



# CRIMINALIZING NECROPHILIA: THE NEED OF THE HOUR

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**Abstract:** Necrophilia refers to an individual's attraction, whether sexual or asexual, towards deceased individuals. It is important to note that this behavior is not considered a typical or conventional habit but rather classified as a paraphilic disorder. Drawing upon historical evidence and contextual inquiries, it may be argued that the presence of clutter is not only detrimental to the individual but also has negative implications for society as a whole. This phenomenon can portray an individual's heightened emotional arousal and captivation in dreams or actual instances of engaging in sexual activities with deceased people. The necrophile may derive pleasure from engaging in various activities with a deceased body, such as oral-genital contact, penile-vaginal intercourse, anal intercourse, or self-stimulation in the presence of a corpse. Psychological therapy, medications that decrease sex drive, and interventions aimed at enhancing social and sexual relationships can be beneficial in managing individuals with necrophilia. Necrophilia, also known as engaging in sexual activity with deceased individuals, is a behaviour that lacks comprehensive understanding within academic discourse. The phenomenon has also been observed in non-human organisms. The research conducted by multiple scholars and the analysis of past instances provide insights into the evolving perspectives of individuals with necrophiliac tendencies influenced by social, economic, and other contextual circumstances. However, the lack of a definitive resolution can be attributed to the absence of consensus across medical science and law fields. This article seeks to address the inquiry as to why there is a lack of stringent regulations pertaining to the aforementioned subject matter. This study aims to provide empirical insights into the phenomenon of necrophilia by examining its many typologies and etiopathology. Periodically, it becomes necessary to make modifications and draft new provisions. However, a lack of sufficient understanding and negligence towards this matter can lead to significant future consequences. As a result, the author has conducted a comprehensive examination of many elements and comparative legislations across different countries, employing a mixed-method approach. The author has employed quantitative techniques to provide potential remedies for enhancing the legal framework pertaining to necrophilia.

**Keywords:** Necrophilia, types of necrophilia, Liability for Necrophilia, crimes against dead, psychological therapy.

## I. INTRODUCTION

Necrophilia commonly evokes mental imagery associated with repulsive and morally objectionable sexual behavior. Simultaneously, it is not rare to see references to necrophiliac actions as romantic manifestations of enduring love within many cultural artefacts. Throughout the years, creative individuals ranging from William Shakespeare<sup>1</sup> to modern rapper Tyler, The Creator<sup>2</sup>, have employed the motif of sexual intimacy with or longing for a deceased body as a metaphorical representation of profound and exceptional love.<sup>3</sup> The societal perception of necrophilia is characterized by stark disparities, which is seen in the varying legal approaches towards related actions. This pertains to whether to impose severe penalties on offenders or refrain from criminalizing necrophiliac behaviours altogether. Fortunately, instances of necrophilia are not a commonplace phenomenon.<sup>4</sup> However, the issue of necrophilia has been a subject of concern among human cultures dating back to prehistoric times. Efforts to deter live individuals from participating in sexual actions with deceased individuals have been documented since ancient times, predating the Common Era.<sup>5</sup> As documented in numerous accounts, it was customary for the ancient Egyptians to observe a waiting period of several days following the demise of a lady before proceeding with the embalming process. This practice aimed to mitigate the potential risk of funeral workers succumbing to the temptation of engaging in inappropriate sexual practices with the deceased.<sup>6</sup> While necrophilia is not a widespread criminal activity, the relatively low number of reported cases may be attributed to underreporting. Numerous individuals with a necrophiliac inclination actively pursue occupations or engage in work opportunities that afford them regular and unmonitored access to deceased human bodies, hence potentially serving as a convenient front for their criminal pursuits. Reporting might be influenced by cultural norms. As an illustration, despite the statutory prohibition of necrophilia in the United Kingdom in 2003, criminologist Jason Roach, in his study conducted thirteen years subsequent to the enactment of the law, discovered a complete absence of legal proceedings pertaining to this offence.<sup>7</sup> Roach postulated that the scarcity of documented instances does not stem from a lower prevalence of active necrophiles in the United Kingdom but rather from a pervasive British cultural discomfort surrounding the subject matter. Consequently, in necrophiliac actions, British law enforcement and legal authorities tend to seek less stigmatizing crimes, such as burglary. In the United States, the presence of criminal laws pertaining to necrophiliac conduct in the majority of states may contribute to the limited number of cases documented in appellate reporters.<sup>8</sup>

Most jurisdictions have enacted criminal statutes that afford legal safeguards to deceased bodies, including prohibiting any form of sexual contact. Nevertheless, there is significant variation in the justifications for

<sup>1</sup> WILLIAM SHAKESPEARE, *ROMEO AND JULIET* act 5, sc. 3, ll. 22–39, 45–48, 74–120.

