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NECROPHILIA: STUDYING IT AS RAPE OR CRIMINALIZING IT

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ABSTRACT

The whole human civilization has experienced and seen some very gruesome and ghastly offences and the thing which makes them such horrific and crime against the society is the fact that those offences are against the human body or to be specific a living person. Body, the medium whose state being in motion determines whether someone should be considered alive or dead, whether is able to claim certain rights or not, or in simpler terms, whether to consider as a person or not. Necrophilia, which also should have been considered crime against society, has been a complex subject for judiciary, complexity in determining the proportion, it being a voluntary grievous offence or mental illness both. Necrophilia, a practise which is against the dead but effects both the living and non-living, a practise which has taken such complex form that even if medically it is a mental illness, different researches in their case studies adduced evidences of voluntariness of the practitioner in it, a practise in which the victim being dead rather more appropriately a dead body evidently having neither sensory feelings nor consent, makes it difficult to deliver justice to the dead persons. This paper is an attempt towards clearing the ambiguities regarding necrophilia, pointing out the psychological differences and similarities of a rapist and a necrophiliac, and shedding light on how the law and judiciary all over world has been interpreting it and whether considering it as a crime, or not, and if yes, then to what extent and how mental illness plays its role in it, along with importance of recognizing it separately on moral and legal grounds, so that, justice could prevail in its true sense.

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INTRODUCTION

Rape a word which holds it origin in '*rapiō or rapere*', a medieval Latin term which used to define violent seizure of a women with the mindset of sexually assaulting her,[1] or just violating someone sexually in the classical Latin though rarely. It was from 15th century only when the word had started meaning somewhat like we know it today and came into usage of public in medieval English.[2] But it is a shame on our human society that this type of word had to come into existence and we as humans have failed miserably in putting it into extinction, both from paper as well as our real world. In today's world the Indian criminal law defines 'rape' as a non-consensual violent act of sexual intercourse by a man on a woman against the free will and consensus of the woman under a number of circumstances as described in Section 375 of the Indian Penal Code, 1860. Though a number of changes have been made in the Indian Penal Code from time to time through the amendment acts but the major change which came in the definition of rape came in the amendment of 2013, which enhanced and broadened the concept of rape to new horizons and the assailants who were getting away using the flaws in the law now landed within the grasp of the justice system. Earlier the definition only acknowledged the circumstances for rape but now it contains even the acts which will lead to the grievous offence of rape, like forceful insertion of any object in the vagina, urethra or anus of a woman will also result in rape,[3] is a rightful example of how law has again proved its dynamic nature going alongside the civility needs of the society and did not limit itself to penetration of penis only to establish rape and took into consideration under the other ways of constituting the act as well, as a result Section 375(a),(b),(c),&(d) add up all the acts amounting to rape, given the circumstances, as stated in The Criminal Law (Amendment) Act, 2013.[4] But despite of all these changes law has been seen somewhere struggling to keep track with the everchanging unprecedented society to much greater extend.

Death is the term used to mean the death of a human being,[5] but the most astounding fact is that non-consensual sexual intercourse is something which is even practiced on bodies of dead human beings. A Greek origin word combining two words *Nekros* i.e., corpse and *Philia* i.e., love or affection, so the end meaning be the affection towards dead bodies for sexual delight.

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[1] 'Rape' (Merriam-Webster.com Dictionary) <https://www.merriam-webster.com/dictionary/rape> accessed 2 April 2024
[2] 'Rape' (Etymonline) <https://www.etymonline.com/word/rape> accessed 2 April 2024
[3] Indian Penal Code 1860, section 375(b)
[4] The Criminal Law (Amendment) Act 2013, section 9
[5] Indian Penal Code 1860, section 46

But this affection towards dead bodies is only gruesome enough, and sexual intercourse with dead bodies just crosses the boundaries of the dictates of conscience of a civilized society and uplifts horrendous examples for whole human civilization. It is known by many other different yet similar names which vary according to their types and likings of the necrophiliacs, like, *necropedophilia* (sexual attraction towards dead bodies of children), *necrozoophilia* (sexual attraction towards animal cadaver), *necrophagia* (devouring dead bodies), and some others.[6] It comes under a type of paraphilia which could be explained like when a human being enjoys or pleasures himself by musing or practicing unusual sexual activity, unusual as because it might involve any articles, kids and even corpses of animals or humans.[7] The type of behaviour that can be seen in a necrophiliac may stretch from just feeling the dead body, to masturbation in front of it, to actually having sexual intercourse with it.[8] According to research by Jonathan P. Rosman and Philip J. Resnick, necrophilic homicide (killing a person to acquire a dead body to satisfy sexual desires) and *regular necrophilia* (sexual desires satisfied with body of already dead person) are two dangerous groups, out of three different sub-categories under *genuine necrophilia* along with *necrophilic fantasy* (only fantasizing sexual activity with dead body).[9] Though it exists from the ancient times many a country does not identifies it as an offence, one of them is India as well. It is submitted to be as an act, opposite of nature's law but it does not have that recognition as a particular offence, nor it has been fully submerged under the definition of rape in India due to some flaws in the provision itself. Both men and transgenders are here persons, as the word person includes any company or Association or body of persons, whether incorporated or not,[10] and if we dive into the jurisprudence of the term person then as stated by Salmond, person refers to any being whom the law regards as capable of rights and bound by legal duties.[11] So here the question comes out that does that a person who throughout his life obliged to all the legal duties he was bounded by doesn't have a simple right to rest in peace, let his body be totally being handed over to mother nature after death, or his body would

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[6] Anil Aggrawal, *Necrophilia: Forensic and Medico-legal Aspects* (CRC Press 2011)

[7] Upasana Borah, 'A Conceptual Study to Necrophilia – A Review' (2020) 11 J Forensic Res <https://www.bing.com/ck/a?!&&p=23fc3c388f533e10JmltdHM9MTY5MzM1MzYwMCZpZ3VpZD0wY2NhOTM0ZC0zYTg0LTZmZTMtMTc3ZC04MjkwM2IxZjZlYzAmaW5zaWQ9NTE5OA&ptn=3&hsh=3&fclid=0cca934d-3a84-6fe3-177d-82903b1f6ec0&psq=a-conceptual-study-to-necrophilia-a-review&u=a1aHR0cHM6Ly93d3cuaGlsYXJpc3B1Ymxpc2hlci5jb20vb3Blbi1hY2Nlc3MvYS1jb25jZXB0dWFsLXN0dWR5LXRvLW5lY3JvcGhpbGlhLWEtcmV2aWV3LnBkZg&ntb=1> accessed 4 April 2024

[8] Pradeep Kumar, Sushma Rathee and Rajiv Gupta, 'Necrophilia: An Understanding' (2019) 7(2) The International Journal of Indian Psychology <https://ijip.in/articles/necrophilia-an-understanding/> accessed 4 April 2024

[9] J P Rosman and Philip J Resnick, 'Sexual attraction to corpses: A psychiatric review of necrophilia' (1989) 17 The Bulletin of the American Academy of Psychiatry and the Law 153

[10] Indian Penal Code 1860, Section 11

[11] Bryant Smith, 'LEGAL PERSONALITY' (1928) 37 YALE LAW JOURNAL 283

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be someone's doll which would be disrespected by the execrating, non-humanly, sickening acts of some other person.

