphilias. The practice of having sex with a dead body, or necrophilia, is a complicated topic in the study of human sexuality and a grave transgression of societal standards. Sensationalized media representations and horror literature frequently feature it as a source of disgust and violation. However, comprehending necrophilia goes beyond superficial interpretation. It demands a profound investigation that takes into

account the cultural, historical, legal, and psychological facets of this forbidden activity. The majority of states and countries have laws against this behaviour.

Necrophilia also known as necrophilism, necrolagnia, necrochlesis, and thanatophilia, can occur alone or in conjunction with other paraphilias, such as perversion, eating human flesh, vampirism (the act of drinking an individual's blood), necrophagia (consuming materials of the dead), necropedophilia (sexual appreciation for children's carcasses), and necrozoophilia (sexual appreciation for creature's carcasses, also known as necrobustiality)<sup>2</sup>. There are several forms of necrophilia, and some writers have tried to categorize them. Forensic psychologist Anil Aggarwal proposed a categorization scheme that aims to group all varieties of necrophilia into ten categories<sup>3</sup> based on their severity. Class I to VI depicts abated forms of interaction with the corpses

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without literally engaging in sexual intercourse. Class VII is diluted by the willingness or desire of the person committing it. Lastly, Classes VIII, IX, and X are acute stages of necrophilia where the individual exclusively or preferentially indulges in sexual intercourse with the stiff. Several possible reasons for necrophilia are being investigated by current research, such as unresolved sorrow, sexual inadequacy, control issues, or an obsession with a particular element of death. The disorders are taken into consideration as paraphilias, which entail unusual sexual arousal patterns. Investigating these psychological elements is essential in comprehending the possible causes of necrophiliac behaviour.

### RESEARCH OBJECTIVE:

The objectives are concrete, specific steps that you take in trying to answer your research question. They should be concrete, measurable, and action-oriented.

The analytical objective shall be to critically analyse the position of law in India regarding necrophilia, with particular emphasis on the inability of existing provisions-primarily BNS to criminalize the act outright.

**Comparative Objective:** This project compares and contrasts the Indian legal stance with explicit statutory provisions in at least three other jurisdictions while identifying best practices on how to provide both legislative clarity and victim protection.

**Objective: Empirical/Case Study-**In order to understand and document reported cases or court judgments of necrophilia in India to show how, in the absence of specific legislation, the prosecution and the courts have to face practical difficulties.

**Reformist Objective:** To recommend specific, evidence-based amendments to be made to the Indian Penal Code or the insertion of a new section which would tackle the offense of necrophilia effectively and precisely.

### RESEARCH QUESTION:

1. What are the criminology and psychological typologies of necrophilia, and how do they appear in documented cases in India?
2. In what ways have judicial interpretations under

Article 21- Right to life has been stretched or deemed inadequate to prosecute necrophilia?

3. What specific legal gaps exist in the Indian Penal Code and BNS concerning the preservation of the body and dignity of the deceased ?

4. In what ways can the legal strategies of nations with anti-necrophilia laws, such as the United States (certain states), the United Kingdom, or Canada, serve as a template for future legislative changes in India?

### STATEMENT OF PROBLEM:

The present study is important in that it will critically look into the legal vacuum on necrophilia in India, the implications thereof for justice and dignity as well as social order, and the need for clearer legal recognition of offences against the dead. Such a lack of a comprehensive legislation gives rise to questions regarding the sufficiency of existing protections, problems faced by enforcement agencies, and larger societal and ethical implications of not regulating such acts.

The overarching problem that this dissertation addresses is the absence of explicit statutory provisions concerning necrophilia in India and any consistent legal interpretation regarding criminality, which renders adhoc decisions on its enforcement and post-mortem dignity protection significantly incomplete. This will be approached by discussing how this legal ambiguity contributes to a broader conundrum surrounding the classification, prosecution, and societal understanding of necrophilia within the Indian context.

