



INDIAN JOURNAL OF LEGAL AFFAIRS AND RESEARCH

VOLUME 3 ISSUE 1

Peer-reviewed, open-access, refereed journal

IJLAR

+91 70421 48991
editor@ijlar.com
www.ijlar.com

DISCLAIMER

The views and opinions expressed in the articles published in the Indian Journal of Legal Affairs and Research are those of the respective authors and do not necessarily reflect the official policy or position of the IJLAR, its editorial board, or its affiliated institutions. The IJLAR assumes no responsibility for any errors or omissions in the content of the journal. The information provided in this journal is for general informational purposes only and should not be construed as legal advice. Readers are encouraged to seek professional legal counsel for specific legal issues. The IJLAR and its affiliates shall not be liable for any loss or damage arising from the use of the information contained in this journal.

Introduction

Welcome to the Indian Journal of Legal Affairs and Research (IJLAR), a distinguished platform dedicated to the dissemination of comprehensive legal scholarship and academic research. Our mission is to foster an environment where legal professionals, academics, and students can collaborate and contribute to the evolving discourse in the field of law. We strive to publish high-quality, peer-reviewed articles that provide insightful analysis, innovative perspectives, and practical solutions to contemporary legal challenges. The IJAR is committed to advancing legal knowledge and practice by bridging the gap between theory and practice.

Preface

The Indian Journal of Legal Affairs and Research is a testament to our unwavering commitment to excellence in legal scholarship. This volume presents a curated selection of articles that reflect the diverse and dynamic nature of legal studies today. Our contributors, ranging from esteemed legal scholars to emerging academics, bring forward a rich tapestry of insights that address critical legal issues and offer novel contributions to the field. We are grateful to our editorial board, reviewers, and authors for their dedication and hard work, which have made this publication possible. It is our hope that this journal will serve as a valuable resource for researchers, practitioners, and policymakers, and will inspire further inquiry and debate within the legal community.

Description

The Indian Journal of Legal Affairs and Research is an academic journal that publishes peer-reviewed articles on a wide range of legal topics. Each issue is designed to provide a platform for legal scholars, practitioners, and students to share their research findings, theoretical explorations, and practical insights. Our journal covers various branches of law, including but not limited to constitutional law, international law, criminal law, commercial law, human rights, and environmental law. We are dedicated to ensuring that the articles published in our journal adhere to the highest standards of academic rigor and contribute meaningfully to the understanding and development of legal theories and practices.

THE UNADDRESSED VIOLATION OF THE CRIME OF NECROPHILIA

AUTHORED BY - SHAMIKA PRAMANIK

INTRODUCTION

Necrophilia, a term that originates from Greek roots, “nekros” signifying corpse, and “philips” denoting affection. When the two are combined, it conveys sexual desire toward corpses or involvement in any category of sexual activity with a lifeless body. Offenders derive gratification in carrying out acts such as penile–vaginal penetration, oral arousal, or self-pleasuring while near a corpse. The central intention behind this offence is to obtain an unresisting and non-refusing sexual companion.

This expression extends back centuries and has additionally been recorded in Greek legends. Numerous incidents exist of persons unearthing tombs to procure a corpse for sexual relations, and attendants of mortuaries and cremation employees have been discovered sexually exploiting cadavers. This conduct diverges from accepted traditions and is therefore regarded as one of the most extreme forms of paraphilic abnormality in comparison with other such deviations like sadism, anthropophagy (hunting a person & then consuming their flesh) and necrophagy (eating deceased human flesh). Occurrences of necrophilia have been documented even in wild creatures, reptiles, mammals, and insects, but human necrophilia remains the most shocking, horrifying, and disturbing.

The crime of necrophilia has increasingly surfaced in India over the past fifteen years, occurring not only within mortuaries but also in instances where individuals exhume corpses and even commit homicide for the purpose of sexually violating the remains.