IMPACT OF PSYCHOLOGY

Understanding the law is not simply enough, one has to go through the principles on which it is based, the objectives it wants to achieve, the pillars of that law upon which it stands, just like that while adjudication of any criminal offence constituted by an accused, it is important to dive deep into the psychology of the accused, the mental capacity, the ability to think and deduce what his act would amount to and what would be the consequences, and the state of mind as well. All these things come into question because when we discuss about adjudication of criminal matter or a trial of a criminal, the concept of mens rea and actus rea is important to be considered to deliver true justice and as per justice demands, appropriate punishment of the guilty. Study of the mind of an offender is as much required as knowing the essentials of a particular offence. These kind of studies helps in further amendments of the statutes as they would be needed for the betterment of the provisions and removing the flaws.

DIFFERENCE IN PSYCHOLOGY OF A RAPIST AND A NECROPHILIAC

It has been observed through various case studies of rape, in major cases, presentation of aggression towards the victim has been the sole motive rather than having the pleasure of sexual intercourse. Rape is not simply a non-consensual forcible sexual intercourse for pleasure, majorly it is a non-consensual forcible sexual intercourse for satisfaction of a person's ego, the main motive being destroying the chastity of a woman or disrespecting her soul by demonstration of out-of-control aggression towards the victim in the form of forcefully degrading a woman's body.[12] It has been found that rapists derive contentment not from any sexual activity but rather from the frightful damage they incur on the victim's mind and body,

[12] Stuart P. Green, *Criminalizing Sex: A Unified Liberal Theory* (OUP 2020)

that is the reason it could be seen in many cases that the victim had to suffer injuries on her different body parts along with injuries to private parts. Planning is also a very important aspect when one wants looks into the psychology of a rapist, as rape is not a petty offence, it is a crime against the society and grievous offences like rape need the support of planning in advance to commit the offence successfully. Although, in some cases rape has been proved to be instantaneous, but generally it is well planned, and a good execution of such an offence with full success probability needs a bit of planning, which could not be done by a person having some mental problem or who is struggling with his own mind on account of mental health being low or disturbed.[13]

Looking over to the side of necrophiliac, one can observe that necrophiliacs on a major part are driven by sexual drives towards the dead. They get attracted by the fact of having a sexual relation with a dead body, here it contains a major role of pleasure, about which they are mainly fascinated about. As majorly rape is driven by aggression of the rapist, necrophiliacs are not driven by aggression in most of the cases, in necrophiliacs there are more than one inducement, most commonly found is the need to possess a passive and welcoming partner who would not reject the necrophiliac in his acts, whereas countering solitariness, reconciliation with a partner romantically or sexually after their demise, and sexual activity without any limit, where they would be able to have full sexual pleasure, are some of the other usual forces behind it.[14] Psychology of a necrophiliac on which his acts depend are dependent are on the class which they belong to, as there is certain classification of necrophiliacs have been identified to determine their malefactor behaviour from inoffensive to threatening. *Class one (role players)* need their partners to act as dead while sexual intercourse to get an erection and carry out the intercourse smoothly, *class two (romantic necrophiles)* who preserve their close ones body and enjoy their body's presence with them taking as them to be alive, *class three (necrophilic fantasizers)* are those who indulge in fantasies of getting sexually involved with a dead body and might be a regular visitor of funeral homes, cemeteries or mortuaries to get an erection being in the presence of dead body. *Class four (tactile necrophiles)* need to have some direct contact with the dead body of a person especially with pudendum or private parts of dead. These kinds of contacts help them in having orgasms. They tend to look for the jobs of mortuary assistants. *Class five (fetishistic necrophiles)* need a constant aphrodisiac arousal and for that they tend to cut out a body part of a dead and preserve it with themselves, does not matter

[13] Dr. N.V. Paranjape, *Criminology & Penology with Victimology* (17th edn, Central Law Publication, 2018)
[14] J P Rosman and Philip J Resnick, 'Sexual attraction to corpses: A psychiatric review of necrophilia' (1989) 17 The Bulletin of the American Academy of Psychiatry and the Law 153

known or unknown person's dead body. Genitals, fingers, hairs in pubic areas or objects used in the private parts are preferred most by persons fitting under this class. *Class six (necromutilomaniacs)* prefer to mutilate the dead body in front of them to achieve pleasure. *Class seven (opportunistic necrophiles)* are those who, if given would grab the opportunity of getting into a sexual intercourse with a dead body despite having a partner with whom a sexual relation already exists. *Class eight (regular necrophiles)* are those whose sexual life satisfaction with alive people is nil, and who gets satisfaction in sexual intercourse only with the corpses. They are accustomed to practice of indulging in sexual intercourse with the corpses.[15] Graveyards and mortuaries are their places to purloin or displace dead bodies from.[16] These are some of the classes of necrophiles who do not get into actual carnal intercourse with the bodies except class eight, yet they are also called necrophiliacs as because they have this way of thinking which tells them to obtain their sexual pleasure from imagining, preserving, making fantasies, touching, fulfilling fetishes, mutilating, and sexually engaging upon opportunity with the dead bodies. But classes one, two, three and four are not punishable but they are needed of some medical health as these necrophiliacs are only thinking that way, they are not executing any act in this material world where any of their thinking is taking the form of an act, committing the offence, yet there are other classes of necrophiliacs as well who puts this thought process into execution in reality, where punishment becomes necessary. So, it can be said that necrophilia contains layers of acts and ideology which depends upon the person, whether one executes the acts or not. Rape does not have this kind of classification in it as rape is a way through which rapists show their power or aggression upon a person and on a secondary basis satisfy their sexual thirst. Rape has different components in it and all components of it are bound to be present.

