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WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

DEATH'S DISTORTED DESIRES: DELVING INTO THE PSYCHE OF NECROPHILIACS AND THE PRESSING NEED FOR SEPRATE LEGISLATION TO EFFECTIVELY COMBAT THE ABHORRENT BEHAVIOUR.

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ABSTRACT

Necrophilia is a kind of paraphilic disease concern with psychological and psychiatric condition which leads to temptation of having sexual activity with a corpse. A paraphilic disease like necrophilia can affect both humans and animals and may arouse erotic interest and obsession with the dead body. The cases relating to necrophilia has been on a rise since the past few decades due to loopholes in the field of medical science and law. A person becomes a necrophiliac i.e. the one who commits necrophilia due to his unstable and disturbed mindset as a result of socio-economic and other life changing factors. Necrophilia leads to spread of Sexually Transmitted Diseases not only to a person who interacted sexually with a dead body but also to a person sexually connected with the necrophiliac. In India, there are no specific laws to ensure dignity of the dead and to punish the perpetrator beyond the scope of Indian Penal Code, 1860. This research paper talks about the mentality of a necrophiliac, the psychological state which makes them feel sexually attracted towards dead rather than alive, the places in which they indulge in committing necrophilia, the legislation to tackle with necrophilia and the need of awareness and urgent requirement of a specialized act relating to the same in India.

KEYWORDS: Erotic interest, Liability for Necrophilia, Necrophilia, Necrophiliac, Paraphilic Disease, Sexual activity with corpse.

Introduction

The word necrophilia evolved from Greek word ‘nekros’ meaning corpse and ‘philiōs’ meaning love. Necrophilia is a paraphilic disorder in which the perpetrator has the sexual temptation to have sex with the dead bodies¹. Necrophilia is a branch of paraphilic disorder concerned with other aspects namely- sadism, cannibalism (they prefer fresh dead bodies or consume dead loved ones for spiritual purpose), vampirism (they prefer person or animal’s blood to chug), necrophagia (they prefer eating flesh of dead), necrozoophilia/ necrobestia (sexually allured to the corpse of animal) and necropedophilia (gaining pleasure from the corpse of children). Necrophilia is also known as Necrophilism, Necrolagnia, Necrocoitus, Thanatophilia and Necrochlesia². It consists of two phenomena: sexual and nonsexual intercourse. In sexual intercourse a man desires to mate with the dead corpse of female and vice versa and in nonsexual intercourse there is a desire to stare, to handle or to be in the vicinity of the corpse. In the international classification of diseases diagnostic manual of world health organisation, in diagnostic and statistical manual of the American psychiatric association, necrophilia is said to be a paraphilic disease and it has been explained assaulting a corpse is an old concept however it took a long period of time to be defined as a severe medical condition.

Various authors have tried to distinguish necrophilia in their own perspectives. Dr. Anil Aggarwal had proposed ten categories to classify necrophilia which enlist category 1 to category 10 namely category 1- role players, category 2- romantic necrophiles, category 3- necrophilic fantasizers, category 4- tactile necrophiles, category 5- fetishistic necrophiles, category 6- necromutilomaniacs, category 7-opportunistic necrophiles, category 8- regular necrophiles, category 9- homicidal necrophiles and category 10- exclusive necrophiles³.

Criminologist Lee Mellor's classified homicidal necrophiliacs into 8 distinct categories from A to H⁴ and he based this classification on two behavioural axes: destructive (the act of disfigurement of dead body with sexual intent) and preservative (there is no disfigurement of dead body for sexual purpose). The classes are: class A = cold/destructive, class B = cold/ preservative, class C = warm/ destructive, class D = warm/ preservative, class E = dabblers, class F = catathymic, class

¹ <https://www.news18.com/explainers/necrophilia-sex-dead-bodies-karnataka-hc-cctv-mortuary-section-377-7999639.html>

² <https://www.ijlsi.com/>

³ Aggarwal A, “A New Classification of Necrophilia” (2009) 16 Journal of Forensic and Legal Medicine 316
http://www.anilaggrawal.com/ij/sundry/news_and_notes/316_A%20new%20classification%20of%20necrophilia.pdf

⁴ <https://www.researchgate.net/publication/334114117> Necrophilia An Understanding

G= exclusive necromutilophiles, class H= sexual cannibals and vampires.

