

"Posthumous Dignity and Legal Protection: The Necessity of Criminalizing Necrophilia in Bangladesh and India"

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ABSTRACT: Necrophilia is a severe violation of human dignity, and at the same time, it is such a topic that has not been discussed enough in Bangladesh and India. Although the practice gets a unanimous condemnation by culture and religion, neither of the jurisdictions has made the act a criminal offense. The Penal Code (Section 297), of Bangladesh, punishes indignity to corpses and trespass in burial grounds but not sexual abuse of dead bodies. In India, the Indian Penal Code and its replacement the Bharatiya Nyaya Sanhita include the same loopholes and Indian courts have made it clear that only alive people can be victims of rape and unnatural offences. Such a failure of imperfect information undermines deterrence obstacles to prosecution and comports a misconceived notion of posthumous dignity that emerges in the human rights law. With the help of comparative legal approach and cultural perspective, this article thus advocates the explicit criminalization of necrophilia where at least there should be clear-cut statutory definitions, appropriate proportional punishments, and enforcement procedures to protect the sanctity of the dead and align policies of any nation with that of the emerging investigations of justice and human rights in the world.

Keywords: *Necrophilia, Posthumous dignity, Criminal law reform, Human rights, Legal protection.*

1. Introduction

The ideal of human dignity persists even in death within the cultural, religious, and legal fields and this requires that humankind uphold this respect to the dead. Necrophilia refers to the sexual attraction to, or the act of engaging in sex with, a corpse. It is based on the Greek words, nekros (the dead body) and philia (love or affection) (Science Direct, n.d.). According to the World Health Organization (WHO) in its International Classification of Diseases (ICD) and the American Psychiatric Association in its Diagnostic and Statistical Manual of Mental Disorders (DSM), it is classified as a paraphilia. (World Health Organization(WHO), 2018), (American Psychiatric Association, 2013). The sexual assault of a corpse, which is the phenomenon of necrophilia, is a blatant disregard of this posthumous dignity, although it has not been best covered in the juridic practices of both Bangladesh and India. Provisions already available, including Section 297 of the Bangladesh Penal Code and similar Indian laws, focus on the general offenses of insult or encroachment rather than criminalizing sexual abuse of corpses. Such a gap in the law compromises deterrence, makes it difficult to prosecute, and flouts societal and human-rights values aimed at protecting the dead. This discussion outlines the moral, cultural, and official lawful reasons that an amendment to criminalization of necrophilia is necessary, reviews the current laws, interpretations of the laws, and proposes explicit criminalization of necrophilia to safeguard postmortem dignity and harmonize national policies to international standards of human rights.

2. Objective

- To review the existing laws in Bangladesh and India regarding necrophilia and detect the gaps in legislation.
- To examine judicial discourses and case law in the two countries regarding the crime of necrophilia.
- To compare laws that are enacted at national levels concerning protection of the deceased against international established standards on human rights.

- To suggest reforms and recommendations to legislate more explicitly against necrophilia to protect dignity even after death.

3. Methodology

This paper has adopted a qualitative and doctrinal style and examines statutes, case law, and scholarly sources in law in Bangladesh and India with the aim of finding gaps in criminalizing necrophilia. It also uses a comparative approach in the study of the laws of other jurisdictions and considers ethical, cultural and human rights in order to demonstrate the importance of protecting the posthumous dignity and present legislation changes to follow.

4. Discussion

Even though necrophilia is relatively rare, it is a serious offence against the human dignity and existing moral rules. Existing law in Bangladesh and India laws do not criminalize acts of sexual nature with the dead, thus opening a protection gap after death. The laws of these jurisdictions virtually deal with acts against people who are alive and so corpses remain inadequately covered other than the general provisions which deter unlawful burial or grave desecration. The legal weakness exposes a social blind side that under-quantifies the psychological as well as moral consequences of necrophilic behavior.

Compare and contrast, that is, jurisdictions which tend to explicitly criminalize necrophilia, reflect greater appreciation of the intrinsic worth of postmortem dignity. It is beneficial because criminalization is a way to show respect to the deceased, as well as protect against future crime. This legal explanation is also in tandem with the international human rights laws, which promote dignity of all humanity, regardless of their status in life.