### HISTORICAL BACKGROUND:

Necrophilia's existence is not just indicative of its enduring nature but also of how society has responded to it throughout history. The Greek historian Herodotus claimed in his account of ancient Egypt in his book 'The Histories' that the Egyptians delayed embalming noble women particularly those who garnered an enormous attention for their appearance in the fear of necrophilia by embalmers. The corpses were embalmed after decaying for three to four days. There were myths and literary references alluding to necrophilic acts related to gods or degenerating societal norms in Greek/ Rome. The historical

account clearly illustrates how Necrophilia has been accessible from the first century AD. Known by other names, the Moche, or "Greek of the Andes," ruled over a portion of Peru from the first to the ninth centuries. Prehistorians discovered their "canvases in pyramids which illustrates the individuals engaging in sexual relations with dead and animals" in the 1980s. The compositions were so regular and sequential that the agent accepted that having sexual relations with the dead was customary for their progress<sup>2</sup>.

During the 16th to 13th centuries BC, Hittite law allowed sexual relations with the deceased, a practice also prevalent in Indian traditions. Necrophiliac customs required men to intercourse with a fiancée's corpse before burial and deflower her in front of a priest. Historical narratives highlight the legal implications and fear surrounding necrophilia throughout human history. Wartime narratives from Moroccan and Russo-Turkish Wars reveal troops engaging in necrophilia, causing fears of death and sexual transgression. This historical event has sparked curiosity, legal ramifications, and fear.

## CRIMINOLOGY:

Psychologists suggest necrophilia in India is driven by mental disorders, with genuine necrophiles attracted to dead people, often matching the Paraphilia Not Otherwise Specified DSM-111-R diagnostic.<sup>4</sup> The necrophiles' average age was thirty-four. Of those who were actual necrophiles, 92% were men. Men were responsible for all of the homicides.<sup>4</sup> Being in the company of an unrejecting and unresisting companion was the primary motivation shared by 68% of real necrophiles. Frequently reported motives included: love partnership reunion (21%); intentional sexual attraction to corpses (15 %); and attempting to get comfort, or to get over isolation (12%); an attempt to obtain self-esteem by asserting dominance over a murder victim (12%).<sup>4</sup> Less frequently stated reasons include: absence of a living partner; making up for a fear of women; perception that having sex with a living woman is a mortal sin; the need to feel completely in control of a sexual partner; complying with a delusional command; carrying out a string of destructive actions; expressing polymorphous perverse sexual desires; and the need for endless sexual activity.<sup>4</sup>

## Merton's Strain Theory

According to the hypothesis, there is "a significant pressure on some members of the public to act in an unconventional rather than a conformist manner" as the mortuary workers are stigmatized in the society and are under covert pressure to behave in a certain manner. The final two of Merton's Five Modes of Adaptation are ritualism and retreatism. According to Merton, retreatism is the escapist reaction among the five modes; it arises when individuals practically stop participating in society. They see success as an unrealistic, nearly unreal, and irrational potential, thus they give up on all objectives and endeavours for attaining it. The majority of Necrophiles give up their desire for a companion and the thought of being accepted. People accept their limited significance and become aware that they have minimal opportunity to grow in society during ritualism. In this mindset, people prioritize holding onto any possessions they have possibly obtained or still possess rather than focusing on increasing their chances of success. Without worrying about rejection or not being accepted by society, necrophiles accept the sexual pleasure or domination they experience with the corpse and learn to live with it.

## Sutherland's Differential Association Theory

It refers to the patterns of behaviour that a person is exposed to. "Criminal behaviour is learned" is one of its elements. "criminal behaviour is acquired through social interactions and communication<sup>5</sup>." When criminal conduct is taught, it encompasses the following: the precise orientation of motivations, urges, justifications, and attitudes; the methods of performing the crime, which can be quite complex or very simple at times. When someone is exposed to such patterns of necrophilic activity, for example, mortuary workers who handle corpses learn about necrophilia through conversations and interactions; they can even watch videos of necrophilia available on pornographic websites and engage in the behaviour.

