
CONSENT BURIED ALIVE: NECROPHILIA AND THE LEGAL VACUUM UNDER THE BHARATIYA NYAYA SANHITA

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ABSTRACT

Necrophilia, commonly understood as a paraphilic attraction to or engaging in sexual acts with a corpse constitutes a grave violation of the dignity traditionally accorded to individual's remains after death. Historically, the India criminal framework under the Indian Penal Code 1860, did not recognise the concept of necrophilia as an independent sexual offence. Instead conduct involving the mistreatment of the corpse was addressed only indirectly through the provisions relating to trespass in burial places or indignity to human corpses. These provisions were primarily intended to safeguard public order and religious sentiments rather than to address the sexual violation of the deceased.

The enactment of the Bharatiya Nyaya Sanhita (BNS) 2023 was expected to mark a significant step in modernising India's criminal law by replacing the colonial era penal code. However, despite restructuring and expanding the framework of sexual offences, the BNS continues to remain silent on sexual violations committed after death. The existing statutory scheme relies heavily on the concepts of bodily autonomy and consent both of which presuppose the presence of a living individual capable of exercising such autonomy. As a result, sexual acts committed upon a corpse fall outside the scope of offences such as rape or sexual assault creating a gap within the legal framework.

This paper critically examines the doctrinal limitations of both the IPC and the BNS in addressing the concept of necrophilia. Through doctrinal and comparative analysis of legal approaches in other jurisdictions this study highlights the continuing legislative lacuna and argues for the introduction of a specific statutory provision that explicitly criminalises necrophilia as a distinct sexual offence within the Indian criminal law framework.

Keywords: Necrophilia, Bharatiya Nyaya Sanhita 2023, Indian Penal Code 1860, Criminal Law Reform, Human Dignity After Death, Corpse, Sexual violations, Rape, Sexual assault.

INTRODUCTION

Necrophilia is a psychological disorder and a sexual practice involving an erotic attraction to or sexual acts with corpses. The term is derived from the Greek words 'nekros' meaning 'corpse' and 'philia' meaning 'love or attraction'. It is classified as paraphilia i.e., a condition characterised by intense and persistent sexual interest in atypical subjects by both World Health Organisation (WHO) and the American Psychiatric Association (APA). The desecration of a human corpse through acts of necrophilia raises serious concerns regarding the protection of dignity and the respect which is traditionally associated with the dead in the civilised societies. Necrophilia, commonly defined as sexual intercourse with or any sexual acts being performed on a corpse which represents, a grave violation of the physical remains of a person and the societal respect accorded to the deceased. The Bharatiya Nyaya Sanhita was enacted in 2023 with the objective of modernising and replacing the colonial-era Indian Penal Code, 1860. However, despite these reforms the Bharatiya Nyaya Sanhita does not explicitly recognise necrophilia as a distinct sexual offence. As a result, a significant legislative gap remains regarding acts involving sexual violation of dead bodies.

This absence becomes particularly concerning in situations involving misuse of dead bodies in places such as hospitals, morgues or burial grounds. Without a clear legal provision addressing necrophilia such acts may only be punished under general provisions dealing with disrespect towards a corpse. This approach fails to acknowledge the seriousness of the act and weakens the law's role in protecting the dignity associated with the deceased.

When compared with the international legal frameworks this gap becomes even more evident. Certain countries have enacted specific laws that clearly criminalise Necrophilia. For instance, the Sexual offences Act 2003, in the United Kingdom specifically criminalises the sexual penetration of a corpse. Similarly, several states in the United States and legal provisions in South Africa recognise necrophilia as a separate criminal offence. These legal systems acknowledge that sexual acts involving the dead bodies representing a serious violation of social values and human dignity.

The issue of necrophilia presents a unique challenge to criminal law because it exists at the intersection of morality, legal interpretation and the protection of human remains. Unlike conventional sexual offences where the victim is a living person capable of suffering physical or any psychological harm, necrophilia involves conduct directed towards a corpse raising

complex questions regarding the scope of criminal liability and the limits of existing legal provisions.

In this context, the present research seeks to examine whether the provisions of the Bharatiya Nyaya Sanhita 2023, are adequate to address the offences involving sexual acts with dead bodies. The study argues that the existing framework dealing with indignity to a corpse is insufficient to address the seriousness of necrophilia.