SIMILARITIES IN THE PSYCHOLOGY OF A RAPIST AND A NECROPHILIAC

Consent is one of the major aspects in both rape and necrophilia. Both of them lack consent from the victim. The definition of rape understood in general terms worldwide includes the term non-consensual or against the will of the victim, that means, the consent of the victim

[15] Anil Aggrawal, 'A New Classification of Necrophilia' (2009) 16(6) Journal of Forensic and Legal Medicine < https://www.sciencedirect.com/science/article/abs/pii/S1752928X08002564> accessed 6 April 2024
[16] Anil Aggrawal, *Necrophilia: Forensic and Medico-legal Aspects* (CRC Press 2011)

upon whom rape has been committed was non-existent, or that person's consent was absent to that act. It can be said that lack of consent is the main pillar of constituting a rape, an effective argument on consent can change the whole picture in trial of a rapist, either in favour or against. So, it becomes a major problem for courts to decide in a rape trial that whether the victim or the woman has consented for any sexual intercourse with the accused or not. Absence of consent is also present in necrophilia as well. One is not justified to say question of consent does not arise in the case of a person engaging into a sexual intercourse with a dead body as the person is already dead and it is not possible to take any consent from a corpse and the wilful action of the offender does not amount to an offence because of this reason only. It is impossible to say that any reasonable person would agree to give consent for the act of necrophilia with his dead body after that person's demise.[17] All this has been stated to show the fact that a person who is committing the crime of rape or necrophilia, does not care for even pinch of consent from their victim or victim dead body. They only want to achieve what they have come for. There is no respect towards their victim or victim dead body or any type regret or repentance. For a rapist or necrophiliac, doing that particular act becomes the most important task for them disregarding everything.[18] The similarities in the psychology of a rapist and necrophiliac can be better understood by the study of rest of the class divisions made for classifying different necrophiliacs from least dangerous to most dangerous. *Class nine (homicidal necrophiliacs)* are those who care for none, they only want to have sexual intercourse with a carcass and for that they carry this urge to the extreme level by killing a person for getting a dead body.[19] This want to have sexual intercourse can also be reiterated as a way to impose their power and dominance over the dead body, as a dead body there's no way it can refuse or struggle against the offender. Power, anger and sexuality are the three components of rape, throughout all the cases and their interrelationship and hierarchy only varies case to case. But mostly in most cases rape has been considered as means of imposing power or dominance over the victim by the means of sexual acts.[20]

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[17] Priyanshi Vashishtha and Kartikey Pandey, 'NECROPHILIA AND DIFFERENT PERSPECTIVES OF THE OFFENCE' [2022] 2(4) JCLJ < https://www.juscorpus.com/wp-content/uploads/2022/07/75.-Priyanshi-Vashishtha-Kartikey-Pandey.pdf > accessed 6 April 2024

[18] Jay Gajbhiye, 'Questioning the Unpredictability; A Legal Insight into Necrophilia' (*Legal Service India*) < https://www.legalserviceindia.com/legal/article-4980-questioning-the-unpredictability-a-legal-insight-into-necrophilia.html> accessed 7 April 2024

[19] Priyanshi Vashishtha and Kartikey Pandey, 'NECROPHILIA AND DIFFERENT PERSPECTIVES OF THE OFFENCE' [2022] 2(4) JCLJ < https://www.juscorpus.com/wp-content/uploads/2022/07/75.-Priyanshi-Vashishtha-Kartikey-Pandey.pdf > accessed 7 April 2024

[20] A. Nicholas Groth, Ann Wolbert Burgess and Lynda Lytle Holmstrom, 'Rape: Power, Anger, and Sexuality' (1977) 134 American Journal of Psychiatry 1239

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MENTAL ILLNESS AND MENS REA

Firstly, this thinking should be sidelined that necrophilia is a mental illness and it can be escaped with the plea of unsoundness of mind under section 84 of the Indian Penal Code.[21] Unsoundness of mind has mostly been inferred to insanity due to lack of proper definition in Indian Penal Code, but it should be kept in mind that Indian judiciary only considers legal insanity not the medical insanity.[22] Under legal insanity, unsoundness of mind is explained as a situation when the culprit is unable to identify the nature of his acts and cannot contemplate that his act is opposed by law and he may get punished for it. It has been stated by the supreme court of India in a case that exemption or plea of mental illness would not be granted to everyone with a mental illness.[23] The Supreme court of India through its various judgements had made it very clear that even with a history of mental illness or disorder, his subsequent acts after the commission of the crime would be observed and if that proves to be acts of a person with reasonable intellect sufficient to figure out his act's nature then that person would not be allowed to plea mental illness.[24] Consciousness of the mind at the time of commission of a crime is a question which is put forward to courts along with questions of what would have been the motive behind the crime, mental illness history and subsequent events or acts to the offence by the offender, in plea under section 84.[25] Now, necrophilia is itself in a complicated and in a broad spectrum of paraphilia as the *American DSM-5 (Diagnostic and Statistical Manuel of Mental Disorders, Fifth Edition)* could not consider it as an authentic and tried mental illness. The reasons it was put into paraphilias because paraphilias contained the tag of unusual sexual practice or attraction which were way different from normal sexual practices and because necrophilia contained dead bodies who cannot give consent.[26] Necrophilia has also

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[21] Indian Penal Code 1860, Section 84

[22] M. GOVINDARAJAN, 'LEGAL INSANITY v. MEDICAL INSANITY' (*Tax Management India*, 12 August 2022) < https://www.taxmanagementindia.com/visitor/detail_article.asp?ArticleID=10600> accessed 7 April 2024

[23] S. B. Math, C. N. Kumar and S. Moirangthem, 'Insanity Defense: Past, Present, and Future' (2015) *37*(4) Indian Journal of Psychological Medicine <https://journals.sagepub.com/doi/epdf/10.4103/0253-7176.168559> accessed 7 April 2024

[24] Jai Lal v. Delhi Administration (1969) 1 SCR 140

[25] Dahyabhai Chhaganbhai Thakker v. State of Gujarat (1964)7 SCR 361

[26] Pradeep Kumar, Sushma Rathee and Rajiv Gupta, 'Necrophilia: An Understanding' (2019) 7(2) The International Journal of Indian Psychology <https://ijip.in/articles/necrophilia-an-understanding/> accessed 8 April 2024

been identified as a regular behavioural problem.[27] All these observations and conclusions raises a doubt, whether to even consider necrophilia a true mental disorder.