<sup>2</sup> Tyler, The Creator, *She* (feat. Frank Ocean), YOUTUBE, <https://www.youtube.com/watch=mFNaFeIm4bU>.

<sup>3</sup> Lisa Downing, *Death and the Maidens: A Century of Necrophilia in Female Authored Textual Production*, 14 FRENCH CULTURAL STUDS. 157, 157, 164–67 (2003).

<sup>4</sup> ANIL AGRAWAL, *NECROPHILIA: FORENSIC AND MEDICO-LEGALASPECTS* 113–53 (2011).

<sup>5</sup> Jonathan P. Rosman & Phillip J. Resnick, *Sexual Attraction to Corpses: A Psychiatric Review of Necrophilia*, 17 BULL. AM. ACAD. PSYCHIATRY L. 153, 153 (1989).

<sup>6</sup> Herodotus, *Herodotus on Burial in Egypt*, ANCIENT HIST.ENCYCLOPEDIA (Jan. 18, 2012), <https://www.ancient.eu/article/89/herodotus-on-burial-in-egypt> [<https://perma.cc/HKX4-BUX3>] (last visited Aug 20, 2023).

<sup>7</sup> Jason Roach, *No Necrophilia Please, We're British*, IN UNDERSTANDING NECROPHILIA: GLOBAL MULTIDISCIPLINARY APPROACH 94–95 (Lee Mellor, Anil Agrawal & Eric Hickey eds., 2017).

<sup>8</sup> Cf. Angela J. Davis, *The Power and Discretion of the American Prosecutor*, 49 DROIT ET CULTURES 55, 57 (2005).

implementing criminal restriction. Certain states conceptualize the societal detriment caused by a criminal act as harm inflicted upon the emotional well-being of the surviving relatives. In doing so, they explicitly refute the idea that the departed individual's rights to dignity persist beyond death. Necrophilia is classified as a type of sexual assault in many jurisdictions. Furthermore, some jurisdictions address necrophilia by enacting legislation that prohibits a range of ambiguous offences categorized as "crimes against nature," which may encompass acts such as sodomy and bestiality. The complexity of determining the societal consequences resulting from necrophiliac actions is partly attributed to the intricate legal position of individuals who were formerly living but are now deceased. Following the cessation of life, the deceased body assumes a legal position characterized by ambiguity, wherein the precise extent of residual rights or interests pertaining to the deceased remains uncertain.<sup>9</sup> The clarity of the permissibility and advisability of granting the deceased or their representative the opportunity to assert any remaining interests that may have been jeopardized or infringed upon posthumously remains uncertain. A deceased individual (and the corresponding cadaver) occupies an intermediary position as both a legal subject and an object. To assert that the deceased lacks any entitlements is an oversimplification of a profoundly intricate matter. To begin with, it is important to note that not all societies perceive the deceased as completely deceased, vanished, and consigned to oblivion. Both adherents of Christianity and Islam share a common belief in the existence of a hereafter, wherein the nature and quality of this realm are contingent upon the moral behaviour exhibited by individuals throughout their earthly existence. The Pueblo Indians possess a conceptualization of death that diverges from perceiving it as a conclusive termination, instead viewing it as a perpetual extension of existence.<sup>10</sup> Hence, individuals who believe in an existence after death often partake in rituals and customs that recognize the coexistence of deceased individuals within the realm of the living. In her autobiography published in 2013, Justice Sonia Sotomayor provided an account of the weekend seances organized by her grandmother, who practised as an espiritista, a spiritual medium, to establish communication with deceased individuals.<sup>11</sup> Every year, individuals of Mexican descent residing in both Mexico and the United States partake in the commemoration of Día de los Muertos. In accordance with this cultural practice, those who are alive and deceased are believed to inhabit separate realms. However, they retain the capacity to communicate with one another throughout the year, particularly on the occasion known as the Day of the Dead.