## Labeling Theory

This idea holds that nothing is illegal, but that society has classified and labelled some things as such. People are classified as criminals mostly due to the public display of their behaviour and the criminal

justice system's labeling process. It is not through breaking the law that someone becomes a criminal; rather, it is through the process of being classified as such by the authorities. Scientific facts and logic both oppose categorizing people into categories based on criminal and noncriminal behaviour. The foundation of criminal justice is the stereotype that a criminal is a deliberate criminal who is morally repugnant and deserves criticism. After receiving a criminal record, it can be challenging for an offender to "live down" the stigma and regain respect in the community. The whole community of mortuary workers is usually stereotyped in society following some incidences of necrophilia by some mortuary workers and they are often labeled as necrophiles which tempts them to indulge in necrophilia, once labeled it is difficult to live it down, therefore the theory of ritualism can be correlated that people concentrate on holding onto what little they may have gained or still have rather than focusing on a higher yield of success.

All the above-mentioned theories are intertwined with each other as when an individual is stigmatized by society due to their occupational or cultural background, it exerts an unseen pressure on them to act in a certain unconventional manner that is expected from them and the individual through his experiences, explanations, techniques, motives influence or directs others in criminal activity. Once stigmatized it becomes extremely difficult for the individuals to overcome it or drop the label.

## CONSTITUTIONAL SAFEGUARDS FOR THE DEAD:

### Right to Dignity

The idea of dignity beyond death is implied by the Constitution of India, even though India lacks a specific statute safeguarding the rights of the deceased. In addition to guaranteeing the right to live with dignity, Article 21<sup>6</sup> of the Indian Constitution also guarantees the right to die with dignity. In the landmark judgment of *Parmanand Katara v. Union Of India & Ors*<sup>7</sup>, the Apex Court acknowledged that Article 21 guarantees the right to life, fair treatment, and dignity and that these rights apply to both, the person alive as well as the dead bodies. In *Ashray Adhikar Abhiyan v. Union of India*<sup>8</sup>, the Hon'ble Chief Justice, said that a homeless person, who died on the street, was entitled to a decent burial according to the

religious faith, to which he belonged<sup>9</sup>. In *Ramji Singh Mujeeb Bhai v. State of U.P & Ors.*<sup>10</sup> the subject of deceased people's rights was discussed. The Allahabad High Court ruled in this case that a deceased person's right to life extends to his or her right to be treated with dignity, just as he or she would have deserved to be treated if they were still alive. The deceased person's culture and religion should guide how their body shall be treated. The State must treat the body with respect and should only use postmortems when necessary. This requirement may be crucial for several reasons, such as determining the identity of a suspect in a crime or the cause of death. But after the probe, the disposal ought to be dignified. Similarly, in the case of *Common Cause v. Union of India*<sup>11</sup>, The Supreme Court held that the right to die with dignity is an inseparable and inextricable facet of the right to live with dignity. In the case of *P. Rathinam v. Union of India*<sup>12</sup>, the scope of Article 21 was expanded to encompass an individual's dignity. . The right to life was highlighted by the Apex Court in this case. It stated that a meaningful life is not limited to an animal existence but is encompassed within the scope of Article 21. Furthermore, a deceased individual possesses this right to dignity as well. Lastly, In the case of *Amrutha vs The Commissioner*<sup>13</sup>, the Madras High Court held that Puranic beliefs hold that since deceased individuals have immortal life after death, they should have the right to privacy and their souls shouldn't be bothered.

### Right against Disinterment

After a body is interred on public land, it belongs to the government and is kept under their guardianship. These dead bodies should be left in peace and should not be disturbed. It is the court's responsibility to prevent any disinterment or tampering with these bodies. In keeping with the idea of public property, the law forbids any kind of disinterment, safeguarding the sanctity of the deceased interred underground. Until the court directs otherwise in an extraordinary case, a body that has been buried should not be disturbed. The Supreme Court in the case of *Mohammad Latief Magrey vs The Union Territory Of Jammu And Kashmir*<sup>14</sup>, held that Disinterment is not a matter of right since once a body is buried, it is deemed to be in the possession of the law. The court has the authority to control and direct the moving or disturbing of a body that has been buried. The public



policy that upholds the sanctity of the grave justifies the law's opposition to disinterment." Once buried, a body should not be disturbed". If there isn't a compelling case that the disinterment of a body is in the best interests of justice, a court will typically not order or approve it. Every case is decided on an individual basis, taking into account its unique set of circumstances and facts. The Court further added that India has no legislation relating to exhumation except Section 176(3)<sup>15</sup> of the CrPC<sup>16</sup> and suggested The Union of India to enact appropriate legislation on exhumation to tackle the situations and leave no room for ambiguity.