Voluntarily under section 39[28] of the Indian Penal Code, 1860 states the situation, that on which grounds something can be said to be done voluntarily, it explains that intent to cause that effect which has been caused and the knowledge of the result of the means which one has employed to cause that effect has or had reason to believe that such would be the effect of those means execution. Act is defined under section 33[29] of the Indian Penal Code, 1860. Together voluntary act refers to any act which has been done with the intend and full knowledge of the outcome of that act and the effect following of that outcome. Voluntary act also means that the person doing it, knows about the nature of his act. Defence councils in criminal cases, mostly murder cases, who take the plea of insanity often state that the culprit was not in the state of identifying the nature of the act and therefore the offence committed is not a voluntary act of the accused.[30] There are quite a number of instances of necrophilia are present to illustrate the presence of element of voluntary act on the part of offenders. A railway employee in Assam, murdered his girlfriend and raped the dead body of his girlfriend along with his two friends, on being denied by the girl for having a sexual relation with him; a transparent showcase by accused of his intention of sexually satisfying himself, even if it is with the dead body of his girlfriend.[31] A serial killer named Kamruzzaman Sarkar was arrested in 2019 in West Bengal for murdering number of women and raping the corpses of his victims.[32] A person with a good strategy and planning about how to and when to enter a house, then selection of victims to rape after murdering them requires a person of reasonable intellect and clear intention of committing the said crime, voluntary act on the part of accused can be inferred from the number of repetitions of the same offence by the accused. In Gurugram a labourer named Sunil was arrested for committing multiple kidnapping and murders, on interrogation by the police, the accused

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[27] Anand Kumar Vasudevan, Prashanthi Krishna Dharma and L. Eccleston, 'Necrophilia: A Study of the Psychoanalysis in the Characteristics of the Offenders Who Sexually Molest the Dead' (2019) 19(2) Medico-legal Update <https://ijop.net/index.php/mlu/article/download/734/688/1339> accessed 8 April 2024

[28] Indian Penal Code 1860, section 39

[29] Indian Penal Code 1860, section 33

[30] Khushi Agrawal, 'Insanity as a defence under the Indian Penal Code' (*Ipleaders*, 28 May 2019) < https://blog.ipleaders.in/insanity-defence-indian-penal-code/> accessed 8 April 2024

[31] PTI, '3 Arrested for Killing Girl, Engaging in Sexual Acts with Body in Assam' *NDTV* (Assam, 29 September 2023) <https://www.ndtv.com/india-news/3-arrested-for-killing-girl-engaging-in-sexual-acts-with-body-in-assam-4433645 > accessed on 9 April 2024

[32] Joydeep Thakur, 'Bengal's serial killer - Chain man - sentenced to death in rape and murder case' *Hindustan Times* (West Bengal, 6 July 2020) <https://www.hindustantimes.com/india-news/bengal-s-serial-killer-chain-man-sentenced-to-death-in-rape-and-murder-case/story-BCm7uY7ILh6SEXfpXNEozO.html#:~:text=%E2%80%9CThe%20accused%20Kamruzzaman%20Sarkar%20was,police%20of%20East%20Burdwan%20district. > accessed 9 April 2024

admitted of raping number of corpses of his victims just for self-satisfaction of making the most out his victims. Later he used to dispose of his victims' bodies in different locations.[33] Now, in the horrifying case of David Fuller, who killed two women in the year 1987, and for 15 years raped more than hundreds of dead women bodies in mortuaries of two different hospitals, was found to be guilty by the UK court in the year 2021 and sentenced for life imprisonment. In the first instance, in 2020 he was only convicted of murder of two women which took place in the year 1987, but on investigation more than 8 lakh pictures and more than 500 videos of him sexually violating the dead corpses in mortuaries were found.[34] If observed carefully, the case of David Fuller, or Kamruzzaman Sarkar, or Sunil, this cannot be ignored that the accused repeatedly committed rape with the dead bodies and all of them were successful in hiding from the authorities for quite a time, David Fuller being able to hide extraordinarily for 15 years. A person who does not knows about or cannot figure out the outcome of his act and without any intend of committing the same crime, cannot commit the same crime repeatedly and figure out the ways to hide from the authorities. It has to be understood that a person doing a same act again and again on a regular basis knowing and understanding the result of that act with a particular intention in mind cannot be a mentally unstable person, or his act cannot be termed as a non-voluntary act. So, an accused who repeats the same act again and again, tends to understands the intentions behind his acts and outcomes of those acts, thus a voluntary act on the part of accused. Another instance in Mumbai, where a shop owner killed and raped the woman's dead body later disposed it off by putting it inside a pickup van after wrapping it with thick plastic,[35] so that no one could figure out or spot the body easily is an intelligible example of how the accused was aware of his intention and crystal clear about the outcome and its consequences. Another *case of Paul Snider* is also very famous where the accused Paul Snider killed his wife and performed necrophilic acts, when he got know that his wife is having an affair with another person and she's going to divorce him. It was presumed that Paul had anal sex with the dead body of his wife by the help of a self-made framework designed for easy anal sex with a body, because evidences of necrophilic acts on

[33] Sumedha Sharma, 'Gurugram rape accused admits to necrophilia' *The Tribune* (Haryana, 22 November 2018) <https://www.tribuneindia.com/news/archive/haryana/gurugram-rape-accused-admits-to-necrophilia-687352> accessed 9 April 2024

[34] Kevin Rawlinson, 'NHS failings enabled necrophiliac murderer to offend for 15 years, inquiry finds' *The Guardian* (London, 28 November 2023) <https://www.theguardian.com/uk-news/2023/nov/28/david-fuller-hospital-failings-necrophiliac-murderer-offend-inquiry> accessed on 9 April 2024

[35] 'Mumbai shopkeeper murders woman customer, has sex with corpse' *Times Now* (Mumbai, 3 July 2020) <https://www.timesnownews.com/mirror-now/crime/article/mumbai-shopkeeper-murders-woman-customer-has-sex-with-corpse/615958> accessed on 10 April 2024

wife's body were found. There are more of such cases being recorded in all over world, all of them giving traces of how these acts are voluntary in nature and with knowledge of the act.[36]