OBJECTIVE OF THE STUDY

- a. To analyse whether necrophilia has been effectively recognised as a distinct criminal offence under the Bharatiya Nyaya Sanhita, 2023.
- b. To evaluate the structural adequacy of the Bharatiya Nyaya Sanhita, 2023 in addressing sexual violations involving corpses.
- c. To comparatively examine the legislative frameworks governing necrophilia in United Kingdom, United States and South Africa.
- d. To propose necessary legislative reform to address and explicitly criminalise necrophilia as distinct sexual offence under Bharatiya Nyaya Sanhita.

RESEARCH PROBLEM

The law governing the sexual offences in India under the Bharatiya Nyaya Sanhita, 2023 primarily concerns the acts committed against the living persons. However, the incidents involving sexual offences against dead bodies raise concerns regarding the protection of dignity associated with the dead. The existing legal framework has no explicit provision to recognise necrophilia as a distinct criminal offence which creates a critical legislative vacuum that allows perpetrators of such conduct to escape punishment and demands statutory recognition within the Bharatiya Nyaya Sanhita, 2023.

RESEARCH QUESTIONS

- a. Whether necrophilia has been effectively recognised as a distinct criminal offence under the Bharatiya Nyaya Sanhita, 2023?

- b. Whether the provisions under Bharatiya Nyaya Sanhita, 2023 adequately addresses sexual violations involving corpses?
- c. How have United Kingdom, United States and South Africa legislated on necrophilia as a criminal offence?
- d. What legislative reforms are required to explicitly criminalise necrophilia as a distinct sexual offence in India?

RESEARCH HYPOTHESIS

The study hypothesises that the Bharatiya Nyaya Sanhita, 2023 being enacted as a comprehensive reformation of Indian criminal law, does not explicitly recognise necrophilia as a distinct criminal offence and is structurally inadequate to address such acts. Although certain provisions relating to offences against dead bodies exist, they are not specifically designed to address the acts involving sexual violation of dead bodies as a result, the present legal framework creates ambiguity regarding the appropriate classification and punishments of such acts.

RESEARCH METHODOLOGY

The study employs the doctrinal research methodology primarily analysing the statutory provisions and judicial decisions on the offences relating to dead bodies. This research examines the legal framework governing sexual offences under the Bharatiya Nyaya Sanhita, 2023 to evaluate whether it adequately addresses the acts of necrophilia. Further, the relevant case laws and secondary sources such as journal articles, books have been consulted to understand the existing legal position.

The study also adopts a comparative approach by examining how certain foreign jurisdictions have legally addressed the offences against dead bodies particularly in case of necrophilia. Comparative analysis draws upon Sexual Offences Act, 2003 (UK), state-level statutes in the United States. The purpose of this comparison is not merely descriptive but to derive legislative insights that may provide potential reforms within the Indian legal framework.

The study is non-empirical in nature and does not involve data collection or surveys. Instead, it relies exclusively on legislation, judicial decisions, books and journal articles and secondary

sources. Online databases such as SCC online, Manupatra, Google Scholar and HeinOnline have been used to access the relevant legal materials and judgments.

LITERATURE REVIEW

- a. **Animesh Jha and Himanshu Ranjan, “Case comment: Rangaraju @ Vajapeyi v. State of Karnataka.” *International journal of Law Management and Humanities*, Volume6 Issue 5 (2023).**

Jha and Ranjan analyse the legal issues surrounding necrophilia within the framework of the Indian Criminal Code authors examine. The Karnataka High Court’s reasoning in addressing sexual acts committed on a dead body and highlight the absence of explicit statutory provisions to criminalize such conduct. They argue that the court relied heavily on the literal interpretation of section 375 and 377 of the Indian Penal Code concluding that these provisions apply only to the living persons and therefore cannot be extended to acts which are committed on a corpse. The authors critique this approach and contend that the existing structure of the Indian Penal Code demonstrates legislative concern for protecting the dignity of the dead through provisions such as Section 297 which penalizes indignity to human remains. By drawing on jurisprudential reasoning and broader moral considerations surrounding respect for the deceased the authors conclude that the current statutory framework is inadequate and requires clearer legal recognition of necrophilia as a criminal offence.