Consequently, despite scientific assertions that the deceased are merely decomposing organic matter, the determination of the extent and duration of postmortem entitlement for asserting the rights and interests held by the deceased (or their authorized representatives) is a legal inquiry intricately intertwined with societal perceptions of death and our ongoing dedication to paying homage to the deceased. In numerous cases, the law grants individuals the authority to exercise influence over matters about their posthumous affairs and beyond. Estate planning, facilitated by the utilization of wills, trusts, and other testamentary instruments, enables individuals who are still alive (referred to as living testators) to proactively prepare for circumstances

<sup>9</sup> Dorothy Nelkin & Lori Andrews, *Do the Dead Have Interests? Policy Issues for Research After Life*, 24 AM. J.L. & MED. 261, 262 (1998).

<sup>10</sup> ELSIE CLEWS PARSONS, PUEBLO INDIAN RELIGION, 1 68 (1996).

<sup>11</sup> SONIA SOTOMAYOR, MY BELOVED WORLD, 23-25, 42-43 (2013).

about mortality and the process of dying. The testator can exercise control over both the beneficiaries of her property upon her demise and decisions pertaining to organ donation and the handling of her physical remains.

## II. BACKGROUND OF NECROPHILIA

The phenomenon of "Loving the dead" encompasses various psychological and physical manifestations, some of which may warrant legal intervention.<sup>12</sup> Necrophilia refers to a paraphilic condition characterized by an individual experiencing an erotic attraction towards deceased bodies. Necrophilia, sometimes misconstrued as engaging in sexual activities with deceased individuals, encompasses a spectrum of sexual behaviours that are usually perceived as deviant and aberrant in nature. While individuals diagnosed with necrophilia often express multiple motivations for pursuing the fulfilment of their wants, the prevailing motive usually cited is the desire to engage with a partner who is unresponsive and incapable of refusing their advances. A significant number of individuals with a sexual attraction to corpses may actively pursue employment opportunities within hospitals, morgues, or funeral parlours due to the inherent advantages these occupations offer in terms of convenient, regular, and frequently unsupervised access to deceased bodies.

In the year 2011, Dr Anil Aggarwal, a medical professional with expertise in the field of forensic medicine, conducted and subsequently published an extensive epidemiological investigation pertaining to the phenomenon of necrophilia. Based on an extensive examination of case studies and existing medical and psychological theories, Aggarwal reached the conclusion that necrophilia should not be seen as a solitary activity but rather as a continuum of behavioural inclinations consisting of ten separate tiers or classes.<sup>13</sup>

Classes I and II encompass necrophiliac behaviours characterized by aberrant or unconventional sexual preferences and conduct sometimes referred to as paraphilias. However, it is arguable that the regulation of criminal law may not be necessary for these actions, as they do not appear to result in significant societal harm. Individuals classified as necrophiles in Class I derive pleasure from engaging in role-play sexual fantasies. Class I necrophiles are those who actively pursue partners who willingly participate in role-playing scenarios where they simulate being deceased or devoid of life, hence experiencing sexual arousal. Class II encompasses persons who struggle to accept the factual occurrence of the demise of their beloved ones, and may persist in engaging with their deceased bodies as if they were still living for a certain period following their passing. Necrophilia of the Class II-type is characterized by its temporary nature, often referred to as being "transient." This particular form of necrophilia tends to cease when the bereaved family member discovers a suitable method of managing their grief.<sup>14</sup> It is important to clarify that individuals with unusual sexual preferences do not inherently possess a mental condition. The "Diagnostic and Statistical Manual of Mental Disorders" (DSM-5), published by the "American Psychiatric Association", in its latest edition, makes a clear distinction between human behaviour that deviates from the norm or is atypical, and pathological behaviour that leads to personal mental distress or poses a risk to the psychological or physical well-being of others<sup>15</sup>. The term "paraphilia" is used to refer to the former, whereas "paraphilic disorder" is specifically used

<sup>12</sup> Tyler Trent Ochoa & Christine Newman Jones, *Defiling the Dead: Necrophilia and the Law*, 18 WHITTIER L. REV. 539, 540-41 (1997).

