

Necrophilia: Notorious yet Obscure

Michaela Cini, Mary Grace Vella

michaelacini@gmail.com, marygrace.vella@um.edu.mt

Abstract

Since time immemorial, necrophilia has presented itself both as a horrifying and a fascinating subject. Its taboo and perversion make it a compelling subject matter for stories, novels and movies. Yet, in spite of its notoriety, it remains relatively under-documented and under-researched

Within various academic spheres. Given its idiosyncratic association with the bizarre, the issue has been primarily explored from a psychiatric and psychological dimension. The issue has been largely overlooked from a legal and criminological perspective. This paper aims to address this lacuna and contribute towards a more inter-and multi-disciplinary analysis of the subject by focussing on the legal aspects of necrophilia. The study utilises comparative and documentary content analysis to examine existing legal frameworks governing sexual offences with a specific focus on necrophilia. The analysis presents the ambiguous findings that despite its unorthodoxy, necrophilia is rarely addressed as an offence on its own right and contrary to expectations, it is generally meted out a more lenient punishment than other forms of sexual offences. The paper highlights that necrophilia, both in its notoriety and ambiguity, presents us with a deviant paraphilia which, although having a far-reaching impact on perpetrators, victims and society in general, still needs to be critically re-examined and adequately addressed.

Keywords: *necrophilia, paraphilia, sexual offences, crime*

Necrophilia: Notorious yet Obscure

Necrophilia is consigned to the most bizarre, morbid and pathological states of human conduct. Its taboo and perversion both horrifies and fascinates. The topic provokes investigation, yet eludes it. Indeed, despite its notorious exposure in fiction - stories, novels and movies - it lacks an adequate theoretical and academic analysis. As with other sexual aberrations, the issue has largely been investigated from a psychological and psychiatric dimension, yet receives little mention in criminological analysis. This allusion is evident in its omission from various domestic legal provisions covering offences of a sexual nature.

This paper aims at addressing this lacuna and contributes towards a more inter- and multi-disciplinary analysis of the subject by focusing on the legal aspects of necrophilia. Thus, the paper aims at providing a further theoretical and academic understanding of this phenomenon whilst promoting more evidence-based practice regarding policy and legislative change, especially in addressing existing lacunae within the Maltese legislative framework. This will be carried out through the examination of how the act of necrophilia remains largely unaddressed as an offence in its own right in a number of jurisdictions and when considered specifically as a criminal offence, it is less severely punished than other forms of paraphilia. Specific reference will be made to the existing frameworks or lack thereof within domestic legislation with the aim of proposing recommendations for the development of adequate legal and psychosocial services to address necrophilia and its multi-factorial impact on both perpetrator and the victim's significant others.

The study utilised comparative and documentary content analysis to examine existing legal frameworks governing sexual offences with a specific focus on necrophilia. It was executed across six countries, each from a different continent: the United Kingdom, Canada, New Zealand, Brazil, South Africa and India, enabling a comparative analysis between these countries and domestic legislation. The findings were subsequently analysed and evaluated to provide insight as to how different countries including Malta, address sexual offences, as compared to necrophilia. Following this introductory note on the aims and objectives of the study, along with the research design adopted, the paper will present an overview of the nature of sexual offences and paraphilia with a specific focus on necrophilia. It will then present the main findings arising from the research whilst proposing a number of policy recommendations to effectively address the issue from a psycho-social and legal perspective.

Sexual Offences: Variance and Ambiguity

Sexual offences have been defined as “acts and behaviours prescribed by the legal statutes of the jurisdiction within which they are enacted” (The Sage Dictionary for Criminology 2012, p. 405). This umbrella term encapsulates many diverse acts including harassment, assault and violence.

The definition implies that sexual offences are neither static nor absolute but are characterised by a wide variance of activities enshrined in socio-cultural and legal ambiguity. The illegality of such acts is often a reflection of the values and culture of the society within which they are set. The decriminalisation of homosexual acts in the 1960s within most Western countries and the criminalisation of marital rape are a manifestation of the changing values within social consciousness (McLaughlin, Muncie 2012). Some offences such as rape (even if the definition of the word varies across cultures) and lust murder are globally considered as forbidden acts that ought

to be sanctioned. However, other forms and aspects of sexual offences can and do differ vastly between countries (Holmes 2002). The presence of consent between all involved parties is generally considered to play a key role in establishing whether an act is to be criminally sanctioned or not. If the individuals involved are of age, cases involving sexual offences often hinge on whether it is proved beyond a reasonable doubt that consent was obtained under duress or was completely absent. However, if any of the parties involved are unable to provide consent either due to being minors, being mentally incapacitated or under the influences of substances etc., consent is generally considered to be absent or limited (McLaughlin, Muncie 2012).