- b. **Hifajatali Sayyed & Jyotsana Singh, “From silence to sanction: Comparative Analysis of Necrophilia Law in India and other countries,” *Cogent Social Sciences*, Volume 10(2024).**

Sayyed and Singh Examine the legal treatment of necrophilia across different jurisdictions with a particular focus on India. The authors argue that necrophilia remains a largely neglected and systematised subject within the legal discourse resulting in significant gaps in criminal regulation. The highlight is that the Indian criminal law has historically addressed such acts only indirectly through provisions relating to trespass in burial places indignity to human corpse or public morality rather than recognising necrophilia as an independent offense. This paper analyses how the earlier framework under the Indian Penal Code 1860 relied on peripheral provisions which often led to the inconsistent interpretations and inadequate punishment. This study ultimately emphasizes the need for Indian criminal law reforms to

move from silence to explicit sanction by introducing specific provisions addressing necrophilia thereby eliminating interpretative ambiguities and ensuring strong stronger legal protection of human dignity after death.

c. Rakesh Singh and Vidisha Banerjee, “Consent and the grave: How should Law address Necrophilia? NLIU Law Review Blog (2025).

Singh and Banerjee analyse the legal challenges posed by necrophilia within the India criminal law framework. The authors highlight that Indian law does not explicitly criminalize necrophilia and instead address such acts indirectly through provisions dealing with indignity to the corpse or trespass in burial places under the Indian Penal Code. They argue that this legislative gap creates difficulties in prosecuting offenders particularly because offences like rape are applicable only to living persons. Through a brief comparative discussion of foreign jurisdictions, they have enacted specific laws against necrophilia the authors emphasize the need of clear statutory recognition of the offence in India to remove ambiguity and ensure stronger legal accountability.

d. Apeksha Kachhawaha, “Unpunished and Unaddressed: The BNS and the loophole on Necrophilia,” SSRN (2025).

Kachhawaha Examines the legislative gaps surrounding necrophilia in Indian criminal law particularly after the enactment of Bharatiya Nyaya Sanhita 2023. The author argues that despite replacing the Indian Penal Code into the BNS it still fails to explicitly criminalize necrophilia thereby continuing the earlier legal silence on this issue. This paper highlights that existing provisions relating to indignity to corpse or trespass in burial places are insufficient to address the sexual nature of the offence that often result in inconsistent legal outcomes it ultimately emphasizes the need of a specific statutory provisions under the BNS to criminalize necrophilia and close the significant loophole in the criminal justice framework.

e. K.D. Gaur, Textbook on Bharatiya Nyaya Sanhita, 2023, 1st ed., LexisNexis (2024).

K.D. Gaur provides a doctrinal analysis of Bharatiya Nyaya Sanhita, 2023 explaining the structure and the scope of offenses against the human body and decency. The author discusses provisions relating to indignity to human corpse and trespass in burial places nothing that such

acts are addressed under general offences rather than specific sexual crime. The work highlights that BNS attempts to modernize the criminal law framework previously governed by the Indian Penal Code certain offences remain indirectly regulated reflecting the continued absence of explicit provisions dealing with necrophilia.

DISCUSSION AND ANALYSIS

Conceptual understanding of necrophilia

The term necrophilia is derived from the Greek word nekros meaning 'dead body' and philia meaning 'love' or 'attraction' referring to a sexual attraction towards or involving of sexual acts with corpse i.e., with dead bodies. In psychological literature necrophilia has been commonly classified as a form of paraphilia referring to atypical or deviant sexual interest towards nonconsenting or non-living objects. It is commonly understood to denote sexual attraction to or sexual activity involving dead bodies. Studies indicate that necrophiles display preferences for a corpse in varying states of decomposition including putrefied or mummified conditions, with some preferring only bones¹. The Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition (DSM-5) has not categorised necrophilia by assigning it a unique code instead it has been classified under the 'other specified paraphilic disorder' section². Such conducts give rise to serious legal concern as it violates the dignity associated with the human remains and potentially causes emotional distress to family members of the deceased.