<sup>13</sup> Anil Aggarwal, *A New Classification of Necrophilia*, 16 J. FORENSIC & LEGAL MED. 316, 316 (2008).

<sup>14</sup> Anil Aggarwal, *A New Classification of Necrophilia*, 16 J. FORENSIC & LEGAL MED. 316, 316 (2008).

<sup>15</sup> Michael B. First, *DSM-5 and Paraphilic Disorders*, 42 J. AM. ACAD. PSYCHIATRY L. 191, 198 (2014).

to characterize the latter category. Necrophilia encompasses both a paraphilia and a paraphilic disorder, and this psychological differentiation holds significance within the realm of forensic investigation. The differentiation between desire (paraphilia) and disorder (paraphilic disorder) holds considerable importance in the context of implementing law that criminalizes necrophiliac conduct. Beyond Aggarwal's Class II, there exists a spectrum of behaviours that encompass engaging in sexual acts with deceased individuals. Consequently, these activities can be deemed appropriate for legal ban and enforcement. These actions not only infringe upon the rights and interests of others, but individuals who partake in less severe acts of necrophilia are inclined to pursue sexual gratification by progressively engaging in more perilous and perhaps lethal conduct as time passes.

Individuals classified as Class III necrophiles exhibit sexual fantasies involving death or deceased individuals. Individuals belonging to Class III exhibit a distinct divergence from those in Class I, as they derive arousal not from simulated or dramatized death scenarios, such as those encountered in role-playing activities, but rather from real instances of death and deceased individuals. Individuals classified as Class III, commonly referred to as "platonic necrophiles," experience sexual arousal in the presence of deceased individuals but refrain from engaging in sexual activity with them. In contrast, individuals classified as Class IV have a preference for deriving sexual arousal and satisfaction through physical contact with deceased bodies without engaging in sexual intercourse. Class V consists of individuals who engage in fetishist necrophilia. Individuals who exhibit fetishist necrophilia experience a compulsion to acquire an item from the deceased individual's body, such as clothing, or even a specific bodily part, such as a finger, which serves as a fetishist object. Individuals in Class VI of the necrophiliac spectrum engage in acts of corpse mutilation while also engaging in autoerotic behaviours<sup>16</sup>.

None of the aforementioned individuals exhibiting necrophiliac tendencies engage in sexual intercourse with deceased bodies. Class VII necrophiles are the first in Aggarwal's ten classes who do. Individuals belonging to Class VII are characterized by their lack of regular engagement in fantasies or desires related to engaging in sexual activities with deceased individuals. Nevertheless, they exhibit opportunistic tendencies towards necrophiliac behavior. In the context of Class VII necrophilia, individuals may partake in sexual activities with deceased bodies should the circumstances permit. Class VII necrophiles are individuals who engage in sexual acts with their deceased victims, but only as a secondary action following the act of murder.<sup>17</sup> Class VIII is comprised of individuals commonly referred to as "classic" necrophiles, who exhibit a distinct sexual predisposition for engaging in activities with deceased individuals. Individuals in the Class IX group of necrophiles exhibit an escalated level of behaviour, as they are willing to engage in acts of homicide to fulfil their need for engaging in sexual activities with deceased individuals.<sup>18</sup> Within the aforementioned classes, it has been observed that individuals with necrophiliac tendencies exhibit a preference for engaging in sexual activities with deceased individuals. However, it is worth noting that they are also capable of engaging in sexual intercourse with living partners. In contrast to the aforementioned classifications, individuals belonging

<sup>16</sup> Anil Aggarwal, *A New Classification of Necrophilia*, 16 J. FORENSIC & LEGAL MED. 316, 316 (2008).

<sup>17</sup> Anil Aggarwal, *A New Classification of Necrophilia*, 16 J. FORENSIC & LEGAL MED. 316, 316 (2008).

