



INTERNATIONAL LAW
JOURNAL

**WHITE BLACK
LEGAL LAW
JOURNAL
ISSN: 2581-
8503**

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

WWW.WHITEBLACKLEGAL.CO.IN

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Editor-in-chief of White Black Legal – The Law Journal. The Editorial Team of White Black Legal holds the copyright to all articles contributed to this publication. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of White Black Legal. Though all efforts are made to ensure the accuracy and correctness of the information published, White Black Legal shall not be responsible for any errors caused due to oversight or otherwise.

WHITE BLACK
LEGAL

EDITORIAL TEAM

Raju Narayana Swamy (IAS) Indian Administrative Service officer



Dr. Raju Narayana Swamy popularly known as Kerala's Anti-Corruption Crusader is the All India Topper of the 1991 batch of the IAS and is currently posted as Principal Secretary to the Government of Kerala. He has earned many accolades as he hit against the political-bureaucrat corruption nexus in India. Dr Swamy holds a B.Tech in Computer Science and Engineering from the IIT Madras and a Ph. D. in Cyber Law from Gujarat National Law University. He also has an LLM (Pro) (with specialization in IPR) as well as three PG Diplomas from the National Law University, Delhi- one in Urban Environmental Management and Law, another in Environmental Law and Policy and a third one in Tourism and Environmental Law. He also holds a post-graduate diploma in IPR from the National Law School, Bengaluru and

a professional diploma in Public Procurement from the World Bank.

Dr. R. K. Upadhyay

Dr. R. K. Upadhyay is Registrar, University of Kota (Raj.), Dr Upadhyay obtained LLB, LLM degrees from Banaras Hindu University & PHD from university of Kota. He has successfully completed UGC sponsored M.R.P for the work in the Ares of the various prisoners reforms in the state of the Rajasthan.



Senior Editor

Dr. Neha Mishra



Dr. Neha Mishra is Associate Professor & Associate Dean (Scholarships) in Jindal Global Law School, OP Jindal Global University. She was awarded both her PhD degree and Associate Professor & Associate Dean M.A.; LL.B. (University of Delhi); LL.M.; PH.D. (NLSIU, Bangalore) LLM from National Law School of India University, Bengaluru; she did her LL.B. from Faculty of Law, Delhi University as well as M.A. and B.A. from Hindu College and DCAC from DU respectively. Neha has been a Visiting Fellow, School of Social Work, Michigan State University, 2016 and invited speaker Panelist at Global Conference, Whitney R. Harris World Law Institute, Washington University in St. Louis, 2015.

Ms. Sumiti Ahuja

Ms. Sumiti Ahuja, Assistant Professor, Faculty of Law, University of Delhi,

Ms. Sumiti Ahuja completed her LL.M. from the Indian Law Institute with specialization in Criminal Law and Corporate Law, and has over nine years of teaching experience. She has done her LL.B. from the Faculty of Law, University of Delhi. She is currently pursuing PH.D. in the area of Forensics and Law. Prior to joining the teaching profession, she has worked as Research Assistant for projects funded by different agencies of Govt. of India. She has developed various audio-video teaching modules under UGC e-PG Pathshala programme in the area of Criminology, under the aegis of an MHRD Project. Her areas of interest are Criminal Law, Law of Evidence, Interpretation of Statutes, and Clinical Legal Education.



Dr. Navtika Singh Nautiyal

Dr. Navtika Singh Nautiyal presently working as an Assistant Professor in School of law, Forensic Justice and Policy studies at National Forensic Sciences University, Gandhinagar, Gujarat. She has 9 years of Teaching and Research Experience. She has completed her Philosophy of Doctorate in 'Inter-country adoption laws from Uttarakhand University, Dehradun' and LLM from Indian Law Institute, New Delhi.

Dr. Rinu Saraswat



Associate Professor at School of Law, Apex University, Jaipur, M.A, LL.M, PH.D,

Dr. Rinu have 5 yrs of teaching experience in renowned institutions like Jagannath University and Apex University. Participated in more than 20 national and international seminars and conferences and 5 workshops and training programmes.

Dr. Nitesh Saraswat

E.MBA, LL.M, PH.D, PGDSAPM

Currently working as Assistant Professor at Law Centre II, Faculty of Law, University of Delhi. Dr. Nitesh have 14 years of Teaching, Administrative and research experience in Renowned Institutions like Amity University, Tata Institute of Social Sciences, Jai Narain Vyas University Jodhpur, Jagannath University and Nirma University. More than 25 Publications in renowned National and International Journals and has authored a Text book on CR.P.C and Juvenile Delinquency law.