In legal discourse, the issue is not merely concerning the act itself but the protection of the dignity and the integrity of the dead body. Courts have consistently recognised that the human dignity does not extinguish upon death and the deceased person deserves respect and protection. As held in case of *S. Sethu Raja v. The Chief Secretary*³ by the Hon'ble Madras High Court that the human dignity with which a living human being is expected to be treated should also be treated and be extended to a person who is dead.⁴ Further as held by the Hon'ble Allahabad High Court in case of *Ramji Singh @ Mujeeb Bhai v. State Of U.P & Ors*⁵ the dead

¹ Necrophilia and Its Legal Status in India, Deccan Herald <https://www.deccanherald.com/india/explainednecrophilia-and-its-legal-status-in-india-1225055.html>

² Anil Aggrawal, Necrophilia, ScienceDirect, <https://www.sciencedirect.com/topics/medicine-and-dentistry/necrophilia>

³ *S. Sethu Raja v. The Chief Secretary*, W.P. (MD) No. 3888 of 2007 (Madras High Court)

⁴ Ritika Goyal & Smriti Shukla, COVID19-XIII: The Rights of the 'Dead' in a Pandemic, Law School Policy Review

⁵ *Ramji Singh @ Mujeeb Bhai v. State of U.P.*, 2009 SCC OnLine All 310 (All. HC)

body should be treated with dignity and respect. Thus, extending protections that are previously reserved for the living person⁶.

The Reality of the Problem: Reported Incidents.

A survey of reported incidents reveals a consistent pattern in almost every case, the perpetrator escaped punishment for the sexual violation of the corpse due to no provision in Indian penal law could be made applicable. The following incidents, documented in media reports and judicial records, provides the scale and gravity of the problem.

a. The Indore MBA Murder Case, (February 2026)

A recent example illustrating the conduct of necrophilia emerged in February 2026, in Indore where a 24-year-old MBA student was arrested following the discovery of decomposed body of his girlfriend in his rented accommodation. Investigators alleged that the accused had murdered the victim following non-consensual sexual intercourse and further, the accused consumed alcohol beside dead body and engaged in sexual acts with the corpse remaining in the room for several days.⁷

b. The Karimganj Civil Hospital Case, Assam

A hospital sweeper working at the mortuary of Karimganj Civil Hospital was arrested for allegedly engaging in sexual act with the corpse of a minor girl. The body had been placed in the mortuary for post-mortem examination following an unnatural death. However, when the medical officers arrived to conduct the autopsy, they noticed injury marks on the corpse which were inconsistent with the earlier report. Subsequent investigation led to the apprehension of the sweeper who reportedly confessed to committing such acts with the dead body. This illustrates the vulnerability of human remains with institutional settings such as hospital mortuaries.⁸

⁶ Recognizing Deceased as “Persons” under Article 21: Allahabad HC Sets Precedent for Dignified Disposal of Unclaimed Bodies, CaseMine

⁷ TNN, Accused Involved in Necrophilia on MBA Student, Reveals Indore Police, The Times of India (Feb. 18, 2026), <https://timesofindia.indiatimes.com/city/bhopal/accused-involved-in-necrophilia-on-mba-student-revealsindore-police/articleshow/128477372.cm>

⁸ Sentinel Digital Desk, Assam: One Held for Allegedly Raping Minor Girl’s Corpse in Karimganj District, The Sentinel (Apr. 10, 2024), <https://www.sentinelassam.com/north-east-india-news/assam-news/assam-one-held-forallegedly-raping-minor-girls-corpse-in-karimganj-district>

c. The Nithari Case: Surendra Koli v State of U.P.⁹

One of the well-known criminal cases in India involving the allegations of necrophilia is Surendra Koli vs State of Uttar Pradesh, most commonly referred to as Nithari serial killing case which emerged in 2006 from the village of Nithari, Noida, in the state of Uttar Pradesh. Where the police discovered the skeletal remains of numerous women and children from the drain located behind the residential bungalow owned by a businessman. Investigations revealed that several victims mostly young girls and children had gone missing after visiting the residents and accused who was employed as a domestic servant at the house allegedly lured victims into the premises, murdered them and subsequently involve in the act of necrophilia after the victims were killed.

d. The Jalandhar Case

Another reported incident highlighting the disturbing nature of necrophilia occurred in

December 2023 in Jalandhar. An E-rickshaw driver was arrested for the alleged murder of a 22-year-old nurse and engaging in sexual intercourse with a lifeless body and later returned to the crime scene to repeat the act. According to the investigative reports the accused further admitted that he had previously lured two other women in a similar manner while under the influence of alcohol.¹⁰

In majority of these cases, the offenders are charged with murder, rape depending on the circumstances, but not with necrophilia and they further demonstrate that necrophilia is not entirely unknown in India. They reveal a pattern where sexual acts are committed upon corpses or killing of person to commit such an act. Despite the gravity of such acts and clear violation of dignity of the deceased there is no explicit provision to recognise necrophilia as a distinct offence.