LEGAL PERSPECTIVE IN INDIA

Necrophilia has a notorious history spanning three decades, during which incidents have been brought to public attention. Although this belief was common in the fifteenth or sixteenth century, today due to increased public awareness and the increasing power of the mass media, people now see the practice as a serious violation of human rights. However, when it comes to necrophiliac activities associated with the beginning of the fifteenth century, this type of work is only associated with the romantic nature of Necrophilia.[37]

There are many countries that do not have specific laws against necrophilia and India is one such country. In fact, a curious necrophiliac tradition once prevailed in India. If a married woman dies before marriage, her husband must address her before being cremated. Relatives who were slandered by the morgue staff at night, but no one was proven. Even if these allegations are proven, India has no law to punish such criminals.[38]

Historians of the time believed that humans were so closely related to spirits that they could not accept that death could end their relationship. Thus, when a loved one dies, his body is preserved to do what he did before death with his partner. This study does not show any activity related to the emergence of sexuality. According to them, sexuality is not a successful way to describe love.

Necrophilia is now a crime in India, hidden in-between other offences but it is not recognized enough separately to gather a place of its own in a form of a distinguished provision of law. Therefore, the case of necrophilia is now subject to other rules framed for various crimes in the

[36] Anil Aggrawal, 'Necrophilia', *Encyclopedia of Forensic and Legal Medicine* (Second edn, 2016) <https://www.sciencedirect.com/science/article/pii/B9780128000342003001> accessed 10 April 2024

[37] Tyler T. Ochoa and Chritine Jones, 'Defiling the Dead: Necrophilia and the Law' (1997) 18 Whittier Law Review <https://digitalcommons.law.scu.edu/facpubs/89> accessed 11 April 2024

[38] Neelakshi Bhaskar, 'Necrophilia Legal Perspective' (2020) 2(2) IJLSI < https://www.ijlsi.com/wp-content/uploads/Necrophilia-Legal-Perspective.pdf> accessed 11 April 2024

Indian judicial system. First, Necrophilia falls under two statutory provisions of the Indian Penal Code. This rule includes section 297[39] and section 377.[40]

Section 377 deals with unreasonable offences. The section provides imprisonment for life or up to ten years for anyone who engages in voluntary intercourse against the order of nature with any man, woman or animal.[41] Having a relationship with a dead body is unnatural and therefore falls under the category of unnatural offences, but one of the main clauses of this section is 'voluntary', which means that consent cannot be obtained from the dead body and if there is no consent, intercourse will not be voluntary, so the section will be waived. The second element of sexual relations with men, women or animals; but dead bodies are called "corpses" because they are not "persons".[42] The legal status of the corpse facilitates necrophilia when we consider that it is often associated with the sanctity of the family protecting the body, the person may die, but they are still loved. Legally, the corpse becomes a kind of "property" for relatives, making necrophilia a form of vandalism rather than sexual assault on the person. In some cases, rape and murder laws are also used to define this unusual crime. However, on the contrary, none of these rules can properly execute people who commit crimes and acts of necrophilia.

The Supreme Court held that in *Childline India Foundation v. Allan John Waters,*[43] unnatural sexual relations and such conduct is against the law of criminalization under Section 377. The order against nature should be very rare and cannot lead to proliferation. Although necrophilia seems to be against the natural order, the term "propensity" makes it difficult to place it in this category.[44]

The only law dealing with dead bodies in India is Section 297 of the Indian Penal Code, which deals with desecration of graves. A person punished under this section must enter a cemetery with the intention of harming the dead, which behaviour may include sexual intercourse with them, which is necrophilia. Thus, the prerequisite for being punished for necrophilia under this section is that the person must have had sexual intercourse with the corpse after going through

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[39] Indian Penal Code,1860 section 297
[40] Jay Gajbhiye, 'Questioning the Unpredictability; A Legal Insight into Necrophilia' (*Legal Service India*) < https://www.legalserviceindia.com/legal/article-4980-questioning-the-unpredictability-a-legal-insight-into-necrophilia.html> accessed 11 April 2024
[41] Indian Penal Code,1860 section 377
[42] Jay Gajbhiye, 'Questioning the Unpredictability; A Legal Insight into Necrophilia' (*Legal Service India*) < https://www.legalserviceindia.com/legal/article-4980-questioning-the-unpredictability-a-legal-insight-into-necrophilia.html> accessed 11 April 2024
[43] Childline India Foundation v. Allan John Waters (2011)6 SCC 261
[44] Anubhav Yadav, 'Defiling the Dead: Laws on Necrophilia' (2023) SSRN <https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4411070> accessed 12 April 2024

the grave, digging the grave, or otherwise. For example, the mortuary guard technically cannot be punished for assaulting a corpse if the mortuary guard has sex with the corpse, because he did not enter the tomb and there is no law to punish one; offering wrath to our corpse (having it) without going inside or outside the grave according to our criminal law. Furthermore, even if it is proven that such an incident happened, or it is proven that the person has disposed of the dead body after entering the grave, the person who did so must be sentenced to prison for no more than one year, or both.[45]

India's legal system lacks basic legal protections and has vague laws, leading to large gaps for crimes such as necrophilia. Because of the potential for such defects, limited trials by law force defendants to be acquitted. In the past decade, there has been a reported increase in necrophilia in India, not only in morgues, but also in cases where people dig up buried corpses and even kill others to rape the dead.[46]

In 2018, a twenty-year-old worker from Gurugram admitted to raping the bodies of many of his dead victims to satisfy his sexual desires and increase his capture.[47] In another case in Bangalore, two men robbed a house and raped the woman after strangling her to death as they had a dispute over salary with the woman's husband.[48]

In 2019, another of such incident happened in the Burdwan district of West Bengal where a person knocked on the door and came inside the house only to strangle the woman living and smashed her on the face after hitting her head with the floor. Believing her to be dead, he started undressing but the woman got up and raised alarm which resulted in the fleeing of that person. Later on, the person was arrested and was found out in the investigation that he had murdered

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[45] Pradeep Kumar, Sushma Rathee and Rajiv Gupta, 'Necrophilia: An Understanding' (2019) 7(2) The International Journal of Indian Psychology <https://ijip.in/articles/necrophilia-an-understanding/> accessed 12 April 2024

[46] Saba Khan, 'Deep Dive into Necrophilia and Indian Laws' (*Ipleaders*, February 10, 2022) <https://blog.ipleaders.in/deep-dive-into-necrophilia-and-indian-laws/> accessed 12 April 2024