Subhrajit Chanda



BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); PH.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide 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

THE LAW AFTER LIFE: CONSTITUTIONAL AND INTERNATIONAL REFLECTIONS

AUTHORED BY - K.KOKILA & K.SOMANAA

Abstract

The concept of personhood, as recognized under Indian jurisprudence, extends beyond the living to include the dignified treatment of the dead. Although a deceased individual ceases to hold legal rights and obligations, Indian law upholds the principle that every person deserves respect and protection, even after death. This article examines the legal status and rights of dead persons under Indian constitutional and penal provisions, emphasizing their recognition through judicial interpretation of Articles 14, 15, and 21 of the Constitution of India. It explores statutory safeguards under the **Bharatiya Nyaya Sanhita, 2023**—such as Sections **301, 315, 356(1), and 351(1)**—which address offences like trespass on burial grounds, misappropriation of property, and defamation of the deceased. The study also highlights the judicial and ethical vacuum surrounding the offence of necrophilia, which remains undefined in Indian law despite increasing relevance. By referencing landmark cases such as *Pt. Parmanand Katara v. Union of India* and *Mrs. Anandhi Simon v. State of Tamil Nadu*, the article underscores the judiciary's role in affirming the right to a dignified burial as part of the right to life. In contrast, global perspectives, including provisions from the Geneva Convention and UN Human Rights guidelines, reaffirm the universal duty to preserve the dignity of human remains. The paper concludes with the need for explicit legal reforms to criminalize acts like necrophilia, enhance deterrence, and ensure that respect for human dignity continues beyond death.

Key Words: Dead Persons, Human Dignity, Legal Reform, Constitutional Law

Introduction

The idea of personhood lies at the heart of jurisprudence, distinguishing between those who possess rights and duties and the objects over which such rights are exercised.¹ According to *Black's Law Dictionary*, a “person” is one capable of holding rights and bearing obligations,

¹ H.L.A. Hart, *The Concept of Law* 178 (2d ed. 1994).

whereas a “thing” is merely the subject of those rights.² According to Section 2(26) of the Indian Penal Code, 1860, the definition of “person” encompasses any company or group of individuals, regardless of whether they are incorporated.³ The word itself is derived from the Latin *persona*, meaning “mask,” symbolizing the various roles individuals assume in social and legal contexts.⁴

In legal theory, persons are broadly classified into two types—**natural (legal) persons**, who are bound by rights and duties, and **juristic persons**, such as corporations or institutions, which the law recognizes as capable of holding certain rights and obligations.⁵ However, a question arises when life ceases—does personhood end with death, or do some rights continue to protect human dignity beyond the grave?

The Indian legal system, grounded in constitutional morality and human dignity, recognizes that respect for the dead is a fundamental aspect of civilization.⁶ While a deceased individual ceases to be a “person” in the strict legal sense, Indian jurisprudence upholds the principle that death does not extinguish the moral and social duty to treat human remains with honour.⁷ The law imposes obligations upon the living to ensure that the body of the deceased is handled with dignity, disposed of respectfully, and protected from desecration or indignity.⁸

The rights of the dead, though not explicitly codified, are derived through judicial interpretation of **Articles 14, 15, and 21** of the *Constitution of India*, which collectively guarantee equality, non-discrimination, and the right to life with dignity.⁹ Over time, courts have expanded the meaning of “life” to include the right to a decent burial or cremation, thus bridging the gap between legal personhood and posthumous respect.¹⁰ Furthermore, statutory provisions under the *Indian Penal Code, 1860*—including Sections **301, 315, 356(1), and 351(1)**—criminalize acts such as trespass on burial grounds, misappropriation of a deceased person’s property, and defamation of the dead, reinforcing the protection of dignity even after death.¹¹

² *Bharatiya Nyaya Sanhita, 2023*, section 2(26), India Code (2023).

³ Roscoe Pound, *An Introduction to the Philosophy of Law* 67 (1922).

⁴ Salmond, *Jurisprudence* 273 (12th ed. 1966).

⁵ Salmond, *Jurisprudence* 273 (12th ed. 1966).

⁶ *Pt. Parmanand Katara v. Union of India*, (1989) 4 SCC 286.

⁷ *Ashray Adhikar Abhiyan v. Union of India*, (2002) 2 SCC 27.