History of Necrophilia

Necrophilia is a highly sensitive and disturbing topic. It refers to a paraphilia characterized by an individual's sexual attraction or engagement with dead bodies. It is important to acknowledge that necrophilia is illegal and is widely considered unethical and immoral in almost all societies. The historical documentation of necrophilia dates back to ancient times. Instances of necrophilia have been mentioned in various cultural, religious, and mythological texts. However, it is crucial to note that the presence of such references does not indicate societal acceptance or approval of the behaviour. In fact, throughout history, necrophilia has generally been considered taboo and condemned. In modern times, laws and regulations explicitly prohibit necrophilia due to ethical and public health concerns. These laws vary across jurisdictions, but they universally recognize it as a criminal act. The legal and ethical framework surrounding this topic is primarily focused on respecting the dignity of the deceased and ensuring the sanctity of human remains.

Necrophilia can be traced from paintings that were painted on the pyramids 'Moches'⁵ also known as God of Andes which portrays sex with dead. In primeval time, people practiced necrophilia as part of their traditions or rituals.

The father of history Herodotus through his book 'the Histories'⁶ mentioned that sailors who were incharge of returning the corpse to their respective native country used these corpse to quench their sexual needs. In order to protect the corpse of deceased women from being discriminated by the perpetrators for sexual purposes, the Egyptians have an ancient culture wherein they left the bodies of women to rot for three to four days before preservation.

In modern period, necrophilia came into picture which are scary and hair-raising in nature. In 1954, David Fuller admitted that he had abused corpse of over 100 women, some are young as nine-year old and this was detected only when his house was searched by the police and over 14 million videos and photos of abused female dead bodies were discovered. A no. of instances were found of necrophilia in India as well for eg: two perpetrators named Suresh Joli & Moninder Singh Pandher executed necrophilia on dead bodies of women and young children living in their vicinity

⁵ <https://www.ijlsi.com/wp-content/uploads/Necrophilia-Legal-Perspective.pdf>

⁶ <https://www.thehindu.com/books/herodotuss-histories-is-probably-the-first-text-to-refer-to-indians-by-that-name-as-indon/article23529015.ece>

and this incident came into picture in 2006 during inspection of Noida serial murder. This case is known in India as Nithari case.

It's worth emphasizing that necrophilia is a rare and extreme behaviour that is not representative of the vast majority of people since a very long period of time in the past.

Psychological State of Necrophiliacs

The psychoanalytic explanation provided for necrophilia are given as follows:

- 1) instinctive aggression
- 2) destructive and sadistic desires
- 3) development issues of pregenital fixation
- 4) attempt to deal with loss or death of loved one
- 5) dealing with separation anxieties
- 6) moral pervasion.

A no. of defence mechanisms attributed to necrophiles are:

- (1) denial of separation and loss
- (2) identification with a parental figure
- (3) introjection of a parental image
- (4) counterphobic reaction against a fear of the dead
- (5) transforming passive into active.

A necrophiliac person generates poor self-esteem especially males because of the fear of refusal by women for which he needs sexual object that is unresisting and un-rejecting in nature so as to transform his fear of dead into desire for the dead. Also, a person becomes a necrophiliac unknowingly due to the consequence of being socially neglected by his family (basically loved ones) or friend and neighbours. Bullying is another component which aids a person turning into a necrophiliac. Necrophiliac person who are suffering from trauma of bullying need inferior and feeble persons in their life so that they can dominate that person in all aspects. Necrophiliac person develops a fantasy in terms of being sexually intimate with the dead, sometimes after the exposure to the corpse and they love the corpse without getting fatigued of caresses.⁷

⁷ <https://jaapl.org/content/jaapl/17/2/153.full.pdf> Sexual Attraction to Corpses: A Psychiatric Review of Necrophilia