Section 404 IPC – Dishonest misappropriation of property of a deceased person.

### Forensic and Medical Guidelines

Post-mortem guidelines dictate respectful handling of bodies.

Protocols within both hospitals and morgues place duties on personnel regarding dignity.

### Law Commission Observations

42nd Law Commission Report, 1971 observed gaps in offences relating to corpses.

172nd Law Commission Report (2000) discussed reforms to sexual offences but did not address necrophilia specifically. These reports highlight legislative silence, creating the need for an explicit provision.

## INDIA'S STANCE ON NECROPHILIA:

### Religion and Cultures

Numerous historical accounts of other religions, including Islam and Hinduism, abound. Similar to Christianity, the Catholic Church saw necrophilia as contamination with an inclination towards whoring rather than brutishness or whoring ("fornication") itself. Hinduism has groups such as the Aghoris, who inhabit the nursery of recognition, meditate on dead bodies, sip from skulls, and use human bones for gems in addition to other rituals.<sup>2</sup> Aghoris engage in Shav Sadhana, one of the most challenging and esoteric Tantra rites, which involves sitting on a corpse to meditate. Following the completion of the Shav

Sadhna, the Aghoris obtain control over the deceased's soul, strengthening their supernatural abilities. Necrophilia, the practice of having sex with dead bodies, is another way that the aghoris believe to satiate the goddess Kali's deeper hunger and enhance their supernatural powers.<sup>17</sup> Necrophilia, a depraved practice in Islam, may be traced back to Prophet Muhammad. Six Islamic sacred texts have hadiths that describe Muhammad "laying with her" in the grave after putting his shirt on a deceased woman. It is accurate that the two Arabic terms (ataja' ma'ha) which can be translated as "lay with her" also imply "intercourse" in Arabic. Necrophilia is implicitly allowed by the four orthodox schools of Sunni Islam, while the Maliki school of thought allows penetrating a deceased wife.<sup>18</sup>

### LACUNAE IN INDIAN LAWS:

Section 297<sup>19</sup> of The Indian Penal Code, 1860 and Section 301 of the Bharatiya Nyaya Sanhita<sup>20</sup>, 2023 forbids trespassing in graveyards and punishes offenders with penalties, up to a year in jail, or both. Necrophilia is not particularly included by this code. Abuse of the deceased is not, however, a legally recognized crime in India. This is not a novel question, thus it must be given careful consideration. Every country has a distinct set of laws addressing necrophilia, but none of them safeguard the dignity of the deceased. Penalties for necrophilia should be harsh to avoid such heinous crimes.

Section 377<sup>21</sup> of The Indian Penal Code, 1860 was decriminalized in the landmark case of *Navtej Singh Johar v. Union of India*<sup>22</sup> the Hon'ble Supreme Court decriminalized it up till the point when it condemns two adults of any sexual orientation for engaging in voluntary sexual relations. Three prerequisites must be satisfied in order to penalise someone under this section: [i] consensual sexual relations; [ii] going against the laws of nature; and [iii] with any man, woman, or animal. Only one requirement that a case of necrophilia satisfies is sexual intercourse atypical in nature and the current Indian legal system does not recognise two of them, as 'corpse' is not included in this section as well as the act's voluntary aspect. The Bharatiya Nyaya Sanhita stays completely silent about the Unnatural offences.

[Section 511](#)<sup>23</sup> of the IPC and Section 62<sup>24</sup> of the Bharatiya Nyaya Sanhita, 2023 punishes for

attempting to commit an offence. The mens rea to commit the offence is the fundamental requisite of this provision. Therefore, if a corpse is sexually abused, the perpetrator would be guilty of mens rea, since if the victim was still alive it would constitute rape.