[47] Sumedha Sharma, 'Gurugram rape accused admits to necrophilia' *The Tribune* (Haryana, 22 November 2018) <https://www.tribuneindia.com/news/archive/haryana/gurugram-rape-accused-admits-to-necrophilia-687352> accessed 12 April 2024

[48] 'Two men murder woman in Bengaluru and have sex with her body' *The New Indian Express* (Bengaluru, 2 September 2016) <https://www.newindianexpress.com/cities/bengaluru/2016/sep/02/Two-from-UP-held-for-murder-necrophilia-1515358.html> accessed 12 April 2024

at least seven women and had sex with their bodies. He was convicted of murder, attempt to murder, rape under sec 302[49], 307[50] and 376[51] of IPC.[52]

In May 2020, Assam police arrested a fifty-year-old man for allegedly having sex with the dead body of a fourteen-year-old girl.[53] In 2015, an undertaker from Ghana, Skarkur Lucas, admitted on a live news channel that he repeatedly had sex with a dead girl in the morgue because his girlfriend was not there. In most of these cases, criminals are charged with murder, rape, sexual assault, and cannibalism, depending on the situation, but not with necrophilia because the law is so broad. Due to the vagueness of the law, the state cannot prepare appropriate charges and this serious crime goes unpunished.

Another case happened in Mumbai, where the trial court sentenced the accused to life. According to the Times of India newspaper, the accused took the victim's girl home and beat her leading to her death and then sexually abused the dead body However, he was convicted for raping and murdering the girl and not for post-death sex, as necrophilia is not a crime in India and no case could be registered against him for such an act.[54]

In the very recent case of *Rangaraju Vajapeyi vs State of Karnataka,* the Karnataka High Court in the appeal upheld the charges of murder but absolved the accused of the charges of rape saying that what the man committed was necrophilia which was not considered an offense according to the different statutes in India. It cannot be considered rape as rape involved non-consensual sex with humans and corpse cannot be called human and thus it cannot have immediate fear of bodily damage. It would neither come under the ambit of sec 375 nor 377 IPC.[55]

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[49] Indian Penal Code,1860 section 302
[50] Indian Penal Code,1860 section 307
[51] Indian Penal Code,1860 section 376
[52] Santanu Chowdhury, 'I shudder every time I hear a knock on the door' *The Indian Express* (West Bengal ,16 June 2019) <https://indianexpress.com/article/india/west-bengal-rapes-murder-necrophilia-brutal-murshidabad-kamruzzaman-sarkar-5782644/> accessed 12 April 2024
[53] 'Assam man arrested for necrophilia' *The New Indian Express* (Assam 3 July 2023) <https://www.newindianexpress.com/nation/2023/jul/03/assam-man-arrested-for-raping-murdering-throwing-16-year-old-girls-body-into-river-2590988.html> accessed 12 April 2024
[54] 'Man charged of Necrophilia arrested' *The Times of India* (Mumbai, 16 January 2010) < https://timesofindia.indiatimes.com/city/mumbai/man-charged-of-necrophilia-arrested/articleshow/5453462.cms> accessed 12 April 2024
[55] Rangaraju Vajapeyi vs State of Karnataka (2017) Cr App 1610

In August 2022, a twenty-three-year-old man in Assam's Udalguri district attacked a woman bathing in a stream, beat her, and raped her.[56]

In June 2020, during the Covid period, a thirty-two-year-old female was murdered by the shopkeeper who slit her neck. After killing her, the thirty-year-old sexually assaulted the dead body.[57]

In October 2015, three men exhumed the body of a twenty-six-year-old woman from a grave in Ghaziabad district and allegedly raped her.[58]

LEGAL PERSPECTIVE IN FOREIGN COUNTRIES

When it comes to the laws of other nations, let's start with the United States, because we are subjected to common law. There is no federal law on necrophilia in the United States; It is left to the individual states to legislate in respect Approximately forty of the fifty states in the United States have some form of statute that describes crimes involving dead bodies.[59]

Thirty-six states have several statutes pertaining to necrophilia that include punishments for it, whereas four states—Arizona, Georgia, Hawaii, and Rhode Island—use the term necrophilia in their own laws, twenty years (in Massachusetts), fifteen years (in Georgia), and one year (in other states).[60]

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[56] Kangkan Kalita, 'Assam: Man murders woman, has sex with corpse' *The Times of India* (Assam, 10th September 2022) <https://timesofindia.indiatimes.com/city/guwahati/assam-man-murders-woman-has-sex-with-corpse/articleshow/94120999.cms> accessed 13 April 2024

[57] 'Palghar stunned by necrophilia, a man raped a woman's corpse' *The Tribune* (Palghar, 4 July 2020) < https://www.tribuneindia.com/news/nation/palghar-stunned-by-necrophilia-a-man-raped-womans-corpse-108480> accessed 13 April 2024

[58] Ramesh Sharma, 'Having sex with dead body not an offence in India: Why a high court wants a law against necrophilia' *India Today* (New Delhi, June 15 2023) <https://www.indiatoday.in/law/story/having-sex-with-dead-body-not-an-offence-in-india-why-a-high-court-wants-a-law-against-necrophilia-2388582-2023-06-04> accessed 13 April 2024

[59] Tyler T. Ochoa and Chritine Jones, 'Defiling the Dead: Necrophilia and the Law' (1997) 18 Whittier Law Review 539<https://digitalcommons.law.scu.edu/facpubs/89> accessed 17 April 2024

[60] Guddeti Naga Lahari, 'Necrophilia; is it an Offence?' 3(1) RLR <https://www.rostrumlegal.com/necrophilia-is-it-an-offence/#:~:text=%5Bxxv%5D%20Article%20225%2D17,a%20fine%20of%20%E2%82%AC15%2C000.> accessed on 17 April 2024.

Furthermore, handling a dead corpse in a way that offends regular families' sensibilities is illegal according to section 250.10 of the Model Penal Code (Official Draft, 1962). While the United States does not have a federal legislation specifically addressing necrophilia, Section 70 of the UK Sexual Offences Act 2003 criminalises the intentional penetration of any or all body parts for sex purposes.