Although Indian criminal law does not expressly recognise necrophilia as a distinct offence the judiciary has repeatedly emphasised the dignity and respect accorded to human being will not cease upon the death through cases such as *S. Sethu Raja v. The Chief Secretary*¹¹ and *Ramji*

⁹ *Surendra Koli v. State of U.P.*, MANU/SC/0119/2011

¹⁰ *E-Rickshaw Driver Arrested for Murder and Necrophilia in Jalandhar*, *The Times of India*

¹¹ *S. Sethu Raja v. The Chief Secretary* supra note 3

Singh Mujeeb Bhai v. State Of U.P & Ors.¹² Further, recently courts have been confronted with necrophilia, and the court has expressed condemnation of the conduct while being compelled by the absence of specific legislation to acquit the accused of sexual offence charges.

One of the most significant judicial observations regarding the absence of legal framework on necrophilia was Made by the Honourable High Court of Karnataka in case of Rangaraju @ Vajapeyi v. State of Karnataka¹³, 2023 The case arose from an appeal against the conviction of accused under Sections 302 and 376 of Indian Penal Code 160¹⁴ The prosecution alleged that the accused had murdered the victim and subsequently engaged in sexual intercourse with her dead body. While the trial court on the evidence presented before it convicted the accused for both murder and rape, but the high court was required to determine whether sexual intercourse with the corpse would constitute the offence of rape under section 376 of Indian Penal Code. The court observed that the offence of rape necessarily requires sexual intercourse with a living person capable of giving or withholding consent since a dead body cannot be considered as a 'person' The Act of sexual intercourse with the corpse could not legally be classified as rape. The court therefore held that such conduct may be described as necrophilia but is not specifically criminalized under the existing provisions of the Indian Penal Code, thereby recognising the legislative lacuna. Later, in the judgement the high court called upon central government to address such legislative gap either to amend Section 377 of Indian Penal Code or to bring in new provision to make necrophilia an offence.¹⁴

A similar observation regarding the absence of statutory provision addressing necrophilia was made by the Hon'ble High Court of Chhattisgarh in case of Neelkanth@ Neelu Nagesh v. State of Chhattisgarh.¹⁵The case arose from kidnapping, rape and murder of a minor girl. After the death of the victim one of the accused was alleged to have engaged in sexual acts with the corpse. While the trial court convicted the principal accused of rape and murder, but the other accused was acquitted of rape as the alleged sexual act had occurred after the victim's death. When the matter reached to the high court, it acknowledged that sexual intercourse with a dead body indeed constitutes one of the most heinous crimes imaginable but held sections 363,

¹² Ramji Singh @ Mujeeb Bhai v. State of U.P, supra note 5

¹³ Rangaraju @ Vajapeyi v. State of Karnataka, 2023 SCC OnLine Kar 23 (Karnataka High Court)

¹⁴ Indian Penal Code, 1860 S 302, S 376,

¹⁴ Sucheta, Karnataka HC Recommends Central Government to Make Law on Necrophilia, SCC Online Blog (June 1, 2023), <https://www.sconline.com/blog/post/2023/06/01/karnataka-high-court-recommends-centralgovernment-make-law-on-necrophilia-legal-news/>

¹⁵ Neelkanth @ Neelu Nagesh v. State of Chhattisgarh, CRA No. 1920 of 2023

376(3) of the IPC¹⁶, Section 6 of the POCSO Act, 2012 inapplicable¹⁷ as the offence of sexual intercourse was committed with a dead body. Thereby addressing the existing legal framework, it observed that, Although, a dead body is entitled to respectful treatment and dignity extends beyond death, but the current law must be applied as they stand. Thus, for convicting an offence under the aforesaid mentioned sections the victim should be alive.