The changing definition of what constitutes a sexual offence often leads to legislative change such as the decriminalisation of a particular act or the criminalisation and/or aggravation of another. Yet, the nature and extent of sexual offences are difficult to assess due to inadequate and distorted statistical data mainly attributed to the dark figure of crime (McLaughlin, Muncie 2012). The taboo and sensitive nature of sexual abuse paired with the victimisation experience often engrossed in power dynamics of domination and subjugation between victim and perpetrator along with aggressive cross-examination commonly found in courtrooms, heavily dissuade victims from reporting their crimes. Those who manage to do so are subjected to insensitive interrogations and invasive investigations, conducted by officers often untrained in working with sexual abuse victims. Furthermore, of the few cases reported, many are retracted and of those who effectively manage to go to court, many are dismissed due to insufficient evidence. Many jurisdictions lack *ex officio* prosecution and thus depend solely on the victim's willingness to file and press charges.

Paraphilia: Normal or Deviant?

The American Psychiatric Association defines paraphilia as the “intense sexual arousal to atypical objects, situations, fantasies, behaviours or individuals” (Devgun 2013). Paraphilia has also been defined as “psychosexual disorders in which significant distress or an impairment in a domain of functioning results from recurrent intense sexual urges, fantasies or behaviours” (Balon 2013). Although it is an ancient phenomenon, paraphilia has only received academic attention from the twentieth century onwards. The rarity of paraphilias coupled with the associated taboo constitutes a heavily contributing factor for its lack of academic and policy attention.

Aggrawal (2009) estimates that there are around 547 different forms of paraphilia, such as somnophilia, coprophilia, biastophilia, necrophilia, etc. The DSM-V presents specific listings for only eight forms of paraphilia, relating to voyeuristic, exhibitionistic, frotteurism, sexual masochism, sexual sadism, paedophilic, fetishistic and transvestic disorders. Other paraphilias fall under the general category of ‘Other Specified Paraphilic Disorders’ (American Psychiatric Association 2013). Additionally,

these paraphilia do not exclude one another and often exhibit co-morbidity. Sex often entails issues of power, characterised by domination and subjugation. Somnophilia, the sexual attraction to a person asleep or unconscious, has the helplessness of the victim at its core, the same as necrophilia, which to a certain extent are all linked to biastophilia or sexual arousal to the act of rape, gaining power and dominance over someone less powerful. Thus, these three paraphilias are often found to be interlinked by their urge for dominance and subjugation (Pettigrew 2018). Whilst all paraphilias are considered deviant, some are relegated to a darker pinnacle of deviance. Necrophilia is a case in point.

Necrophilia: A Deviant Paraphilia?

Necrophilia comprises the Greek words 'nekros' and 'philia', the former meaning corpse and the latter meaning love or friendship (Devgun 2013), often defined as 'sexual relations with corpses' (Stein et al. 2010). Historical documentation recounts necrophilia since time immemorial. Coined in 1850 by Joseph Guisban, necrophilia could be traced to ancient times. In Egyptian mythology, the goddess Isis used the severed genitals of Osiris to impregnate herself while in Greek mythology, Achilles had sex with Penthesilea after murdering her on the battlefield (Devgun 2013). It is believed that cremation and the use of solid granite tombs in India and Europe respectively, emerged to prevent any disturbance of graves from necrophiliac intent. In 1901, Victor Antoine Ardisson, nicknamed the Vampire of Mui, was arrested after the police raided his home and found the decaying remains of a three-year-old girl whom Ardisson had used for oral sex. He later explained that he had done so in the hope that the act would enable her to resurrect. Ardisson also exhumed the head of a thirteen-year-old girl and kept it as his bedmate for many years, referring to it as 'my little bride', kissing it and occasionally using it for oral sex (Devgun 2013). A more contemporary example is Gary Ridgway, the Green River Killer, who was found guilty of 49 counts of homicide and necrophilia in 2001. Following his conviction, he confessed to the killing of around 71 women (Devgun 2013). As seen from the examples presented, necrophilia has been ever-present across different time periods and cultural contexts. Moreover, media reportage of such offences such as the stories of Edmund Kemper who decapitated his victims, Ed Gein, a grave-robbing necrophile, Jeffrey Dahmer, a serial killer and cannibal, as well as others, have made such offenders contemporary legends to the extent of almost glorifying their acts (Holmes 2002).