<sup>18</sup> Anil Aggarwal, *A New Classification of Necrophilia*, 16 J. FORENSIC & LEGAL MED. 316, 316 (2008).

to Class X exhibit a distinct inability to experience sexual pleasure in the presence of living individuals, leading them to pursue deceased individuals as a means to fulfil their sexual inclinations.<sup>19</sup>

The preceding section provided an overview of the latest psychiatric and forensic literature pertaining to necrophilia. Having knowledge about the many classifications of necrophilia can contribute to a more precise comprehension of the potential societal consequences associated with an individual's involvement in necrophiliac behaviors.

### III. COMPARATIVE ANALYSIS OF LAWS ON NECROPHILIA

Necrophilia is considered a psychosexual disorder and is currently permitted by law in certain jurisdictions. Other nations that uphold the principle of posthumous privacy and view the mistreatment of deceased individuals as a criminal offense have enacted legislation to prohibit such actions. However, it is worth noting that the countries that have implemented penal laws pertaining to the culpability for necrophilia are generally characterized by a lower level of development and exhibit a certain degree of ambiguity in their legislation. The phenomenon of necrophilia has been seen throughout history, with evidence of its practice dating back to ancient civilizations. It is widely thought that in ancient times, due to the absence of efficient transportation facilities, deceased individuals were often transported by ships to various destinations. Regrettably, historical accounts suggest that sailors aboard these ships, in order to fulfill their personal desires, engaged in sexually abusive behavior towards the deceased bodies. Since that time, a multitude of events have been documented, including instances of necrophilia and cannibalism being filed as a combined offense. Necrophiliac acts were reportedly performed during periods of conflict between several kingdoms, although the precise origins of the first recorded instance of necrophilia remain undocumented. In contemporary culture, individuals afflicted with this condition often seek employment at mortuaries, graveyards, and occasionally cremation facilities, as these roles afford them close proximity to deceased individuals, thereby enabling them to fulfil their own desires at will. While there is no inherent wrongdoing in pursuing employment at mortuaries or graveyards, it is crucial to ascertain the candidates' professional aspirations and objectives for these particular roles. In order to gain insight into various views, it is imperative to examine the diverse systems pertaining to necrophilia across different countries.

#### ➤ United Kingdom

According to Section 70 of the "Sexual Offences Act, 2003", engaging in sexual penetration with a deceased individual is considered a criminal offense. The legislation stipulates that anyone found guilty of this offense may face a maximum jail sentence of two years. However, according to the available documents, no prosecutions have been initiated for the specific offense thus far.<sup>20</sup>

<sup>19</sup> Anil Aggarwal, *A New Classification of Necrophilia*, 16 J. FORENSIC & LEGAL MED. 316, 316 (2008).

<sup>20</sup> legislation.gov.uk, Sexual Offences Act, 2003, <https://www.legislation.gov.uk/ukpga/2003/42/section/70> (last visited Aug 20, 2023).

➤ United States of America

In the United States, there is a lack of Federal legislation specifically addressing necrophilia, hence delegating the responsibility of regulation to individual states. As an illustration, the state of Florida in the United States classifies necrophilia as a second-degree felony, whereas Arizona categorizes it as a class 4 felony. In Hawaii, necrophilia is treated as a misdemeanour offense, and in Alaska, it is classified as a class A misdemeanour. Similarly, several states within the United States likewise possess their own regulations and measures in place to address the issue of necrophilia.<sup>21</sup>

➤ France

France is known for its unique traditions in the realm of necrophilia, which are considered to be highly unusual on a global scale. France has the belief that the practice of posthumous marriage, sometimes referred to as ghost marriage, predates the historical document known as the "Magna Carta." Posthumous marriage, also known as "necrogamy", refers to a unique marital arrangement when a living individual enters into matrimony with a deceased person. The legality of this activity is supported by the provisions outlined in Article 171 of their Civil Code.<sup>22</sup>

➤ New Zealand

The New Zealand legal framework does not explicitly stipulate penalties for the act of necrophilia. However, Section 150 of the New Zealand Crimes Act of 1961 states that an individual may face a maximum imprisonment sentence of two years for engaging in "Misconduct in respect of human remains."<sup>23</sup>