The Locus of Necrophiliac's to fulfil their sexual desires

1. Mortuary

In a hospital when person dies, his body is moved to mortuary before autopsy takes place and is also kept before cremation or burial. Professionals or incharges who work in mortuary such as mortician, funeral directors and embalmers are expected to comply to a strict code of conduct and professional ethics as they are interested with the solemn duty of caring for the deceased and ensuring their dignified handling. But being in the vicinity and indulging in works related to dead bodies some of them develop an attraction towards the corpse and end up breaching their professionalism by mating with the dead bodies. Any breach of trust can outcome in severe legal consequences, professional disciplinary actions and irreparable damage to their personal and hospital's reputation. However, the necrophiliacs are so attracted towards the corpse that they are not in the position to understand the consequences which their actions may attract like ignoring social obligations and legal repercussions.

2. Staunch Aghories in Religious Place

Aghories are mostly dark-skinned sadhus attried in black clothes with long beard who are mostly the follower of lord Shiva and Goddess Kali. This sect of sadhus or ascetics are the one who are most feared and respected. There bizzare and gruesome ceremonial practices are seen as outrageous and horrific to the common public. Aghories sadhus are linked with performing rituals using human skulls, cannibalism, performing black magic and making love to the corpse.⁸

It is assumed and trusted by the Aghori sadhus that gratification is demanded by Goddess Kali through sex alcohol and meat from Aghoris in order to please her. These demands are particular for these Aghoris only and are banned for sect of other sadhus. They even cut off and preserve portions of corpse that remains unburied or unconsumed by fire to ingest and have sex with it and also dug up and feed upon buried dead bodies of children. They live in celibacy but have sex with female corpse because it is a part of ritual performed by them for the Gods.

3. In Private households

Necrophilia is a psychosexual disorder which may develop not in just a particular category of people but may run across all cross section of population. The general section of people who show

⁸ <https://www.speakingtree.in/allslides/sex-rituals-of-aghori-sadhus>

necrophiliac behaviour commit to mating with dead bodies in a private place as a result of some past trauma of losing a loved one or other such reasons and due to being confined to a private place, such cases don't come into light.

4. Funeral places and graveyards

There have been several cases where incharges of funeral places and graveyards are indulged in sexual activity with corpse because they get attracted towards the dead bodies as a consequence of spending most of the time in dealing or caring for the dead bodies as their occupation demands. There have also been cases where incharges of graveyards and other necrophiliac persons have been found digging the buried dead bodies or females and children to have sexual relations with them.

Why are necrophiliacs only attracted to dead bodies?

1) Thanatophilia

Some necrophiliacs experience an intense fascination with death and the deceased. They may be captivated by the macabre aesthetics and transcendental thoughts associated with mortality. For them, engaging sexually with a corpse might be seen as a form of connecting with the mysteries of life and death.

2) Objectification and Dehumanization.

In addition to the desire for control, necrophiliacs may also exhibit tendencies towards objectification and dehumanization. When faced with a lifeless body, these individuals may view it solely as an object of desire and gratification, divorcing themselves from the emotional and empathetic connections typically associated with intimate relationships. This detachment strips away the humanity of the deceased, making them mere objects to satisfy their perverse fantasies.

Furthermore, necrophilia can be linked to the inclination to objectify the dead. For some individuals, sexual or emotional gratification is derived from exerting dominance and control over inert bodies. In this scenario, the deceased serves as a passive participant, devoid of desires, thus allowing the necrophiliac to fulfil their fantasies without resistance or judgment.

3) Defying Sociocultural Norms⁹

Beyond evolutionary theories, sociocultural factors likely play a significant role in shaping the development of necrophilic tendencies. The taboo surrounding death and corpses may trigger a sense of transgression and rebellion in certain individuals, fueling the attraction towards the forbidden and the macabre. The thrill of being in control or conquering societal norms may drive some individuals towards engaging in necrophilic activities.