## INSTANCES:

### Nithari Case (2006)

It was in 2006 that eight skeletons were discovered in a drain of a Noida house in the "Nithari" case<sup>25</sup>. This case involved two suspects: (i) Moninder Singh Pandher [owner of the house] and Surinder Koli [domestic help of accused]. The accused and his servant were charged with murder, rape, kidnapping, sexual assault against children, and cannibalism after several pornographic CDs and nude pictures of different women and children were found in his home during the investigation. In the case, both accused parties engaged in necrophiliac behaviours over a nearly two-year period, with nearly 19 people believed to have been victims of the bestial behavior. About 9 female youngsters, 2 male children, and 5 female adults should be properly identified among the victims, according to rough estimates.<sup>26</sup> The servant confessed the crimes and stated that 16 people had died as a result of the accused. He used to kill his victims in his living room, haul their bodies upstairs to a bathroom, attempt to rape them, hack them into little bits so they would cook, and dump the remaining pieces into the drains behind his bungalow.

Several authors have documented cannibalistic necrophiliacs. A cannibal consumes the flesh of another human being. Similar to necrophilia, cannibalism is not governed by any specific law in India, it falls in the purview of Culpable homicide in IPC<sup>27</sup>.

### Palghar Case (2020)<sup>28</sup>

In July 2020, a shopkeeper was accused of killing a 32-year-old woman and sexually abusing her corpse during lockdown. The incident was allegedly a response to an argument about shop items. CCTV footage revealed the accused was found guilty of both murder and rape.

### Rangaraju Vajapeyi Vs State Of Karnataka<sup>29</sup> (2023)

In 2015, the event unfolded when the 21-year-old victim, Rathnamma, enrolled in computer studies at Badavanahalli. Rathnamma used to return home from computer class around 3.30 pm, but on June 25, 2015, she left for computer class at 10.30 am and failed to return home till the evening. When her family learned that a girl had been murdered, they raced to the scene and discovered that the victim was none other than Rathnamma. She was killed by poking her neck with a weapon. The perpetrators then had sexual intercourse with her corpse, threw her garments and veil over the bush, and abandoned her there. The defendant was absolved of all allegations brought against him under Section 376<sup>30</sup> of the Indian Penal Code by the Karnataka High Court. The rationale behind this acquittal was that the act of sexually abusing a deceased body is not specifically covered by the Indian Penal Code.

### Karimganj, Assam<sup>31</sup> (2023)

Three people, including a railway worker, were arrested in Assam, Karimganj for allegedly killing a teenage girl by strangling her and having sexual intercourse with her corpse. The girl was pressured to have a sexual relationship with the employee who had an affair with her. When she refused, her lover strangled her and had sex with her corpse along with his companions.

Numerous dead bodies were left in the rivers during the horrific second wave of COVID-19 in India<sup>32</sup>; this increases the chances of drawing new victims of such heinous acts. Thus, it demonstrates the necessity and significance of making such horrible conduct illegal.

## INTERNATIONAL CONTEXT:

### United States Of America

The practice of satiating sexual desires from a corpse, necrophilia poses a difficult social and legal quandary. The USA uses an assortment of state-level legislation to combat this act, in contrast to certain other nations that have enacted laws specifically focused on necrophilia. The American legal system does not have any single federal law criminalizing necrophilia. As a result, a patchwork of legal system is devised by leaving it up to individual states to

address necrophilic actions. Every state in the union, along with Washington DC, and the other fifty states, has a different legal framework that governs the criminalization of necrophilia. Nevertheless, none of the US states' legislation specifically include "necrophilia." As a result, the statutory provisions regarding necrophilia in the United States tantamount to India's.<sup>33</sup>