➤ India

In India, the absence of explicit legislation pertaining to necrophilia is notable. However, it is worth mentioning that Section 297 of the "Indian Penal Code, 1860" addresses the offense of 'Trespassing in burial places' and similar acts. This provision stipulates potential penalties such as imprisonment for a term of up to one year, imposition of a fine, or both. However, no specific legal provision exists that pertains to the act of verbally or emotionally mistreating deceased individuals. Is it appropriate to grant the deceased the right to dignity? This inquiry is not novel and deserves prompt consideration. Various nations possess distinct legal frameworks pertaining to the regulation of necrophilia; nonetheless, it is noteworthy that not all countries have enacted legislation specifically aimed at safeguarding the dignity of deceased individuals. As previously mentioned, France has enacted legislation to legalize this unconventional practice. In the year 2012, there circulated a story of proposed legislation in Egypt that purportedly granted men the right to engage in sexual intercourse with their wives during a six-hour timeframe following the wife's death. This issue sparked

<sup>21</sup> T. Ochoa T and Jones C, *Defiling the Dead: Necrophilia and the Law*, 18 Whittier L. Rev. 539, <https://digitalcommons.law.scu.edu/facpubs/89/> (last visited Aug 20, 2023).

<sup>22</sup> The National Archives, Magna Carta, 1215, February 5, 2015, <https://digitalcommons.law.scu.edu/facpubs/89/%3Chttps://www.nationalarchives.gov.uk/education/resources/magna-carta/british-library-magna-carta-1215-runnymede/%3E> (last visited Aug 20, 2023).

<sup>23</sup> Crimes Act 1961, Crimes Act 1961 No 43, 01 July 2020, Public Act – New Zealand Legislation <http://www.legislation.govt.nz/act/public/1961/0043/latest/whole.html>, (last visited Aug 20, 2023).

widespread discussion on a global scale. However, the assertions of implementation were ultimately proven to be entirely inaccurate. In the context of India, the determination of an individual's responsibility in cases involving necrophilia is governed by Section 297 of the Indian Penal Code, 1860. Prior to the year 2018, Section 377 of the Indian Penal Code, 1860 had provisions for penalizing individuals engaged in acts of unnatural intercourse. However, the current legal landscape no longer permits such punitive measures, hence eliminating the possibility of punishment under any other Indian legislation. India has implemented various legal measures to safeguard different communities from sexual abuse and related offences. These include the "Protection of Children against Sexual Offences Act, 2012", which focuses on the protection of children; the "Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013", which addresses sexual harassment in the workplace; the "Juvenile Justice (Care and Protection of Children) Act, 2015", which aims to protect the rights of juveniles; the "Human Rights Act, 1993", which encompasses broader human rights issues; Section 67 of the "Information Technology Act, 2000", which deals with offences related to the misuse of information technology; and various sections within the "Indian Penal Code, 1860," which provide for the punishment of rape and other sexual abuse offences. However, it is worth noting that none of the existing laws now encompass provisions for safeguarding the deceased or upholding their dignity.

#### IV. ANALYSIS OF INFAMOUS 'NITHARI' CASE

One of the most renowned cases in India involves Surendra Koli and Moninder Singh Pandher, who have gained significant notoriety as two prominent individuals engaged in necrophiliac activities. These individuals were involved in multiple instances of necrophilia with the corpses of young children and women residing in their local community. This particular case has gained significant notoriety and is commonly referred to as the Nithari case.<sup>24</sup> This particular episode stands out as an exceptional and highly uncommon occurrence in the annals of Indian history. The 'Nithari' case gained public attention in 2006 following the discovery of eight human skeletons in a drainage system located within a residential property in Noida. Two individuals were considered potential suspects in this particular case: (i) Moninder Singh Pandher, who was the owner of the property, and (ii) Surinder Koli, who served as the domestic assistant for Moninder Singh Pandher. Additional skeletal remains were discovered subsequent to the investigation, wherein the two individuals under suspicion underwent narco-analysis.