4) A Complex Psychological Profile

Necrophilia is often viewed as a paraphilic disorder, characterized by an intense and recurrent sexual attraction towards corpses. This atypical desire can manifest in different subtypes, including the romantic, opportunistic, and necrophilic fantasy. The complexity of the necrophiliac mindset raises questions about the underlying psychological and emotional factors at play.¹⁰

5) Addiction to Control and Dominance

One theory suggests that necrophiliacs are driven by a deep need for control and dominance over their sexual partners. The lifeless nature of a corpse offers the ultimate surrender, fulfilling the necrophiliac's desire to exercise complete power. This sense of control and dominance is reinforced by the absence of any possibility of the deceased objecting or resisting the advances. The study of necrophilia is inherently challenging due to its illicit nature and the ethical considerations involved in conducting research on this subject matter.

6) A Desire for Control

One possible psychological explanation for necrophilia lies in the desire for control. Individuals who engage in necrophilic behaviour may experience a need to exert power over the lifeless bodies of the deceased. By engaging in sexual acts with the dead, they find a sense of dominance and control, where they can manipulate and possess their partners without fear of resistance. This desire for control may stem from deep-seated psychological issues and can manifest itself in this macabre form of sexual deviance.

⁹ <https://www.sciencedirect.com/topics/psychology/sociocultural-factor>

¹⁰ <https://ijop.net/index.php/mlu/article/download/734/688/1339> Necrophilia: A Study Of the Psychoanalysis in the Characteristics of the Offenders.

7) Reaction theory

Another psychological perspective proposed to explain necrophiliac behaviour is based on the concept of reaction formation. According to this theory, individuals exhibiting necrophiliac tendencies may in fact have an intense fear or aversion to death. Engaging in necrophilia allows them to ward off their anxieties by transforming their fear into a perverse attraction. In a strange paradox, these individuals may feel a sense of mastery over death through their interactions with the deceased.

Why Necrophiliacs don't prefer Sex toys and Sex workers for pleasure?

- ❖ One possible explanation for necrophiliacs' disinterest in sexual toys or living mate lies in their attraction to inanimate objects. The psychological drive to exert complete control over a sexual encounter may be heightened when engaging with a lifeless body. The absence of any response or resistance can provide a sense of power and dominance, fulfilling their desire for total control.
- ❖ Necrophiliacs may also choose the deceased as sexual partners due to their avoidance of emotional attachment. Living partners may develop emotional connection, desires, and boundaries, which can complicate and inhibit the absolute control necrophiliacs seek. By engaging with a corpse, these individuals eliminate the need for emotional connection, enabling them to fully indulge in their unique desires without entanglements or complications.

The Intricate Relationship Between Murder And Necrophilia

A Dark Desire Unleashed For some individuals, carrying out the act of murder opens the door to a hidden desire - engaging in sexual acts with the lifeless bodies of their victims. This disturbing connection between murder and necrophilia¹¹ speaks to the deeply complex nature of such crimes and the unsettling fantasies that can fuel them. Gratification Through Violation Engaging in necrophiliac acts after committing murder is often driven by a desire for power, control, and the ability to further degrade the deceased. These individuals experience a perverse sense of

¹¹ <https://www.sciencedirect.com/topics/medicine-and-dentistry/necrophilia>

gratification through the violation of the lifeless bodies, further exacerbating their deviant behaviour. Disrupting the Natural Order Necrophilia, particularly when connected to murder, represents a severe breach of societal norms and ethical boundaries. It disrupts the natural order of life, death, and the respect we owe to the deceased. By desecrating the dead, necrophiliacs not only inflict profound emotional harm on the victims' families but also challenge our perceptions of morality and human decency. Legal Ramifications and Criminal Investigations From a legal standpoint, necrophilia is widely recognized as a heinous crime, and the act alone of engaging in sexual acts with a corpse is considered a criminal offense in most jurisdictions. The confluence of murder and necrophilia further elevates the gravity of these crimes, leading to intense investigations and providing crucial evidence for prosecutors to seek justice.

The Existing Legal Framework In India

The criminal justice system operates under the IPC, which encompasses a wide range of offenses, including sexual offenses. While the IPC does not explicitly mention necrophilia, it does address offenses related to sexual acts with a dead body, covered under Section 297 (Trespassing on burial places) and Section 377 (Unnatural offenses) of the IPC.