During the drafting of the Indian Penal Code in 1860, the framers of the statute evidently had not foreseen that such a regulation would ever be demanded in jurisprudence. The degree to which the

safeguarding of a person's corpse should be incorporated into the law was certainly an unanticipated matter for them. Nevertheless, even in the present time, this idea remains a cultural taboo and profoundly distressing to the community. Most countries around the world lack strict laws on necrophilia, and India is one among those countries.

PROBLEM STATEMENT

This research paper will be argue that the non-existence of a particular legal statute for the crime of necrophilia, in the Bhartiya Nyay Sanhita, 2023, leads to a very wide gap in the Indian regulatory structure. The lack in the current provision, with respect to necrophilia, will bring to the attention the legal repercussions of this heinous crime, that continues to go by unprosecuted. The manner in which individuals (mostly men) continue to take advantage of this fact will be studied. Furthermore, it will study whether necrophilia could fall within the ambit of Article 21¹ of the Indian Constitution, which guarantees the right to life, liberty, & dignity, although the question in fact here is regarding deceased individuals, rather than the living. Ultimately, it will discuss any legal reforms the Government could adopt.

LITERATURE REVIEW

There are many stories that we as children have grown up listening to. Some of them even form the core of our childhood memories. For example, Disney's animated movies, storybooks relating to princes, princesses, & other mythical creatures, etc. Would you be surprised to know that some of your favourite stories may include undertones of necrophilia? For example, extremely popular Disney movies such as *Snow White* and *Sleeping Beauty* are based on the story idea of bringing an inanimate corpse "back to life" through the kiss of a male prince. This indeed carries a hint of necrophilia to it, regardless of how slight it may be. In the same way, King Herod of Egypt (traced back to the BCE epoch) is alleged to have preserved his departed wife's body in honey for several years following her demise to persist in sexually abusing her. If such claims are indeed accurate, they raise grave concerns regarding how practices of this nature may have shaped contemporary perceptions, particularly since they occurred millennia ago, in an era when societies had yet to acknowledge the severity of such acts.

¹ Article 21 of the constitution of India.

In more recent history, serial killers such as Ted Bundy, Jeffrey Dahmer, and Ed Gein notoriously engaged in necrophilic activities during their killing sprees.

Contrary to common assumptions, studies indicate that necrophilia does not necessarily stem from mental illness. In fact, most perpetrators, predominantly men, as female instances are exceptionally rare, who kill to satisfy their disturbing desires are found to be free from any diagnosable psychological disorder. The *Diagnostic and Statistical Manual of Mental Disorders (DSM-5)*² classifies necrophilia into ten types, among which Class IX, known as “homicidal necrophile,” is considered the most disturbing. This classification refers to offenders who deliberately take another person’s life for the purpose of fulfilling their sexual urges and fantasies.

Several cases illustrate the alarming prevalence of this offence. On 29 December 2006, businessman Moninder Singh Pandher and his domestic help, Surendra Koli³, were sentenced to death for the murder of 14-year-old Rimpa Haldhar. Investigations revealed that they had killed fifteen other girls, with the victims’ skulls later discovered in the backyard of Pandher’s residence. Reports indicated that Koli exhibited tendencies of both necrophilia and necrophagia.

In *Rangaraju Vajapeyi v. State of Karnataka*⁴ (30 May 2023), the accused was convicted of murder but contested the rape charge, arguing that intercourse with a dead body could not amount to rape. The court acquitted him of the charge of rape but upheld his murder conviction.

Similarly, in 2018, a man in Telangana was convicted of necrophilia, while a parallel case in Gurugram involved a 20-year-old labourer who admitted to committing the offence. In 2020, a 50-year-old morgue employee in Ghana was arrested for necrophilia involving the body of a 14-year-old girl. During interrogation, he confessed to engaging in similar acts with multiple other corpses, claiming that sexual activity with the dead was presented as part of “job training” in the morgue to ensure workers would no longer fear corpses.

² American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5)*, Sexual Paraphilias Section.