Necrophilia was initially thought to be a rare male perversion, considered as severe as rape and paedophilia (Holmes 2002). Due to its implicit rare occurrence, no data on its prevalence in the general population exists (Milner et al. 2008). The absence of data about necrophilia makes an accurate if not also an approximate analysis of this mental illness and sexual aberration problematic. It is only after the

twentieth century that the issue started being given academic attention through research and through the documentation of sexual paraphilia (Pettigrew 2018). It is often believed that necrophilia is not as rare and uncommon as alleged and that it only appears so because of the absence of reporting and discoveries (Holmes 2002). Even when recognised by law, due to the victim being a dead person, reporting rates are minimal. This can be ascribed to the belief that nobody is harmed by the non-homicidal necrophiles since the molestation involves a corpse rather than an actual living human being, amounting to a 'victimless' crime.

Necrophiles often seek employment in workplaces that grant them the ability to access corpses such as morticians or funeral parlour assistants. These institutions only remain in business as long as grieving relatives trust them; thus such activity may not be reported so as to protect the reputation of the funeral home or hospital. (Holmes 2002). This leads to necrophiliac cases being primarily reported only if they are accompanied by aggravations, thus resulting in the depiction of all necrophiles as violent individuals (Pettigrew 2017).

Necrophilia: Classifying the Unclassifiable

Two main models attempt to explain and categorise necrophilia: the Resnick and Rosman's (1989) model and Aggrawal's (2010) ten classification model. The first of these models splits necrophilia into three groups: necrophilia homicide, regular necrophilia and necrophilic fantasy. Necrophilic homicide is defined by individuals who murder to attain a corpse for their sexual purposes whilst regular necrophilia refers to individuals who are opportunistic and use previously dead bodies for their sexual satisfaction. Finally, necrophilic fantasy refers to individuals who fantasise about having sexual activities with a corpse without physically committing the necrophilic acts. This broad classification encapsulates most necrophilic offenders without being too precise thus giving greater leeway for the classification to be possible, however, the lack of refinement makes it easy for mental health professionals and criminal justice workers simply attribute a title yet much harder to properly process these individuals (Bouregghda et al. 2011; Rosman, Resnick 1989).

Aggrawal's (2009) ten-class model presents a more detailed classification by referring to a broader range of necrophiles ranging from: i) Role players / Pseudonecrophilia who are aroused by necrophilic role-playing; ii) Romantic necrophiles, generally comprising grief-stricken individuals who are in denial of the death of loved ones iii) Necrophiliac fantasisers whose sexual fantasies feature the dead; iv) Tactile necrophiles who require contact with a dead person for sexual gratification; v) Fetishistic necrophiles who subject to opportunity and who keep part of the corpse for ensuing sexual activities; vi) Necromutilomaniacs who achieve sexual gratification through mutilation/cannibalism of a corpse; vii) Opportunistic necrophiles whose commission of a necrophilic act is subject to available opportunity,

viii) Regular necrophiles who obtain sexual gratification solely from necrophilic acts, often through the stealing of corpses, ix) Homicidal necrophiles whose necrophilic act follows murder but precedes rigour mortis (warm necrophilia) and x) Exclusive necrophiles who are unable to achieve sexual gratification with living individuals and endeavour to carry out necrophilic acts through any means necessary, be it through theft of a corpse or even to the point of murder.

Contrary to the general media's depiction that individuals with necrophilic tendencies tend to be inherently violent, it is only in the sixth, ninth and tenth categories that the sexual acts are accompanied by physical aggression. However, despite its detailed classification, this model is not without fault, particularly since it does not allow for movement between different categories nor for behaviour which spans across multiple classifications. Aggrawal's system endeavours to offer a scientific method for classifying human behaviour which is difficult to achieve when dealing with the average individual, and thus, even more difficult when assessing unorthodox behaviour such as necrophilia. Likewise, Rosman and Resnick (1989) do not discuss transmission between their categorisations. However, their broader model acts as a trawling net that captures necrophiles who do not necessarily progress in their behaviour without overcomplicating diagnosis with the unnecessary division.

The Ambiguous Findings

The aforementioned definition of sexual offences by the Sage Dictionary of Criminology (2012) highlights that whilst the constitution of a sexual offence may differ significantly across different countries, certain criteria are internationally established. The countries under review all uphold in some way or another law pertaining to sexual offences either through one broad generic law or through several laws governing specific offences. For the scope of this paper, the laws that will be considered will be those that may be applied to the context of verbal, virtual and physical sexual offences.