Section 297¹²: Trespassing on Burial Places Section 297 of the IPC deals with trespassing on burial places and explicitly prohibits the act of disturbing or violating a place of sepulture. This includes acts such as entering cemeteries without any legitimate cause and causing damage to graves or burial sites. Although this section aims to protect burial places, it does not specifically address sexual acts with corpses, leaving a legal gap that needs to be addressed.

Section 377¹³: Unnatural Offenses Section 377 of the IPC criminalizes "unnatural offenses" which includes acts that are against the order of nature, such as sodomy, bestiality, and other sexual acts deemed unnatural. While this section can be interpreted broadly to encompass necrophilia, it does not explicitly mention it. Additionally, Section 377 has undergone legal challenges in recent years, with the Supreme Court of India partially decriminalizing consensual homosexual acts between adults. This has further blurred the application and interpretation of Section 377 in cases related to necrophilia.

¹² <https://www.kaanoon.com/indian-law/ipc-297/>

¹³ <https://blog.iplers.in/section-377-ipc/>

The Need to deal with Necrophilia under separate and distinct laws

The legality surrounding necrophilia varies across jurisdictions. While some countries explicitly criminalize necrophilia, others lack specific legislation, making it challenging to prosecute offenders solely based on their necrophiliac acts. Legal frameworks need to be revisited and strengthened to ensure that necrophiliac acts are appropriately addressed under the law.

The current legal framework of India inadequately addresses the complex issue of necrophilia, emphasizing the need for separate legislation dedicated solely to this abominable act. Establishing bespoke legislation is vital as it would help define, penalize, and deter necrophilia in a more explicit and comprehensive manner.

Identifying Necrophilia as a Distinct Offense Creating specific legislation for necrophilia would involve clearly defining it as a distinct offense, separate from other related acts. This would facilitate a more precise understanding of the crime and lead to better enforcement and legal proceedings, offering justice to both the deceased and their families. **Addressing the Psychological Implications** Necrophilia is not merely a sexually deviant act but also a manifestation of deep-seated psychological issues. A separate legislation focusing on necrophilia would allow for a better understanding and exploration of the psychological aspects involved. This understanding can lead to appropriate counselling and rehabilitation efforts for both perpetrators and potential offenders, ultimately contributing to the reduction of such heinous acts in society.¹⁴

- **Preserving the Dignity of the Deceased**

Legislation is critical in ensuring the preservation of the dignity of the deceased. By explicitly denouncing necrophilic acts and imposing legal consequences, societies protect the integrity of those who have passed away and affirm the sanctity of their resting place. Such legislation also serves as a deterrent, dissuading potential offenders and safeguarding the societal norms that allow us to honor and respect the dead.

- **Protecting general Health and Safety** Beyond the moral and ethical considerations, legislation surrounding necrophilia plays a crucial role in safeguarding health and safety

¹⁴ <https://www.deccanherald.com/state/amend-laws-to-punish-cases-of-necrophilia>

of public at large. This macabre fascination carries the risk of transmitting diseases and poses potential harm to vulnerable communities.

- Maintaining Social Order and Morality Legislation is a powerful tool in maintaining social order and upholding the moral fabric of society. By explicitly outlawing necrophiliac behaviour, societies set clear boundaries and reaffirm their abhorrence in their actions.
- Enhancing Penalties and Deterrence

While current laws can be used to prosecute necrophilia cases to some extent, having dedicated legislation would empower lawmakers to formulate stricter penalties tailored specifically to this offense. The creation of appropriate punishment would act as a deterrent, sending a strong message that society will not tolerate such dehumanizing acts. This, in turn, would help protect the dignity of the deceased and provide solace to grieving families. Promoting Awareness and Prevention Introducing separate legislation on necrophilia would also stimulate greater awareness about this crime among the general public, law enforcement agencies, healthcare professionals, and the judiciary. It would enable educational initiatives, training programs, and campaigns to be developed, with the goal of preventing necrophilia and detecting it early if it does occur. Additionally, specialized legislation would facilitate the establishment of protocols and guidelines for the proper handling and security of corpses, minimizing the risk of exploitation.