³ *State of U.P. v. Surendra Koli* (2011) 4 SCC 80 – the Nithari case detailing necrophilic and cannibalistic tendencies.

⁴ *Rangaraju Vajapeyi v. State of Karnataka* (2023).

What statutes are available in India?

In India, at present, there is no statutory provision that either expressly or impliedly criminalises necrophilia. However, in *Parmanand Katara v. Union of India*⁵, the Supreme Court acknowledged that Article 21 of the Constitution guarantees the right to life, fair treatment, and dignity, and that these protections extend not only to the living but also to the deceased.

While comparing India's statute to that of the other countries, it has been illustrated that several countries have already enacted specific provisions addressing necrophilia. For instance:

- **United Kingdom:** Section 70 of the *Sexual Offences Act 2003*⁶ explicitly criminalises necrophilia. It states that a person commits an offence if he intentionally penetrates, with any part of his body or otherwise, any part of a dead person's body, with knowledge or recklessness regarding the fact of penetration, and where such penetration is sexual. The statute further provides that:
On summary conviction, the offender may face imprisonment for a term not exceeding six months, or a fine not exceeding the statutory maximum, or both.
On conviction on indictment, the offender may be imprisoned for a term not exceeding two years.
- **Canada:** Section 182 of the *Criminal Code of Canada, 1985*⁷, makes necrophilia punishable. It declares that every individual is guilty of an indictable offence, and liable to imprisonment for up to five years, or guilty of an offence punishable on summary conviction, if such person:
 - a) neglects, without lawful excuse, to perform any legal duty undertaken in relation to the burial of a human body or remains; or
 - b) improperly, indecently, or disrespectfully interferes with, or offers indignity to, a human body or remains.

⁵ *Parmanand Katara v. Union of India*, (1995) 3 SCC 248 – recognition of dignity of the dead under Article 21.

⁶ Sexual Offences Act, 2003, s.70 (UK).

⁷ Criminal Code of Canada, 1985, s.182.

This Canadian provision bears resemblance to, though is not identical with, Section 297 of the Indian Penal Code.

- In **New Zealand**, Section 150 of the *Crimes Act, 1961*⁸ prescribes a sentence of up to two years' imprisonment for any individual who commits an act upon a corpse, whether buried or unburied, in a manner that harms its dignity.
- In **South Africa**, Section 14 of the *Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007*⁹ expressly prohibits necrophilia.

Within the Indian legal framework, the provision that most closely approximates the offence of necrophilia is **Section 301 of the Bharatiya Nyay Sanhita (BNS)**¹⁰. This section penalises any person who, with the intent to wound another's feelings or insult their religion—or with knowledge that such harm or insult is likely—commits trespass in a place of worship, a sepulchre, or a location designated for funeral rites, or who shows indignity to a human corpse, or disturbs funeral ceremonies. The punishment prescribed is imprisonment for up to one year, or fine, or both. However, this section is highly inadequate given the gravity of necrophilia. Not only is the punishment disproportionately minimal, but the emphasis lies on maintaining public order and religious sentiments rather than prohibiting sexual acts with the dead. This provision was never intended to encompass necrophilia.

The only earlier provision with even a marginal potential to cover necrophilic acts was **Section 377 of the Indian Penal Code (IPC)**¹¹, which criminalised carnal intercourse “against the order of nature” with any man, woman, or animal, prescribing imprisonment for life or up to ten years along with a fine. Nevertheless, this section applied solely to living beings, and with its omission under the BNS, any residual scope it may have had has now been eliminated.

The lack of any proper and specific legal provision on the area regarding necrophilia, and its different levels, continues to be a matter of grave concern. This poses a serious threat to justice &

⁸ *Crimes Act, 1961* (New Zealand), Section 150.

⁹ *Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007* (South Africa), Section 14.

¹⁰ *Bharatiya Nyaya Sanhita, 2023*, Section 301.