In UK such an offence is punishable by a fine, a period of imprisonment that cannot exceed six months, or by both in summary conviction and on conviction on indictment, imprisonment not exceeding two years under Section 70 of the Sexual Offences Act 2003. Even though there are rules against necrophilia, it is improbable that a criminal who confessed to killing his wife and had sex with her corpse when questioned by the police would be found guilty of murder in the United Kingdom. After David Fuller case the punishment of two years seems like an easy let go after committing such heinous crimes, so campaigners and protestors are demanding more strict punishments for any such person who does this kind of act.[61]

Human corpse mutilation and indecency with corpses are illegal in Canada. Unless otherwise specified, necrophilia, incest, and sexual interactions are prohibited by the Criminal Code of Canada, 1985. According to Section 182 of Part V of the Law, anybody found guilty of acting indecently or improperly, or who causes harm to a living or deceased person, faces a maximum five-year jail sentence. Although the language of the Canadian and Indian acts appears to be identical, the Canadian statute is more comprehensive and extensive, while the Indian code just addresses severe abuse.[62] Furthermore, the penalties levied by Canadian law are five times greater than those under Indian law. With the exception of a clear interpretation of Section 182 of Canada, the meaning of this provision is almost similar to that of Section 297 of the IPC, which contains the phrases "offering any offence to the body of any person." Section 297 of the IPC makes necrophilia illegal, although it does not make necrophilia illegal in any way because it merely makes grave desecration illegal, but necrophilia is illegal in Canada. Buried or not, that is, if the offender went into the graveyard or not. Furthermore, the five-year penalty

[61] Anna Tippett, 'Shining light on an unspeakable crime: necrophilia and the need for legal reform' (2024) 36(1) Current Issues in Criminal Justice <https://doi.org/10.1080/10345329.2023.2238378 > accessed on 17 April 2024
[62] Michael Oykhman, 'Indignity or Neglect of Dead Body (s. 182) Charges in Canada: Offences, Defences, Punishments' (*Strategic Criminal Defence,* 6 October 2023) <https://www.strategiccriminaldefence.com/faq/indignity-neglect-dead-body-charges-canada/#:~:text=Under%20Section%20182%2C%20individuals%20can,up%20to%20five%20years%20imprisonment. > accessed on 17 April 2024

stipulated in Section 182 of the Canadian Criminal Code is five times greater than that of Section 297 of the IPC.[63]

Under New Zealand law, Section 150 of the Crimes Act 1961 provides for a two-year prison sentence for anyone who defiles a dead body, whether or not it has been buried.[64]

Even the French Penal Code does not use the term necrophilia or similar terminology, but the understandable meaning of Article 225-17(xxv) in its interpretation directly reflects the conduct within its scope of regulation and thereby criminalize that conduct. According to French law, the prison sentence is only one year (maximum two years), but the fine for this crime is very heavy, at least according to India (fifteen to thirty thousand euros) imposition of penalties whereas no fixed fine in India. On the one hand, there are countries with weak or vague necrophilia laws, on the other hand, there are states such as Louisiana, North Carolina, Oklahoma and Kansas that allow sex with corpses, that is, corpses, from That creates necrophilia crime, making the law effective.[65]

Necrophilia is prohibited in South Africa by section 14 of the Criminal Law (Sexual Offenses and Related Matters) Amendment Act 2007.

DEATH AND THE CONSTITUTION OF INDIA

A person's legal personality dies with his person. They are not the owner of his property until his heirs enter into his inheritance. When a person dies on making a will, his property is distributed according to the will. His property is distributed among his heirs according to his will. It is said that the three things which cause anxiety in the living and extend even after his death are his person, his reputation and his property. The Indian Penal Code is a legal document which is a great living testimony to this fact as it extensively mentions these three terms in various sections.

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[63] Guddeti Naga Lahari, 'Necrophilia; is it an Offence?' 3(1) RLR <https://www.rostrumlegal.com/necrophilia-is-it-an offence/#:~:text=%5Bxxv%5D%20Article%20225%2D17,a%20fine%20of%20%E2%82%AC15%2C000.> accessed on 17 April 2024

[64] Neelakshi Bhaskar, 'Necrophilia Legal Perspective' (2020) 2(2) International Journal of Legal Science and Innovation < https://www.ijlsi.com/wp-content/uploads/Necrophilia-Legal-Perspective.pdf> accessed 18 April 2024

[65] Guddeti Naga Lahari, 'Necrophilia; is it an Offence?' 3(1) RLR <https://www.rostrumlegal.com/necrophilia-is-it-an-offence/#:~:text=%5Bxxv%5D%20Article%20225%2D17,a%20fine%20of%20%E2%82%AC15%2C000.> accessed on 18 April 2024

Right to a Decent Burial - In India, this right is derived from Article 21 of the Constitution of India which is followed by *Pt. Parmanand Katara Vs. Union of India.*[66] In this case, a Public Interest Litigation was filed by a lawyer challenging the method of execution. in an instant case, the Court accepted the petitioner's second contention that there was no need for it to suspend the body of the deceased for half an hour. There is only a mandatory provision that the medical officer has to confirm that the person is dead. In the present case, the Supreme Court of India recognized that right to life, right to fair treatment and right to dignity, extends to the body of people even after death and not only to the living person. In *Ramji Singh and Mujeeb Bhai v. & State of UP Ors*[67] the Hon'ble Allahabad High Court interpreted that the word 'person' in Article 21 is sufficient to hold that the right to live with dignity of person also extends. to the corpse. He should be treated with the same respect as he would have been treated had he been alive. The court also said that post-mortem should be avoided unless absolutely necessary. In the case of *Pradeep Gandhi vs State of Maharashtra and Ors,* the Bombay High Court that right to decent burial is one the important rights of an individual and is necessary for his privacy as has been guaranteed by the Art 21 of the Constitution.[68] Again, in the case of *Common Cause vs UOI,*[69] the SC had held that the right to die with dignity under Art 21 is one of the rights which cannot be separated from an individual.