⁸ *Ramji Singh v. State of U.P.*, (2009) 14 SCC 569.

⁹ *Constitution of India*, arts. 14, 15 & 21.

¹⁰ *S. Sethu Raja v. Chief Secretary, Government of Tamil Nadu*, (2007) 5 MLJ 404.

¹¹ *Bharatiya Nyaya Sanhita, 2023*, section 301, 315, 356(1) & 351(1), India Code (2023).

This article seeks to explore the **legal status and recognition of the rights of dead persons** within Indian jurisprudence. It examines constitutional protections, relevant statutory provisions, and landmark judicial decisions that have shaped this evolving field. Additionally, it provides a comparative perspective by analysing how international conventions and human rights frameworks treat the dignity of the deceased. The discussion concludes by emphasizing the need for explicit legislative measures to address emerging offences such as necrophilia, which remain inadequately defined in Indian law, and to strengthen the broader protection of human dignity—both in life and in death.¹²

Legal status of dead person in jurisprudence

Anything is capable to be liable and to do certain obligation is bound to be a person. Now the question raises as dead body is a person or not. Since the dead body cannot be liable or to perform any obligations bounded by normal person it is laid that on the principle of personalities as human being, it is the right from birth till the existence at death. The thumb rule is that the dead person has no right. It is the mere responsibility of the State to provide necessary respect for dead bodies and follow decent and dignified disposal ascertain if it is being established as crime to the extend cause death when it is subjected to scientific experiment, medical purpose or to save the life of another person in need, with a legal object such preservation of dead body is in accordance with human dignity.

As in India law, reputation of dead body is needed to be protected under both civil and criminal nature of law. As it ensures decent and dignified burial under article 21¹³ as an extent and if any dishonoured or irresectable activities done over a dead body is a criminal offence. The Latin phrase "De mortuis nil nisi bonum" translates to "Of the deceased, only good things should be mentioned." This maxim indicates not to speak ill about dead and it is socially inappropriate. As it's an offence of defamation, liable which may affect the emotional feelings of the family members of the dead person and it is punishable under section 356(1), of Bharatiya Nyaya Sanhitha, 2023¹⁴

¹² Geneva Convention (I) for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field art. 17, Aug. 12, 1949, 75 U.N.T.S. 31.

¹³ Indian Constitution, under Article 21(1950) (India).

¹⁴ Bharatiya Nyaya Sanhita, under section 356(1), (2023) (India).

Constitutional Rights of the Dead in India

There are no special acts, provisions for dead body in India, but our constitution grants such rights through various interpretation of Article 14,15,21. There are seven rights granted:

- No Discrimination of dead body- No dead body should not be discriminated in any forms and need to be handed and preserved properly and not to be discriminated on any grounds such as religion, race, place of birth, gender, and caste. Article 15(1) of Indian constitution, that the state shall not discriminate any citizens on grounds as said above or any of them.
- No physical exploitation- Any form of physical abuse over the dead person's body is violating of their basic rights. Under Article 14 of Indian Constitution. The State shall not deny to any person equality before the law or the equal protection of law within the territory of India.
- Decent and timely Burial- Dead Body has to be respected and have a decent and timely burial as per the various personal laws and customs and traditions as follows as such. In case of Ashray Adhikar Abhiyan Versus. Union of India,¹⁵ that deals with the rights of homeless people for a decent burial, a similar ruling was given. It was held by the court as that people have a right to a decent burial, according to the religious faith to which the person belonged before death as interpreted from article 21 and article 25 of Indian Constitution.
- To receive justice, if death occurred due to criminal Offence- There should be justice given to death of a person when occurred due to criminal offence such as murder, theft, robbery etc. I would like to illustrate with an example. When A and B are neighbours A when A trespass the of house of B and during which A killed B on due anger and sudden provocation. As such to get justice B life, his legal heirs could file against A and held him liable for punishment.
- To carry will- The will written, and registered by the dead person it could be enforceable as such by testamentary succession under various personal laws.
- To maintain dignity of the dead person- There shall be no such any action that are defaming the reputation of the dead person in any visible representation under Article 21 of the constitution of India such it protects right to life and personal liberty which includes write to leave with dignity.¹⁶ It me also expand to interpreted as this may be

¹⁵ Ashray Adhikar Abhiyan Vs Union of India, (2002) 2 S.C.C 27(India).