Following this procedure, the aforementioned individuals were subjected to a 14-day inquiry conducted by the "Central Bureau of Investigation" in 2007. Subsequently, the "Central Bureau of Investigation" exonerated accused (i) from any wrongdoing, whereas accused (ii) was implicated as a cannibal and was formally charged with the offences of Abduction, Rape, and Murder. Additional charge sheets were submitted against the accused (i). In the year 2009, the trial court issued a death sentence for both offenders. Subsequently, the Allahabad High Court upheld the death sentence for defendant (ii) and acquitted defendant (i). However, in 2010, the Supreme Court of India temporarily suspended the death sentence of both the accused. Subsequently, the second accused individual was issued multiple death sentences by the highest court.

<sup>24</sup> Surendra koli v. State of U.P., Criminal Appeal No(S). 2227 Of 2010.



Furthermore, in 2017, both accused individuals were once again convicted for their involvement in a series of rape and murder cases, resulting in the imposition of the death penalty. However, at present, both individuals who have been accused remain alive, and the legal proceedings are ongoing.

The severity of this particular case was such that it garnered widespread awareness, even among individuals without specialized knowledge of the phenomenon of necrophilia. According to Dr. Anil Aggarwal's classification, those accused can be categorized under class IV, V, VI, VIII, and IX necrophiliacs. The second accused (Surinder Koli) exhibited a condition of sexual assault, homicide, and subsequent consumption of the victims' remains. Several researchers have noted that individuals with necrophiliac tendencies exhibit characteristics associated with cannibalism. Cannibalism refers to consuming individuals of the same species as a source of sustenance. Similar to necrophilia, cannibalism in India does not have a specific legal provision. However, anyone involved in such acts can potentially be charged and convicted under the offence of Culpable Homicide as outlined in the Indian Penal Code (IPC).

The need to classify these offences as distinct crimes arises from the progress in technology and society, which has led to an escalation in the manifestation of human psychological repulsion. This repulsion can be attributed to various factors, including mental illness and other non-mental illness-related influences.

## **V. VIOLATING THE DEAD: IS IT TIME INDIA HAD A LAW DEALING WITH NECROPHILIA?**

India is currently witnessing an upward trend in the frequency of necrophilia, although it lacks comprehensive legislation to address and regulate such offences effectively. The challenge posed by several necrophilia infractions lies in the absence of specific legislation criminalizing such acts, which can complicate the enforcement of penalties. Savagery is an additional topic that warrants attention. There is a lack of scientific studies on sexual behaviour involving creatures within the country. According to the majority of sexologists, there is a notable prevalence of this phenomenon in rural areas and among those residing in close proximity to domesticated animals. Deceased individuals do not retain their individuality. The legitimate status of a deceased corpse often adds complexity to the comprehension of necrophilia, particularly when juxtaposed with the reverence many families attribute to the deceased individual, viewing them as a cherished loved one despite their lifeless state. In certain instances involving necrophilia, legal frameworks consider a deceased corpse as a form of "property" belonging to the nearest kin, a notion that many individuals find particularly distressing. Given the context, it might be argued that necrophilia transforms into a harmful occurrence rather than a sexual violation perpetrated against a human. The act of mistreating a corpse was considered a violation, and it was believed that imposing severe punishments for such acts may be deemed unjustifiable due to the relatively minor harm caused. The disregard shown for deceased individuals and the lasting communities they belonged to reflects a violation of respect for their bodies. The handling of deceased individuals should be approached consistent with the unconventional practices observed among the living.

On May 30, 2023, the Karnataka High Court delivered a decision in the case of Rangaraju v. State of Karnataka<sup>25</sup>, wherein it suggested that the Central Government should consider amending or introducing amendments in the "Indian Penal Code" (IPC) to classify sexual intercourse with

<sup>25</sup> Rangaraju V. State of Karnataka, Criminal Appeal No.1610/2017.