Right to Disinterment - When a body is buried on public property, it becomes and remains the property of the law in custody. These dead bodies are to be kept peacefully and undisturbed. The courts are under the obligation to protect these dead bodies against any kind of disturbance. The law does not favour any kind of disintegration, rather it protects it sanctity of buried dead bodies. After burying the dead body, it should not be disturbed, unless the court orders him to do so in exceptional circumstances.[70]

Right to be Cremated with Human Dignity - Numerous Supreme Court judgments have expanded and modified the scope of Article 21 of Indian Constitution. Right to cremation with dignity is an inalienable part of Right to Life aspect. In the case of *Pt. Parmanand Katara Vs. Union of India,*[71] SC held that in Article 21 the word and expression 'person' shall be include

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[66] Pt. Parmanand Katara v Union of India (1995) 3 SCC 248
[67] Ramji Singh and Mujeeb Bhai v & State of UP Ors (2009) 5 ALL LJ 376
[68] MS. FARVA SHEHY N.P and MS. NASHIDA.A, 'India in the Time of Pandemic' (2021) 2(6) Law Audience Journal <https://www.lawaudience.com/india-in-the-time-of-pandemic/> accessed 19 April 2024
[69] Common Cause (A Reg. Society) v Union of India and Anr (2018) 5 SCC 1
[70] Tarannum Vashisht, 'All about legal rights of the dead' (*Ipleaders,* 17 August 2020) <https://blog.ipleaders.in/all-about-the-legal-rights-of-the-dead/#Right_to_disinterment> accessed on 19 April 2024
[71] Pt. Parmanand Katara v Union of India (1995) 3 SCC 248

the deceased person in a restricted manner and his rights during his life which includes his right to live with human dignity, and has extended meaning to the treatment of his dead body with respect, which he would have deserved, had he lived. The state should honour the deceased by allowing the person to deal with the body of that deceased person with dignity and no such post mortem or any sort of scientific explanation would be done on the body of such person unless it is necessary to prove the offense which has been claimed to be have been committed. *Ashray Adhikar Abhiyan vs. Union of India*[72] also issued a similar decision. This case involves the right of a homeless person to a dignified burial. It was held by the Supreme Court that such people also have the right to a dignified burial irrespective of the religion they follow. When it comes to the question of who owns the right to bury the dead in the law, in this case the obligation would be fulfilled by the man under whose roof he died. The Bench gave the following statement while expressing their views –

"Traditions and cultural aspects are inherent to the last rites of a person's dead body. Right to a decent funeral can also be traced in Article 25 of the Constitution of India which provides for freedom of conscience and free profession, practice and propagation of religion **subject to** public order, morality and health and to the other fundamental rights under Part III of the Constitution."

Right to Reputation - This is one of the best commentaries on the issue of the right to honour the dead by Judge Ajay Bhanot in *Sampurnanand vs U.P. & Ors*[73]. He said, "The legal system should be judged not only by the way it treats the living. It also applies to the respect given to the dead. Death shows the importance of life, the honour of witnessing the importance of life. If death has no reputation protected, life's reputation is not safe. If death has no reputation, then life has a little reputation.

CONCLUSION AND SUGGESTIONS

Sexual offences have been a menace over all across the globe, and it is very disappointing to see that even after having such strict laws, sexual offences are only rising in India. Sexual attraction is common in all humans and which has been always present in the human mind, it varies from person to person but everything has a limit and that limit should not be breached

[72] Ashray Adhikar Abhiyan v. Union of India (2002) 2 SCC 27
[73] Sampurnanand vs U.P (2018) Writ C No. 16948

as that might give origin to crimes like necrophilia and rape, although rape has some other components as well i.e., power and anger. Psychologies of both rapists and necrophiliacs have some differences and some similarities but it is to be remembered that a sexual assault be it in the form of rape on a living or in the form of necrophilia on a dead body both destroys the sanctity of the heart of the victim. Once a living girl, suddenly one day becomes a victim of a sexual assault after getting killed by the culprit, her naked body being thrown on a side of a road just destroyed by the abhorrent and unpardonable act of the offender is a disgrace which the girl might not be facing directly as a living person but it would be something which would always stick to her name, her parents, her close ones who are alive need to bear that throughout their life. Later on, even the judiciary does not punish the offender for the terrible act of destroying the sanctity of the victim just because there is no appropriate provision or statute present in our law to identify the atrocious offence. This could be seen as a major failure on the part of judiciary. This is the case of *Rangaraju Vajapeyi vs. State of Karnataka*.[74] When someone is raped, even then that person dies from inside, the body might be in movement but the soul has been shattered, around eighty% of rape victims suffer from *PTSD (Post Traumatic Stress Disorder)*.[75] In those moments of PTSD of the victim, not only the victim suffers, but victim's whole family suffers, and like that the family of that victim of a necrophiliac also suffers the same way knowing that the culprit has destroyed the reputation of their dead family member and disturbed the peace of victim even after death.

A separate provision 297A could be added, punishing anyone who does any kind of necrophilic act towards the dead and tries to harm the dignity of the dead. The punishment should be adequate to the degree of act the offender has done. Rights of the dead should be widened enough to provide justice to the victim of any necrophilic act.

A corpse was not always a corpse from the beginning, it was a human earlier, death cannot be treated as consent for carrying out any sexual act with it, law should be dynamic enough to provide shelter even to the rights of dead and punish those who violates those rights.

Until now, the convicts of necrophilic acts sometimes were punished under rape, sometimes they were not, it varied from court to court. Some courts considered those acts under rape, some on the excuse of law that rape could only be done on living person, did not considered those

[74] Rangaraju Vajapeyi vs State of Karnataka (2017) Cr App 1610

[75] Udayan Bhaumik, 'Rape Trauma Syndrome: A Retrospective Study of Post-Traumatic Stress Disorder After Sexual Assault Among Indian Women' (2022) 23(3) ASEAN Journal of Psychiatry <https://www.aseanjournalofpsychiatry.org/articles/rape-trauma-syndrome-a-retrospective-study-of-posttraumatic-stress-disorder-after-sexual-assault-among-indian-women.pdf> accessed 20 August 2023.

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acts under rape. This ambiguity should be removed and necrophilic acts could be taken under the umbrella of section 377 of the Indian Penal Code, 1860 dealing with unnatural offences.

Even the recently passed statute Bhartiya Nyaya Sanhita which has been drafted to take the place of Indian Penal Code doesn't include any progressive provision regarding the act of necrophilia.

Necrophilia is one of the growing offences in today's time. Many foreign countries like UK, Canada, New Zealand have already recognized this and has provided serious punishment for it. It is high time that India recognizes this as an offence and this can be done through proper survey conducted by the LAW COMMISSION OF INDIA and its report. It needs to bring in reforms in the existing legal system which caters to the needs of the society. Necrophilia is definitely an act which is not natural and it needs to be acknowledged in it with adequate punishment. Offenses of Necrophilic acts are increasing, the Indian judiciary also needs to catch up with the rest of the countries and should be able to provide justice in the true sense. Protecting both the living and the dead is the solution.