¹⁶ National Human Rights Commission of India, (July 21 2025),<https://nhrc.nic.in>.

applicable for the dead person also. In landmark case of Pt. Parmanand Katara, advocate versus Union of India and Anr established this right of deformation.¹⁷

Statutory Provisions in Bharatiya Nyaya Sanhita, 2023

1) Section 301 - Trespassing on Burial Places

- This Section states that deliberately or knowingly hurt religious sentiments or desecrate sacred and burial places.
- The offence is committed when a person—Trespasses into a place of worship, burial ground, or cremation area; Shows indignity to a human corpse; or disturbs people performing funeral rites- with the intent or knowledge that such actions will insult religious feelings or wound sentiments. Punishment - Imprisonment for up to one year, or fine, or both.
- This section upholds the dignity of religious practices and the deceased, ensuring that spiritual and cultural spaces remain protected from acts of disrespect or provocation.

2) Section 315 — Misappropriation of Property Belonging to a Deceased Person

- This provision deals with situations where a person wrongfully takes or uses property that was in the possession of someone who has passed away. If the property has not yet been lawfully claimed or transferred to the rightful heir, and the person knowingly and dishonestly converts it for personal benefit, the act amounts to an offence.
- The property must have been owned or held by the deceased at the time of death. No lawful successor or claimant should have taken legal possession when the offence occurs. The offender must have acted with dishonest intent for personal gain. Penalty - Imprisonment for a term of up to three years and fine. If the offender was employed by the deceased at the time of death (for example, a clerk or domestic servant), the imprisonment may extend to seven years.
- This section ensures that property belonging to a deceased person is protected from opportunistic misuse before its legal transfer. It upholds the rights of heirs and recognizes an implied duty of trust concerning such property.

¹⁷ Pt. Parmanand Katara Vs Union of India, (1989)4 S.C.C286(India).

3) Section 351 — Criminal Intimidation

- Section 351 covers situations where a person threatens another, directly or indirectly, with the intention of creating fear or compelling them to act against their lawful rights or duties.
- The threat may concern harm to the individual, their property, reputation, or that of someone closely associated with them.
- The explanation clarifies that threatening to damage the reputation of a deceased person—in whom the victim has an emotional or personal interest—also constitutes intimidation. Punishment - Imprisonment for up to two years, or fine, or both.
- The provision widens the idea of criminal intimidation to include reputational threats and posthumous defamation, ensuring protection not only from physical danger but also from moral or emotional coercion.

4) Section 356(1) — Defamation

- This section defines the offence of defamation. It applies when an individual, by spoken or written words, gestures, or any visible form, conveys or circulates a statement about another person with the deliberate intention—or with knowledge or reasonable belief—that such a statement will harm that person's reputation.
- The act can be committed through speech, writing, digital media, or visual depiction. The accused must have intended to harm the reputation or acted knowing that such harm was likely. Several exceptions apply, such as statements made for the public good or those expressing fair opinions about public conduct.
- Section 356(1) preserves the essence of defamation law while acknowledging modern modes of communication. It seeks to balance the freedom of expression with the right to reputation, extending its protection even to deceased persons whose memory or reputation may be affected.

Background and Contemporary relevance on Dead Person Rights

The dead persons are marked as the respect and treated as similarly God and worship as for the ancient tradition of Hindu law and various other personal laws so that the dead and their human remains was to be protected and deserve to be preserved more respected a well dignified maintenance which could include all the scopes of difference in societal religious and cultural tradition aspects.

It is also concerned with the International Criminal law to prohibit the mutilation of various offences against the dead bodies. This is also well-known element of crime and amount an attack of the personal dignity of the dead person and their family members.

The other provisions regarding the treatment of dead bodies are included in various regional and international human rights instruments and jurisprudence. The dead body rights were left unknown over the ancient times and was in a deep talk in recent times during the COVID-19 pandemic period. During the peak time of COVID-19 many people were dead, the cremation process we are not in a dignified way so that there were many pills filed in the court regarding this issue which gave rise to various other rights required for the dead body their cremations.