Some Cases in India on Necrophilia

Necrophilia cases in India are a grim reminder of the depths of human depravity. Some noteworthy cases related to necrophilia in India, shedding light on the dark and unsettling aspects of human behaviour are as follows-

- The Nithari case¹⁵ came to the forefront in 2006 when residents of Nithari, a small village in Noida, stumbled upon human remains in a drain near Moninder Singh¹⁶ Pandher's house. The gruesome findings sent shockwaves throughout the community and eventually unearthed a series of heinous crimes committed within the walls of that very house. Nithari case was a wake-up call for society, shedding light on the prevalence of such aberrant behaviours and the dire need for a stronger judicial system and improved social awareness. These are necessary

¹⁵ <https://medium.com/the-collector/nithari-case-a-series-of-rapes-murders-necrophilia-and-cannibalism-6d6e002367cb>

¹⁶ <https://www.gettyimages.co.uk/photos/moninder-singh-pandher>

to prevent, detect, and effectively punish individuals involved in such heinous acts. He invited 9 girls, 2 boys, and 5 women inside the house, first he murdered them all, and later he would rape the dead bodies. Then he would chop the bodies into smaller parts and pieces, and eat the human meat. Finally, he threw in the drain behind the bungalow. In this case, both Singh and Koli were found to be guilty and Singh was charged as an accomplice of Koli, who was aware of all his crimes and failed to report them to the police or take an action against Koli who was committing all these crimes on Singh's property. The final verdict is still pending, as hearings are going on. The latest update on this case was given in 2017, wherein both Singh and Koli were awarded the death sentence by a CBI court.¹⁷

- In a case of Tumakuru district, the High court of Karnataka bench upheld that an accused cannot be held culpable of committing rape under section 375 for committing sexual cruelty and assault against the corpse of a dead person. In this case at hand, the arraigned person was absolved from the charges of rape on a dead woman's body but was rather convicted for murdering the woman under section 302 of IPC.
- In *Paramanand Kataria vs Union of India & Another* (1995), the SC suggested that preserving the right to life and dignity is not only restricted to alive only and also to the dead person.¹⁸

Steps for Awareness Required Towards Necrophilia

- Education and awareness campaigns

To effectively combat necrophilia, generating public awareness is indispensable. By implementing educational initiatives, workshops, and awareness campaigns, society can strive to dismantle the myths surrounding necrophilia while fostering a more informed and empathetic understanding of this disturbing phenomenon. Such initiatives should not only address the general public but also target professionals in fields of law enforcements, forensic science and mental health, and respond to cases involving necrophilia appropriately.

- Support for survivors and affected communities

The repercussions of necrophilia extend beyond the deceased; they also impact the loved ones and communities left behind. Offering support networks, counselling services, and safe spaces for both

¹⁷ “2009 SCC OnLine All 1117 : (2009) 84 AIC (Sum 2) 2 : (2009) 67 ACC 195”

¹⁸ <https://indiankanoon.org/doc/498126/>

the survivors and affected communities is essential. Recognizing the trauma inflicted by necrophilia and providing avenues for healing and recovery can help alleviate the long-lasting emotional and psychological effects experienced by those impacted directly or indirectly by necrophiliac acts.

Conclusion

Necrophilia, often defined as the sexual attraction or engagement with corpses, is an aberrant behaviour that contravenes societal norms and invokes aversion among the general populace. This alarming inclination exists as a real and distressing phenomenon, necessitating a comprehensive examination to unravel its complexities and establish effective preventive measures. Necrophilia remains a distressing and deeply unsettling subject society must confront. By recognizing the urgency for legislation that safeguards the dignity of the deceased and maintains social order and morality, it is essential to take critical steps toward addressing this abnormal behaviour. Simultaneously, delving into the complexities of the psychological underpinnings grants us the opportunity to develop interventions and foster a better understanding of necrophiliac tendencies. Only through interdisciplinary dialogue, effective legislation, and psychological exploration can we hope to mitigate the impact of necrophilia on society and those who may be at risk.