In the state of Delaware necrophilia is not specifically prohibited by law. Several regulations deal with the general protection of dead bodies, but it's ambiguous whether such provisions also address sexual assault protection. Desecration; Misdemeanor (Class A) u/s 1331<sup>34</sup>. Section 1332<sup>34</sup> states that abusing a corpse is considered as Class A Misdemeanor- a person guilty of abusing a corpse except when authorized by the law, any person treats the corpse in a way that any prudent or reasonable person would consider it as outrageous towards family sensibilities. Unlike Delaware, California considers sexual intercourse with a corpse to be a felony. Section 7052<sup>35</sup> of the Health and safety code provides: "A person who willfully mutilates, disinters, removes from the place of interment, or commits an act of sexual penetration on, or has sexual contact with, remains known to be human, without authority of law, is guilty of a felony. This section does not apply to a person who, under authority of law, removes the remains for reinterment, or performs a cremation, reduction, or hydrolysis" The loophole present in this provision is that it gives immunity to those who removes the remains for reinterment, or performs a cremation, reduction, or hydrolysis.

State v. Brian Keith Manley<sup>36</sup>: Necrophilia involving a minor was the subject of this lawsuit. The offender was found guilty in accordance with Florida's unlawful sexual activity statute, demonstrating the procedure of application of sexual assault statutes.

Section 872.06<sup>37</sup> of The Florida Statutes incorporates Abuse of a dead human body-- section 872.06(1) defines 'sexual abuse' and (2) states that A second-degree felony is committed by someone who mutilates, sexually abuses, or otherwise grossly abuses a dead human body. This offence is penalised by sections 775.082<sup>38</sup>, 775.083<sup>39</sup>, or 775.084<sup>40</sup>. Under no circumstances does an act performed for any other

lawful purpose or for a legitimate medical purpose violate this section.

The lack of federal legislation in the USA makes necrophilia a complex legal issue identical to India's conundrum about Necrophilia. However, States in USA depend upon the existing laws, such as those pertaining to sexual assault or desecration.

## New Zealand

New Zealand shares a similar situation with countries like the USA and India. There is no specific statute that makes necrophilia illegal. Due to this legislative vacuum, authorities are compelled to consider other legal alternatives and face challenges while pursuing cases involving necrophilia. Indecent Exposure (Summary Offences Act, 1981<sup>41</sup>) - Necrophilic acts that violate public decency and take place in a public setting may be subject to this regulation. Nevertheless, it may not be appropriate in every situation of necrophilia and does not specifically address the act itself. According to Section 150<sup>42</sup> of the New Zealand Crimes Act, 1961, engaging in "Misconduct in respect of human remains" entails a maximum two-year jail sentence. Section 150 incorporates that no individual shall fail to fulfil any legal obligation or responsibility regarding the interment or cremation of a deceased person's body or remains, or improperly or indecently interfere with or cause any embarrassment to a deceased person's body or remains, whether or not they are buried.

## South Africa

The Criminal Law Amendment Act of 1998<sup>43</sup> (Act No. 105 of 1998) in South Africa provides an extensive framework for several sexual offenses. Section 14<sup>44</sup> of the Act punishes 'Sexual act with corpse'. It encompasses that any person who unlawfully and intentionally commits a sexual act with a human corpse, is guilty of the offence. The legal landscape in South Africa regarding necrophilia is robust as compared to the Indian Laws.

## INTERNATIONAL INSTANCES:

### Jeffrey Dahmer

Jeffrey Dahmer made it clear in candid, videotaped discussions with his defence lawyer Wendy Patrickus that he had intercourse with his victims both before

and after they passed away. He clarified that he wished to stay with the individual for as long as possible in order to save certain organs, bones, and skeletal tissue from his victims.<sup>45</sup>

#### **Karen Greenlee<sup>45</sup>**

Karen Greenlee revealed in a thorough interview conducted in 1987 that she was drawn to the smell of death and blood and preferred younger guys. Necrophilia was an addiction to her. The conversation took place in her little studio apartment, which was stocked with books, drawings related to necrophilia, and satanic adornments. She has also confessed to abusing 20–40 male corpses in a letter of confession.