International Perspective on Dead Body Rights

- United Nations Commission for human resource in a resolution adopted in 2005 underline the necessity of dignified handling of human remains including their proper maintenance and disposal as per respect a need of families.¹⁸
- International Humanitarian Law convention article 130 of 4th Geneva Convention named as “Burial Cremation” says that dead bodies must have proper and honourable burial as per religion and also their graves must be respected properly maintained. As it could be recognised.¹⁹
- United Nations IASC guidelines on human rights and natural disasters as per article 6 deals with dealings with moral mortal remains also provide protection to rights and dignity of the dead person this article entirely states that the dead body should be preserved for identification and prevent their despoliation, remains not to be returned rather it could be stored for future identification and then return to their families. Disposal of bodies must follow the religious and customary practises. Such that it could maintain the dignity and privacy of the dead person and their families.
- Human Rights Committee laid that the irrespective handling of the dead bodies are amounted to cruelty and their families also treated in the worst manner it says that the protection of right to life of a deceased person and their family members are interlinked and interconnected with their fundamental rights.

¹⁸ Sanchita Kadam, Rights of the Dead: Do they have any in India?, Citizens for Justice and Peace, (June, 14 2025), <https://share.google/fOZAEfdgQVWJkoZ>.

¹⁹ National Human Rights Commission of India, (July 21 2025), <https://nhrc.nic.in>

Judicial Recognition of Rights of the Dead

- In the case of Mrs. Anandhi Simon versus State of Tamil Nadu, the case was filed by Mrs. Anandhi wife of the deceased Dr. Simon, is a Nobel and well-known neurosurgeon, by profession who was dead during the peak rises of Covid-19 viral infection. That time were huge number of people were dying in mass number due to the severity of the viral infection such then those persons dead were not be buried as per the regular cremation followed as per their personal laws and was not disposed as per medial guidelines also instead, they were thrown just like garbage. Dr. Simons last wish that wished for a decent buried in the cemetery in Kill Park as per Christian religion. Due to which resulted in the denial of proper burial for the dead bodies during the pandemic crisis is violation of fundamental rights.

The Hon'ble Madras High Court held that as per article 21 of Indian Constitution "Right to life and personal liberty". The term right to life is applicable for a person right from his birth till this date which is inclusive of the right to decent burial. As per article 25(1)- All person as freedom of conscience and free profession, practise and propagation of any religion. Here all person me include dead person also. Each the judgement gets concluded as in various cases as precedent. As by which the judgement goes in favour of the petitioner.²⁰

- In the year 2005, Nithari case is about the suspicious murder of a 19-year-old girl, who was missing from the Nithari village. The accused were 2 of them charged Mohinder Singh and his cook Surender Koli. Mohinder Singh is a well-known business man and respected politician. The girl went to the house of the accused at last and after then was missing, the girl's father was suspicious on the duo and filled the case against the two in the nearest police station and on investigation, police searched the house of the accused and found numerous of pornographic cd's and images of women and minor children in naked, horrible stage. This incident took the investigation in a serious note and due to the improper handling of the police, this case was transferred to the CBI and without proper evidence against Mohinder Singh, the case falls against Koli and he confess the offences done by him like kidnapping, rape, murder defining under sections 302, 307, 201 and various other provisions under Indian Penal Code, 1860.

²⁰ Madras High Court (Single Judge: Abdul Quddhose, J.), Anandhi Simon v. State of Tamil Nadu, W.P. No. 7620 of 2020, reported at (2021) 3 Madras Law Journal 479 ("3 MLJ 479") (Madras H.C. 2021).

The judgement in the district court granted the death sentence for the accused and when the accused go for appeal in the Allahabad High Court, due to lack of proper evidence and as strict interpretation of the penal statues as the offence of necrophilia is not clearly defined in any provision under Indian laws as it is ambiguous in nature. But the HC held that the acceptance of the judgement by the district court and pronounced death sentence for rape and for murder is failed in HC due to lack of evidence for judgement. This case was classified as the “rarest of the rare” the accused persons were submitted the petition for pardoning power of the President.

The President rejects the petition, and in 2014 SC commuted Koli’s death sentence as life imprisonment.²¹

- P. Rathinam versus Union of India 1994,²² in this case I ambit Article 21 also include dignity of a person. It emphasized that right to life means a meaningful life and not merely animal existence. Right to dignity is also expanded to the dead bodies.
- Sh. Raghu Nath Pandey and Anr versus Sh. Bobby Bedi and Ors,²³ in this case the court held that “no action for defamation can be taken in respect of a dead person since defamation is defined as a personal wrong and legal right does not survive and it’s not actionable after death of a person in view of principal lay down in the legal maxim **“Actio personalist monitor cum persona”**.