¹¹ *Indian Penal Code, 1860*, Section 377 (now omitted under BNS, 2023).

human dignity, regardless of whether living or dead. A dead body must be treated with utmost respect, as it's the last mark they leave on this world. Any form of disrespect or harm toward them carries a sense of shame towards the deceased & their family, which violates moral & social norms. Currently, due to this statutory deficiency, many wrongdoers have begun to take advantage of the loophole. For example, as observed in *Rangaraju Vajapeyi v. State of Karnataka* (30 May 2023)¹², criminals attempt to murder the girl & then proceed to rape her. In this manner, they can argue in court that rape on a dead body does not constitute rape, and they are hence held liable only on the grounds of murder. This is not a solitary case. Similarly, in 2016, a man was arrested for having the possession of a woman's body who had been dead for over 12 hours¹³. He was later convicted of necrophilia as well. Another case homogenous to the one above has been observed in a news article of *The Times of India*¹⁴, where in 2024, a man of the age of 30, by the name Rahul Jat, who had been convicted for the rape & murder of a girl & even after the girl's death, continued to have intercourse with the corpse. Many cases are similar to the facts of the above case.

The omission of Section 377 of the IPC is also against our favour. Carnal intercourse against the order of nature was the only provision that, if amended slightly, could include necrophilia under its ambit. However, the omission of this section has left many men vulnerable. In 2023, in New Delhi, a 36-year-old man was arrested for killing his male friend and then involving himself in acts of unnatural sex with the dead body.

Such cases continue to take place, and these criminals walk away unpunished. This deprives justice to the deceased & their family. To uphold the dignity of the deceased, appropriate statutory provisions must be implemented.

This regard for the deceased's dignity has been observed in international law for a long time. For example: Article 130 of the Fourth Geneva Convention ensures that the dead are buried with respect, honour, integrity and poise. It is ensured that the deceased are buried in accordance to their religious traditions, and that burial sites are properly maintained, safeguarded & cared for.

¹² *Rangaraju Vajapeyi v. State of Karnataka* (2023).

¹³ Reported in *The Hindu* (2016) – man arrested for possession of woman's corpse.

¹⁴ *Times of India*, 2024 – reporting case of Rahul Jat (rape & murder continuing post-death).

Likewise, other directives issued by the Human Rights & Natural Disasters include statutes on managing the human remains, which highlight the requirement to protect the honour, respect & integrity of the dead. This ensures that human honour is not mitigated as soon as death takes over a person's life, and also stresses that the population & society carry a moral & legal duty to uphold the same.

The United Kingdom has portrayed examples of how necrophilia should be addressed and has strict statutes against it. India must learn from this. The Sexual Offences Act 2003, UK¹⁵, clearly forbids any intimate act, sexual conduct with a dead body. Such an offence is treated very seriously, and is perceived as a breach of moral conduct and a violation towards the dignity of the deceased.

In India, the concept that was once taboo and refused to be debated upon openly is now being openly addressed in Bollywood movies, as has been observed in the movie *Gangubai Kathiawadi*¹⁶. In this movie, the protagonist, who was played by Alia Bhatt, has been seen to command her workers to tie the legs of the deceased woman's body properly while saying, "Men cannot be trusted, not even with a dead body." This goes on to show that without proper measures & safeguards, chances are the body will not be safe if left alone.

Without properly addressing the crime of necrophilia, victims' families are often left devastated and feel a sense of resentment towards society, due to the injustice faced. To ensure justice, India must include another Section in the BNS that can fall under the chapter of offences against the dead body.

This is the reform that this paper proposes the following reform in the Bharatiya Nyaya Sanhita 2023:

Section [X] – Offence of Necrophilia

Whoever, with intent to gratify sexual desire, engages in any sexual act, unnatural sexual conduct, or physical contact of a sexual nature with the body of a deceased person, shall be deemed to have

¹⁵ *Sexual Offences Act, 2003* (United Kingdom), Section 70 – offence of sexual penetration of a corpse.