#### **Sharkur Lucas<sup>46</sup>**

Sharkur Lucas appeared on a talk show. In the live interview, he disclosed having sexual intercourse with corpses while working in a mortuary. At the age of twelve, his godfather introduced him to the world of mortuary work. In order to overcome his dread of dead people, he was made to go through three phases of training, which included abnormal interactions with corpses and living in cemeteries and having sexual intercourse with them. He also revealed that, because of the macabre nature of his profession, he was rejected by all the living ladies.

#### **HYPOTHESES:**

This hypothesis proposes that current laws regarding necrophilia in many jurisdictions are inconsistent, outdated, and fail to adequately address the complexities of the crime. It suggests that a lack of clear definitions and varying degrees of severity in punishment create loopholes and inconsistencies in legal application.

The research examines these inconsistencies and advocate for a more comprehensive legal framework that considers factors like mental state, religious and cultural bias, and potential public health concerns.

#### **REVIEW OF LITERATURE:**

During the research several journals and research papers were scrutinized by the author one of them was written by Upasana Borah and was published in the Journal of forensic research. The author examined necrophilia's legal, social, psychological and cultural

perspectives in depth. In addition to that the author has also examined a paper written by Anil Aggrawal, forensic psychologist, 'A new classification of necrophilia' and published in the Journal of forensic and legal medicine, he has categorized the many forms of necrophilia and the psychologies behind it. The renowned "Nithari" case and Palghar case has also been examined, and the author has underscored the Indian Penal Code and Bharatiya Nyaya Sanhita's shortcomings with regard to necrophilia. In Holmes & Holmes (1998), in *Sex Crimes*<sup>47</sup>: Patterns and Behaviour, studied necrophilia in serial offences. However, the study has its roots in U.S. case materials with restricted applicability to Indian socio-legal contexts. While the Review Committee on Sexual Offences, 2013<sup>48</sup>, focused on Nirbhaya-related reforms, it left out many emerging offences like necrophilia. This work integrates modern-day offences into new reform proposals.

The present study borrows from their behavioral analysis but locates it within Indian judicial patterns and cultural contexts. In this article the author has mentioned a number of recent necrophilia incidents in India in order to emphasize the necessity and significance of modifying the legislation to make such conduct illegal. Additionally, she has conducted a study on the several rights that India offers to the deceased and analysed the historical background of necrophilia and its cultural and religious aspects. The paper has also made comparative study between global statutes to generate ideas and draw inspiration for the criminal laws governing India. Similarly, the author of this study underscores the necessity to include or a distinctive section that would criminalize necrophilia. The reports from the UHRC, and other pertinent organizations are considered to learn about their views on preserving the dignity of the deceased.

#### **RESEARCH METHODOLOGY:**

This dissertation follows a doctrinal research methodology to critically examine the legal conundrum with regard to necrophilia in India, with special emphasis on statutory gaps, judicial interpretations, and comparative legal standards. The study primarily relies on black-letter analysis, examining provisions of the Indian Penal Code, 1860, the Criminal Procedure Code, 1973, and relevant



special laws governing the protection of dead bodies, dignity of the deceased, and public morality.

The study proceeds to use the purposive interpretation doctrine, mischief rule, and constitutional morality as the benchmarks against which to appraise whether the present legal provisions satisfactorily address the offence of necrophilia or have enormous lacunae. Data collection is done through a critical review of primary sources, including legislation, case law (Indian and foreign), Law Commission reports, and parliamentary debates, along with secondary sources such as academic journals, authoritative commentaries, research articles, and medico-legal literature. The data analytical tools include content analysis and comparative doctrinal analysis, but with special emphasis on jurisdictions where necrophilia has been clearly criminalized in order to study various models that would be apt for India's legal reforms. Ethical consideration becomes an issue in that sensitivity in language is ensured, as well as academic neutrality and avoidance of graphic or distressing descriptions.

The research method will be limited because there are few reported cases and empirical studies in India to support some findings; this limitation is offset, however, by reliance on comparative frameworks and medico-legal expert opinion as recorded in available literature. A doctrinal approach, therefore, allows structured and comprehensive understanding of how Indian law conceptualizes, ignores, or inadequately addresses necrophilia to be obtained, thereby supporting a reasoned evaluation of the need for legal reform.