Conclusion

This article, as India is a secular country which follows number of religions and different customs and it has various burial ceremonies for a dead person. As our constitution grantees the secular nature once even after death person has to be treated with dignity and respect. In India we also follow the tradition of worshipping as God, such that we need to follow the procedure was said by customs of various religions. So, we need to respect, handle the dead person in a decent and dignified manner.

The rights of the dead, while often overlooked, are an essential component of any society that values human dignity, cultural heritage, and ethical responsibility. Although a deceased person

²¹ Supreme Court of India, Surendra Koli v. State of U.P., Criminal Appeal No. 1475 of 2009, order (commutation affirmed), (S.C., Jan. 28, 2015) (life sentence substituted for death penalty due to undue delay), see also India Today, Jan. 28, 2015 .

²² P. Rathinam Vs Union of India, (1994)3S.C.C 394 (India). AIR 1994 SC 1844.

²³ Sh. Raghu Nath Pandey Vs Sh. Bobby Bedi, 2003 S.C.C. On Line Del 1004(India).

no longer holds legal personhood, their body is not treated as a mere object—it retains a special legal and moral status. This status is protected through laws governing burial, cremation, organ donation, post-mortem examinations, and protection from desecration or misuse.

Legal systems across the world recognize that the handling of human remains has profound implications for families, communities, and cultural identities. Respect for the dead is not just about honoring the past; it also reflects the values of the living. As scientific research, forensic technology, and medical advancements continue to evolve, the conversation surrounding dead body rights becomes increasingly complex, especially in contexts such as anatomical research, genetic testing, and cultural repatriation.

Moving forward, it is crucial that legal frameworks remain adaptive and culturally sensitive while upholding universal principles of dignity and consent. Public awareness and ethical discourse must accompany legal regulation to ensure that the dead are treated not only with procedural fairness but with the respect owed to all human beings—both in life and after death.

The Indian legal system, grounded in constitutional morality and human dignity, recognizes that respect for the dead is a fundamental aspect of civilization. While a deceased individual ceases to be a “person” in the strict legal sense, Indian jurisprudence upholds the principle that death does not extinguish the moral and social duty to treat human remains with honor. The law imposes obligations upon the living to ensure that the body of the deceased is handled with dignity, disposed of respectfully, and protected from desecration or indignity.

This article seeks to explore the legal status and recognition of the rights of dead persons within Indian jurisprudence. It examines constitutional protections, relevant statutory provisions, and landmark judicial decisions that have shaped this evolving field. Additionally, it provides a comparative perspective by analysing how international conventions and human rights frameworks treat the dignity of the deceased. The discussion concludes by emphasizing the need for explicit legislative measures to address emerging offences such as necrophilia, which remain inadequately defined in Indian law, and to strengthen the broader protection of human dignity—both in life and in death.

Suggestions

Dead Body rights which granted in Indian laws are much advanced and better. When compared with the other countries around the world it treated the dead person also as a legal person. Such that in Article 14- Any person is equal before the law and there is equal protection of law includes dead person. Similarly in Article 21- Right of life and personal liberty includes the dead person to the limited sense, interpreted in the Supreme court as right to decent and dignified burial. The Indian laws don't expressly define offences against the dead person as still it is better a talk of argument.

As such the trespass for in burial grounds under section 297, misappropriation of property of the dead person under section 404, and defamation against dead person and their family members under section 499. But the offence like necrophilia is not explicitly defined and the offence is being not properly handled. In section 377- Unnatural offence, carnal intercourse against the order of nature, in section 376 rape the definition includes the term "without the consent since the dead person is in capable of giving consent, as such any provision in Indian laws do not have proper scope or definitions for necrophilia. But still it cannot be recognised undefined as the offence of necrophilia is increasing in India, as for as now the punishment granted is for outrage the modesty of the women. Since which as per strict interpretation of penal statues in this type of offence there is no damage for dead person held, also under the concept of rule of lenity. The accused person can't be proved of this offence of necrophilia and so as which the person cannot be punished. But as the accused person punished for the offence to compensate with the punishment for defining the modesty of women, as the simple imprisonment for 6 months and fine.

But this couldn't be accepted has respect done to maintain the dignity of the dead person. The strict laws had to be brought to enforce & reduce the offence such that then the offenders could get scared and it as per deterrent theory as the punishment for the offence has to be rigours as such it could prevent the society in from doing the same offence. I could suggest for the punishment for necrophilia as the rigour's imprisonment for not more than 3years, it need to non bailable, non-compoundable and cognizable.