Socio-legally, it can be stated that reason behind the lack of certain laws in Bangladesh and India can be due to cultural sensitivities, underreporting and lack of social awareness. However, the exclusive use of general criminal or decency would not suffice because such measures are not frequently used to capture the special attributes of necrophilic activities and harm to the larger society. The discourse

therefore reveals the need of the legal reform not just as a moral obligation but also through necessity to prevent offenses, protect societal principles and provide a clear or direct prosecutorial course.

The necrophilia discussion also entails the bigger moral issues relating to consent, autonomy, and dignity. Even though the death of the individuals does not give the right to give consent, the society is collectively obliged to maintain the rights of the deceased individuals after their death. The acknowledgment of necrophilia being an independent crime marks a desire to defend the human dignity in any form and thus it strengthens the ethical basis of the legal system.

5. Current Legal landscape in Bangladesh and India

Bangladesh

- **No explicit offence of necrophilia**-There is no clear law of necrophilia offense in Bangladesh under the Penal Code, 1860. Prosecutors typically use Section 297 of the Penal Code (offense of trespassing on burial places or causing indignity to a human corpse), a maximum one-year punishment, in any situation in which acts take place in the context in which conduct happens at the burial place (or involves indignity, a term whose scope does not accurately encompass necrophilia of persons who die outside of the death context). (Laws of Bangladesh, n.d.).
- **Limits of Section 297**-The Bangladesh Penal Code, 1860 (Section 297) has nothing to do with sexual lasciviousness, but is concerned with invasions of privacy, whether by trespass, or by religious peccadillo. The code therefore does not provide much against necrophilia, a category of sexual misconduct involving corpses since the act cannot be proven to be trespassing or sacrilege. (Nurunnabi ASM, 2021).
- **Section 377 (unnatural offences)**-The unnatural offences are stated in section 377 of the Bangladesh Penal Code and are defined as unnatural sexual intercourse with a man, woman, or animal. This statute still exists but its exact range is not clear, especially legalizing its use on a dead body. There is empirical

evidence indicating that despite this citation the statute is hardly ever used to prosecute necrophilia. (Laws of Bangladesh, n.d.).

- **Documented cases reveal the gap-**An analysis of the relevant literature has revealed that there seems to be a noted gap where bodies of the dead constantly record more incidences of sexual violence on their dead bodies yet no qualified offence is posted to effectively deal with this form of violence. In reaction, scholars and practitioners have both urged the codification of stand-alone statutes that would criminalize post-mortem sexual assault. (Palash Kumar Bose, 2021), (bdnews24.com, 2025).

India

- **No explicit offence under IPC or the new BNS-**The Indian Penal Code, 1860 was repealed, and replaced with the Bharatiya Nyaya Sanhita, 2023 (BNS) (effective July 1, 2024). Neither of the codes is explicit as to criminalizing necrophilia. (Delhi Police Academy, 2024).
- **Closest provision: Section 301 BNS (ex-Section 297 IPC)-**Similar to IPC 297, trespass on places of worship/sepulcher or offering indignity to a human corpse is punishable with a maximum of one year. It does not target sexual violation itself, but it is about the protection of religious feeling and the sanctity of burial. (Delhi Police Academy, 2024).
- **Authoritative judicial position (2025)-**The appeal to the Supreme Court of India in the case was taken up again by the rulings on 4 February 2025 by the Supreme Court duplicating its ruling of the previous year that the existing penal laws do not criminalize necrophilia and that as a result, the rape and unnatural offences clauses cannot apply to offenses committed against the dead body. The Court noted that the statutory lacuna could be filled only by the legislation that is adopted by Parliament. The decision came after a Karnataka High Court decision of 2023 stated the same conclusions. (Bar and Bench, 2023), (Live Law.In, 2025), (Hifajatali Sayyed, 2024)
- **Missed reform opportunity-** Legal professional and observers outside the legal profession have noted the recent rearrangement of the Indian penal code has maintained the 297-style prohibition against carnal intercourse against the order

of nature (now Section 301 BNS) without adding a separate offence of necrophilia, even though judicial proposals (most prominently around the reform of former Section 377 IPC) would have criminalized sexual act with a corpse. (Live Law.In, 2023), (Deccan Herald, 2023).