The research paper uses a secondary data analysis approach to examine legal codes, case studies, educational texts, and articles related to necrophilia in India and other countries. It examines the Indian penal code, cultural norms, and current legal frameworks. The study also examines rulings from high courts and the Supreme court. The thematic analysis is used to understand the intricate interactions between legal frameworks, cultural norms, and psychological elements with respect to Necrophilia.

## RECOMMENDATIONS:

The Bharatiya Nyaya Sanhita should include a new section criminalizing unnatural offenses and include

‘sexual intercourse with a corpse’ in it and rehabilitation for those who have sexually abused, penetrated, or otherwise disturbed deceased people. Punitive methods for opportunist necrophilacs or pseudo-necrophilacs should also be expressed in this area.

Establishment of an advisory board with representatives who would regularly assess proposed rules and procedures relevant to people with necrophiliac inclinations and dedicated facilities for treating these individuals inside healthcare institutions. The board should also create awareness about necrophilia through educational programs. These initiatives would also benefit individuals experiencing symptoms of necrophilia.

Law enforcement personnel should be thoroughly trained in handling people who exhibit necrophiliac tendencies so they can effectively detain and interact with them. There should be regular therapy sessions for the individuals experiencing any kind of or class of necrophilic behaviour as soon as possible without labeling them or considering it as a taboo.

## Redefining 'Dignity' To Include Post-Mortem Rights.

It follows that the jurisprudence on human rights and dignity in this country, as enshrined under Article 21 of the Constitution, needs to be extended expressly to include the right to dignity in death. This will provide the philosophical and legal underpinning to the new penal provision, crystallizing the concept that the dead body is not a mere *res nullius* but an extension of the person's personality and thus entitled to protection from desecration.

## CONCLUSION

In conclusion, necrophilia poses a multifaceted legal and societal challenge on a global scale. Legal reforms are necessary since, several nations have laws specifically prohibiting necrophilia, while others do not. It is important to comprehend the limitations of historical documentation, additional research using different lenses—such as psychology and cultural perspectives in order to build a holistic approach. Moreover, international cooperation is necessary to successfully combat necrophilia on a transnational scale. In 2005, the UN Commission on Human Rights

emphasized the significance of treating deceased with dignity, including managing their disposal and taking into account the requirements of the families<sup>49</sup>. It binds the state to pass these laws in order to uphold its commitments under international law. A complicated legal framework, continuous study, and conversation are required to successfully manage this challenging issue as societies attempt to provide reverence to the living and preserve the dignity of the departed.

## SUMMARY OF FINDINGS

The core finding is reliance on a charge that punishes the desecration of a place of burial, rather than the violation of the dead body itself. This approach mischaracterizes the offense, reducing such an act of sexual violation and deep indignity to no more than a property or religious infringement. Moreover, reliance on Section 297 requires proof of "wounding the religious feelings of any person," which is very often difficult to prove and fundamentally irrelevant to the core transgression: the sexual abuse of a dead person. This legal ambiguity allows perpetrators to receive disproportionately lenient sentences, undermining justice and societal trust. The current legal status fails to offer either clarity in deterrence or moral proportion in punishment for those who commit this act.

## THE IMPERATIVE FOR LEGISLATIVE REFORM

This paper concludes that piecemeal judicial interpretation cannot sufficiently settle this legal conundrum. Immediate and express legislative intervention is, therefore, necessary so that public dignity and judicial clarity be guaranteed and full justice accounted for. The present legal status quo should no longer equate in law the act of necrophilia with the act of trespass.

The dissertation clearly indicates a way forward: the legal response to necrophilia in India should shift from the archaic, misdirected charge of 'trespass' to explicitly recognizing the violation of human dignity and sexual assault committed on the deceased. In the implementation of the recommendations suggested in this paper, the Indian legislature would advance its course in closing an important gap in the law, reassuring faith in the criminal justice system's ability to address this dark crime and reaffirming

commitment to the inherent and inalienable dignity of every human being, living or dead.

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