The judgement of high court of Karnataka in Rangaraju @ Vajpayee v. State of Karnataka was challenged before the Supreme Court of India through a special leave petition¹⁸ filed by the State of Karnataka. Refusing to interfere the high court's judgement the Supreme Court observed that ruling was legally sound as the current penal laws do not allow for the invocation of rape or unnatural offence in relation to a deceased person and necrophilia is not recognised as an offence. Further, the court observed that it would fall within the domain of Parliament to enact appropriate amendments.

Having established through reported incidents and judicial decisions that necrophilia has not been recognised as a distant criminal offence, the question remains whether existing provisions under the Bharatiya Nyaya Sanhita could be applied to encompass such acts. A careful analysis of relevant section is essential to determine whether the current legal framework can provide remedies for necrophilia.

Analysis of BNS provisions: Does Necrophilia fall within their Ambit?

a. Section 63 and 64 of BNS: Rape

Section 63 defines rape as sexual penetration of a woman without her consent or against her will while section 64 provides punishment for such offence¹⁹. Both the provision by their express term requires a living victim and the definition of rape references consent which a living person capable of consenting or withholding the consent. The argument made by the Karnataka Government before the Supreme Court that the corpse satisfies the 7th description of rape i.e., when she is unable to communicate consent, But the court clarified that the "inability to communicate consent" contemplated under Section 63 refers to incapacity of a living person, not the absence of life. Consequently, a corpse is not considered a "person"

¹⁶ Indian Penal Code, 1860 S 363, S 376,

¹⁷ Protection of Children from Sexual Offences Act, 2012, S 6 (India)

¹⁸ State of Karnataka v. Rangaraju @ Vajapeyi, SLP (Crl.) No. 5403/2024, order dated Feb. 4, 2025

¹⁹ Bharatiya Nyaya Sanhita, 2023 s 63 s 64,

within the meaning of the BNS and Section 63 has no application to necrophilic acts.²⁰

b. Section 301 of BNS: Trespassing on burial places

Another provision potentially relevant to necrophilic acts is Section 301²² which criminalises acts committed with the intention of wounding the feelings of any person or insulting religion, including trespass into places of worship, funeral sites or depositories of the dead and ‘offering any indignity to human corpse’. At first glance it appears to provide protection to the dignity of the deceased, however, it has significant limitation in applying it to necrophilia.

Intent Requirement (Mens Rea): The provision applies only when the act is committed with the intention to insult religions or wound the feelings of others. However, necrophilia, in contrast, is primarily driven by sexual paraphilia not by an intent to insult or wound feelings. Consequently, no prosecution under this section for a necrophilic act could satisfy the mens rea requirement, leaving such acts largely unaddressed by this law.

Thus, it is clear and unambiguous that no provision dealing with the rights of a dead person under Bharatiya Nyaya Sanhita, 2023 adequately addresses sexual violations involving corpses. Necrophilic conduct falls entirely outside the ambit of BNS Sexual offence framework and section 301 of BNS is the only provision that touches the conduct involving corpus but is incapable of addressing such by reason of its intent requirement.

Given the gaps identified under BNS, it is evident that necrophilia remains largely unaddressed under the Indian law. Therefore, it is useful to examine as to how other jurisdiction have specifically criminalised necrophilia such comparative perspective can inform recommendation for legislative reform in India.

Comparative Analysis

The foremost fundamental point of comparison is whether the jurisdiction explicitly recognises necrophilia as a criminal offence in its statute books. This question is deceptively simple, but the answer carries the entire legislative vacuum that this paper seeks to address. The answer across other jurisdictions is yes, however, under Indian law it is no.

²⁰ State of Karnataka v. Rangaraju @ Vajapeyi, SLP (Crl.) No. 5403/2024, supra note 19

²² Bharatiya Nyaya Sanhita, 2023 S 301

To illustrate Section 70 of the United Kingdom Sexual Offence Act 2003²¹ Criminalises the intentional performance of a sexual act with any part of a dead body without requiring any religious motivation or trespass on the burial grounds. Section 14 of South Africa's Criminal Law (Sexual Offences and Related Matters) Amendment Act, 2007²² Explicitly criminalises sexual acts with corpses. Similarly, California Penal Code Section 7052²⁵ explicitly prohibits sexual penetration of human corpses each of these provisions name the conduct as sexual act with the corpse leaving no room for ambiguity or acquittal on grounds of legislative silence.