deceased individuals as a criminal offence. The court noted that there have been reported cases of individuals, specifically those entrusted with the responsibility of safeguarding deceased bodies in government and private hospital mortuaries, participating in sexual actions with the deceased. At present, India lacks dedicated legislation to address instances of criminal acts committed against deceased individuals effectively. The court proposed that the revised or additional rules should include the imposition of life imprisonment or imprisonment for a duration of up to ten years, in addition to the imposition of penalties. It might be argued that engaging in sexual intercourse with a deceased individual can be categorized as an act that deviates from the natural order, therefore falling under the purview of Section 377 of the Indian Penal Code. This particular section criminalizes consensual sexual intercourse that is deemed to be "against the order of nature" involving a male, female, or animal. Nonetheless, the lack of explicit mention of a "dead body" in the clause results in the absence of punishment. In order to mitigate instances of offences committed against deceased individuals, the court has issued a recommendation for implementing closed-circuit television (CCTV) surveillance systems within the mortuary facilities of both government-run and privately-owned hospitals. This directive stipulates that the installation of such cameras must be completed within a timeframe of six months. Furthermore, the court issued instructions to the state government to guarantee adequate standards of mortuary hygiene, uphold the confidentiality of clinical records, protect the privacy of premises, remove any physical or infrastructural obstacles, and provide training to staff members on the appropriate handling of deceased individuals and interactions with their attendants.

## VI. CONCLUSION AND SUGGESTIONS

Necrophilia does not constitute a newly developed trend or novel disorder; rather, it represents a genuine concern necessitating the establishment of appropriate protocols. When considering instances of necrophilia in wildlife and birds, it is not practical to administer punishment. However, in the case of human beings, it is imperative to address this matter with appropriate attention and caution. The field of medical science is progressing in a morally upright manner; yet the effective implementation of practices necessitates the establishment of appropriate legal frameworks. Numerous scholarly investigations have examined the etiology of necrophilia, yet contemporary society necessitates a more profound and earnest contemplation of future prospects.

Despite the fact that sections within the Indian Penal Code 1860 provide a broad scope for encompassing crimes committed against deceased individuals, there remains a persistent ambiguity due to the absence of legislation and clear precedents pertaining to this matter. It is indeed accurate that crimes committed against deceased individuals are fewer in quantity when compared to offences such as robbery, sexual assault, homicide, fraud, and white-collar crimes. However, exercising caution and vigilance from the outset would yield no adverse consequences. This phenomenon is not exclusive to India; other nations also face a deficiency in establishing appropriate legal mechanisms to address these matters. In the past, Section 377 of the Indian Penal Code (IPC) encompassed unnatural offenses, including engaging in sexual intercourse with deceased

individuals. However, the current legal framework solely relies on Section 297, which is deemed insufficient in adequately safeguarding the dignity of the deceased.

The author's study and research have led to the identification of some recommended modifications in Indian laws aimed at safeguarding the dignity of deceased individuals. They are as follows:

- The inclusion of an additional section, namely 297A, in the Indian Penal Code of 1860 aims to address the recuperation of individuals involved in sexual abuse, sexual penetration, or any other form of disturbance to deceased individuals. Additionally, this section addresses the punishment for pseudo necrophiliacs or opportunist necrophiliacs, prescribing a maximum imprisonment term of two years, with or without a fine;
- Separate facilities for treating these people within existing healthcare facilities;
- Creation of a council comprised of members who would periodically evaluate the prescribed regulations and protocols pertaining to individuals with necrophiliac tendencies. Additionally, the council would be responsible for organizing educational initiatives to disseminate information among the general public. These efforts would also serve to assist those who may be experiencing symptoms associated with necrophilia;
- Police staff members should receive comprehensive training to successfully handle individuals with necrophiliac tendencies, enabling them to detain and converse with such individuals efficiently;
- Paraphilic sexual disorders are commonly managed with a combination of therapeutic and pharmacological interventions, typically over a minimum duration of two years, even in cases where symptoms are very moderate. However, the author posits that initiating therapy at an early stage may prevent the condition from progressing to a chronic state;
- Intensive and persistent research is necessary in order to comprehend and address individuals with necrophiliac tendencies;

Significant advancements in medical science have resulted in the incorporation of 'Necrophilia' as a recognized illness in the DSM-V. However, it is essential to note that there has been no comparable progress or acknowledgement of this particular condition in India. The establishment and advancement of the field of Psychology and Psychiatry are imperative in India since it is essential for effectively identifying and penalizing criminal offences like necrophilia that can be better understood via comprehensive research in these disciplines. The rehabilitation process should be prioritized, necessitating thorough investigation and scholarly inquiry. In order to differentiate between individuals who have committed a crime and those who are mentally ill, it is imperative to implement robust and efficient measures.