6. Global Benchmarks in Necrophilia Legislation

Some jurisdictions have formulated clear legal provisions regarding necrophilia thus protecting the dignity of a human being even after death. These jurisdictions by a direct prohibition of the practice are evidence of progressive legal developments that goes beyond the common statutes covering the desecration of a corpse. The comparative analysis of such jurisdictions can be of good use in guiding states without specific legislation as the models imply what can be implemented in meeting those extant regulatory gaps.

Jurisdiction	Law	Features	Penalty
United Kingdom (England & Wales)	Sexual Offences Act 2003, Section 70 – Sexual penetration of a corpse.	Clear definition; applies regardless of location, motive, or third-party offence	Up to 2 years imprisonment
South Africa	Criminal Law (Sexual Offences and Related Matters) Amendment Act, section 14 – Sexual act with a corpse	Explicit classification as a sexual offence; severe penalties; covers all forms of sexual contact	Up to life imprisonment in aggravated cases
USA – Michigan	“Melody’s Law” (2024) – Necrophilia criminalized	Stand-alone offence; automatic sex offender registration; higher maximum sentence than UK	Up to 15 years imprisonment
New Zealand (hybrid best practice)	Crimes Act 1961, section 150 – Misconduct in respect of human remains	Explicit offence, includes sexual acts; clear scope; modest penalties but no religious-feelings barrier	Up to 2 years imprisonment

Table-1: Best-Practice Jurisdictions on Necrophilia Legislation: Comparative Overview.

7. Recommendation

- **Introduce Explicit Penal Provision**

The criminalization of necrophilia ought to be put in place in both Bangladesh and India by passing an amendment into existing criminal laws, which would clearly state that necrophilia is a punishable offense under law. It is not sufficient to use indirect provisions like indignity to a corpse or trespass of burial sites. The statutory definition will eliminate the grey area in prosecution.

- **Provide Proportionate Sentencing**

Law against necrophilia ought to be severe. There should be minimum imprisonment minimum terms and aggravated punishment in cases where the person who commits the offense is in a position of trust (e.g., morgue, medical and custodians of the deceased).

- **Recognize Posthumous Dignity as a Legal Right**

The law must understand that a human being exists even after death and desecration of the corpse amounts to the desecration of general moral and social principles. The injection of this principle in the legislation will make it ethically more solid.

- **Judicial Advocacy and Reforms at the Legislative Level**

Indian courts have already pointed out the loopholes in the legislation. The guidelines of the courts must be followed in both jurisdictions where reasons by the court must actually be implemented through parliamentary reforms based on the comparative jurisdiction of other instances like UK, South Africa, and some U.S. states where necrophilia is establishes as a type of offense.

- **Awareness and DE stigmatization**

The policymakers, academicians, and civil society ought to take part in the open discussion in order to dispel taboos about necrophilia. Greater awareness will promote reporting and reinforce callings of change.

- **Specialized Training to the Authorities**

Law enforcement officers, forensic scientists, and morgue personnel must be taught to identify, report, and process a necrophilia incident in a sensitive yet methodical manner, and leave evidence intact and prosecute perpetrators.

- **Systemic Policy Framework**

In addition to the criminalization, the law of posthumous rights should be in the policy framework that may be applicable to necrophilia only yet may involve other crimes as well, like body mutilation, organs theft, or disregard to acceptable burial practices.

8. Conclusion

Necrophilia is an abominable offense against the dignity of humanity and the existing moral order, of which neither Bangladesh nor India has a clearly stated law to confront the vile practice. Barring this, the dead individuals are left vulnerable and this jeopardizes the validity of the system of law. As compared to jurisdictions, which have criminalized the practice, including those in the United Kingdom, South Africa, and various states in the United States, it is clear that unambiguous statutory language, pairing with harsh sentence is essential and functional in protecting posthumous dignity. Besides addressing such a legal shortage, the relevance of enacting a particular legislation in the countries of Bangladesh and India survive not only a sense of respect towards human remains in general but a commitment of the society towards moral and ethical standards, as well. On this basis, the legal and moral need to criminalize necrophilia should be given priority by lawmakers, legal scholars, and human rights campaigners.

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