¹⁶ *Gangubai Kathiawadi* (dir. Sanjay Leela Bhansali, 2022) – dialogue reference depicting concerns about necrophilia.

committed the offence of necrophilia.

Section [X+1] – Punishment for Necrophilia

Whoever commits the offence under Section [X] shall be punished with imprisonment for a term not less than five years but which may extend to ten years, and shall also be liable to a fine.

RECOMMENDATIONS

- To initiate legislative debate on the criminalisation of necrophilia, examining the gradation levels (i–ix)¹⁷, and deciding penalisation based on those levels. For example, Class I necrophiliacs (Individuals who experience sexual arousal while simulating their partner as deceased during sexual activity, Class II) and Class III necrophiliacs (those who indulge in necrophilic fantasies without physically engaging with corpses) will be punished more severely than others who have committed the graver act of necrophilia.
- Through the amendment of the Bharatiya Nyaya Sanhita, 2023, with the introduction of a proposed new provision addressing sexual assault on a deceased body, it would also be a wise proposal if Section 377 of the IPC¹⁸ is once again incorporated in the BNS as well.
- To reduce the growth of rising cases, the government should install CCTV cameras in all mortuaries of government and private hospitals, which will act as evidence in any case of necrophilia.
- Creating a regulatory council to periodically evaluate rules and protocols concerning individuals exhibiting a ‘necrophiliac condition,’ particularly those with direct ingress to corpses, organising awareness programs and spreading of information to the public.
- Establishment of specialised units within existing hospitals for the treatment of persons demonstrating tendencies toward necrophilia from a young age. Conducting comprehensive and ongoing research for the identification, understanding, and management of individuals with necrophilic inclinations. This will help understand the in-depth psychological cause behind such heinous acts, & may help deter them in the future.
- Class I to class VII Necrophiliacs should be treated in hospitals, and it should be ensured that this phase does not cross into the more graver and chronic version of necrophilia, to

¹⁷ American Psychiatric Association, *DSM-5*, Paraphilic Disorders – classification of necrophilia (I–IX).

¹⁸ Bharatiya Nyaya Sanhita, 2023; Indian Penal Code, 1860 (Section 377, repealed).

deter more such cases.

CONCLUSION

Necrophilia is a subject that must be incorporated without delay into the Bharatiya Nyaya Sanhita for the betterment of society and the protection of the dignity of the deceased. Its present absence from the statutory framework leaves a void that offenders continue to exploit. By enacting a specific and comprehensive provision, India can ensure not only deterrence but also uphold the constitutional values of dignity and justice that extend even beyond death.

REFERENCES

- <https://www.ijllr.com/post/necrophilia-and-the-legal-framework-in-india-a-critical-study>
- <https://www.outfrontmagazine.com/necrophilia-ancient-modern-times/>
- <https://www.sciencedirect.com/science/article/pii/S1752928X11000874>
- <https://www.newindianexpress.com/amp/story/states/teelangana/2023/Nov/17/case-of-necrophilia-in-2018-man-gets-lifer-for-rape-and-murder-of-10-year-old-girl-in-teelangana-2633692.html>
- <https://www.sciencedirect.com/topics/medicine-and-dentistry/necrophilia>
- https://www.indiatoday.in/india/story/rape-dead-body-delhi-necrophilia-356069-2016-12-07?utm_source=chatgpt.com
- <https://www.newindianexpress.com/nation/2009/Feb/13/nithari-killings-death-for-two-25614.html>
- <https://www.tribuneindia.com/news/archive/haryana/gurugram-rape-accused-admits-to-necrophilia-687352/>
- <https://indiankanoon.org/doc/198014995/>
- <https://www.ibtimes.co.in/ghana-sex-corpses-part-mortuary-job-training-bizarre-link-between-morgue-workers-necrophilia-622523>
- https://timesofindia.indiatimes.com/city/surat/alleged-serial-killer-returns-to-crime-scene-for-necrophilia-shocking-details-emerge/articleshow/115741697.cms?utm_source=chatgpt.com