By contrast, The Indian statutory framework, The Bharatiya Nyaya Sanhita, 2023 contains no provisions recognising necrophilia. Neither the term 'necrophilia' nor the acts involving 'sexual intercourse with a corpse' appear anywhere in the law. This legislative silence has practical consequences where perpetrators of necrophilia often escape punishment for sexual violation even when accompanied by murder. For example, a person who sexually violates a minor's corpse or dead body of any person may not face prosecution for that act if it is not linked to another offence such as murder. Since the BNS does not contain provisions to address sexual acts against deceased individuals, perpetrators cannot be charged for the sexual violation itself regardless of the evidence against them and regardless of the gravity of the conduct.

This is precisely what the Hon'ble Karnataka High Court, the Hon'ble Chhattisgarh High Court confronted in Rangaraju²³ and Neelkanth²⁴ respectively. In each case, the courts were compelled to acquit not because the act was disputed but because the law provided no applicable offence.

Recommendations for Legislative Reform

Having examined the legislative vacuum existing in India regarding necrophilia it becomes imperative to consider concrete measures to criminalise necrophilic conduct under the Indian law.

a. Explicit Criminalisation of necrophilia

The BNS should be amended to include a dedicated provision that criminalises the sexual acts

²¹ Sexual Offences Act 2003, § 70 (U.K.).

²² Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007, § 14 (S. Afr.)

²⁵ Cal. Penal Code § 7052 (West 2026).

²³ Rangaraju @ Vajapeyi v. State of Karnataka Supra note 13

²⁴ Neelkanth @ Neelu Nagesh v. State of Chhattisgarh Supra note 16

involving dead bodies and the language should be precise, leaving no ambiguity regarding the act. The provision should clearly define the prohibited conduct including sexual penetration, sexual touching, or any other sexual act performed upon a dead body or any part thereof and provide proportionate punishment.

b. Extend the Scope of Sexual Offence beyond the living

A statutory amendment should expressly recognise that the absence of life does not extinguish the dignity of an individual and that sexual violations of a deceased person's body or any parts thereof warrant the same classification of punishment as sexual violations committed against living persons.

c. Issue Guidelines and Institutional protocols

Law should make it clear that sexual acts with a corpse in hospitals, mortuaries or similar places are a crime and it should also provide a requirement to have a proper monitoring and reporting to prevent abuse while bodies are under institutional care failing which would attract punishment.

CONCLUSION

Although necrophilia is widely recognised across jurisdictions as a serious violation of the dignity of human remains, Indian criminal law lacks a specific statutory framework to address such conduct. Under the Indian Penal Code 1860, acts involving interference with a corpse were generally dealt with through peripheral provisions relating to trespass in burial places or indignity to human remains. These provisions were primarily intended to safeguard religious sentiments and public order and therefore failed to adequately reflect the sexual and exploitative nature of necrophilic acts. The introduction of Bharatiya Nyaya Sanhita 2023 presented an important opportunity to correct this legislative omission however, the new code continues to remain silent on the explicit criminalisation of necrophilia.

The structure of sexual offences under BNS is built around acts committed against "persons" capable of giving or withholding consent. As a result, a deceased body falls outside the scope of these provisions creating a clear legal vacuum. Although certain sections address indignity to human corpses, the penalties and scope of these provisions are limited and do not capture the predatory and sexual character of any necrophilic conduct.

By examining the structural limitations of the BNS and comparing legislative approaches adopted in jurisdictions such as the United Kingdom, the United States and South Africa, this study demonstrates that merely restricting criminal law is insufficient without expressly recognising necrophilia as a distinct offence. The paper therefore concludes by proposing the need for legislative reform to explicitly criminalise necrophilia and thereby address this critical gap in India's penal framework. Introducing a specific provision addressing sexual acts with a corpse would close the existing legal loophole and strengthen the protection afforded to human dignity after death within the Indian criminal justice system. Thus, consent may be buried with the body but the law's obligation to protect dignity must not be buried with it.

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