Within domestic legislation, sexual offences are provided primarily within Malta's Criminal Code (1854) and Article 9 of the Equality for Men and Women Act (2003). Article 198(1) of the Criminal Code (1854) delineates that:

Whosoever shall engage in non-consensual carnal connection, that is to say, vaginal or anal penetration of a sexual nature with any bodily part, and, or, any object, or oral penetration with any sexual organ of the body of another person shall, on conviction, be liable to imprisonment for a term from six to twelve years:

Provided that penetration with any body part and, or object shall be deemed to be complete by its commencement, and it shall not be necessary to prove any further acts.

In terms of consent, Malta’s legislation specifies in sub-article 3 of the same article that consent is to be “assessed in the context of the surrounding circumstances and the state of that person at the time...”.

All countries under review concur that consent is required for sexual acts to be legal. However, the definition of consent is not always formalised within a country’s legislation, creating ambiguity. This ambiguity regarding issues of consent is particularly evident in cases concerning necrophilia given its victimisation of a dead person who is unable to provide consent.

As will be argued in the following discussion, necrophilia or ‘the sexually motivated abuse of a corpse’, is indeed often treated differently from other sexual offences within most countries (Pettigrew 2018). From the countries reviewed, only one legislative framework, that of the United Kingdom, refers specifically to necrophilia as a criminal offence in its own right¹. The majority of the other legislative frameworks do not explicitly provide for necrophilia, though they uphold provisions which could be applied to cover necrophilic acts. However, given the lack of direct reference to necrophilia as a specific criminal offence, their successful application is largely subjective and discretionary based on the often, wide interpretation of vague terminology such as ‘indignity’, ‘insult’ and ‘indecenty’. Indeed, most of the laws analysed address necrophilia in relation to the violation or loss of dignity of a corpse, as opposed to a sexual offence in its own right. Similarly, the Maltese legislation does not refer specifically to necrophilia, thus providing a legal loophole.

The penalties for both sexual offences and necrophilia are presented in the following table to help create a clearer exposition and comparison of the punishment meted out in the countries under review.

Table 1: Comparison of Penalties

Country ²	Sexual Assault / Offence/ Harassment/ Rape	Necrophilia/ Interference	Indecent
Malta – Criminal Code (1854)	...be liable to imprisonment for a term from six to twelve years	n/a	
United Kingdom - Sexual Offences Act (2003)	3.4 (b) imprisonment for a term not exceeding 10 years.	70.2 (b) imprisonment for a term not exceeding 2 years.	
New Zealand - Crimes Amendment Act (2005) And Criminal Code (1961)	128B.1 o imprisonment for a term not exceeding 20 years.	150. imprisonment for a term not exceeding 2 years...	

-
- 1 The UK’s legislation however limits this to cases of penetration, despite Aggrawal’s (2010) view that necrophilia is most often a result of an oral fixation.
 - 2 South Africa is not included in this comparative analysis due to its utilisation of the case law system.

Canada – Criminal Code (1985)	266.(a) imprisonment for a term not exceeding five years	180.1 imprisonment for a term of not more than two years...
Brazil – Penal Code (1940)	213. - imprisonment, from 6 (six) to 10 (ten) years	212. detention, from one to three years, plus fine
South Africa	n/a	n/a
India – Penal Code	354A.2 ... imprisonment for a term which may extend to three years, or with fine, or with both.	297. imprisonment of either description for a term which may extend to one year, or with fine, or with both.
Average Maximum PENALTY ³	10 years	2 years

As observed from the above table, Holmes's (2002) aforementioned claim that necrophilia, once discovered, is considered to be as severe as other sexual offences, implies that it would be treated as harshly or more severely by the criminal justice system. However, this does not occur when presented with the comparison of the average maximum sentences meted out for both offences. The analysis indeed shows that necrophilia is generally attributed to a lesser punishment than other forms of sexual offences. The largest discrepancy is in the case of New Zealand where sexual offences are punished with a maximum of twenty years as opposed to that of necrophilia's two years.

Additionally, no legislative framework takes into consideration the aforementioned classifications of necrophilia, through aggravations, with no distinction for example between opportunistic necrophiles, who would not normally entertain necrophilic thoughts, and homicidal necrophiles who murder to obtain the body. Whilst such offences may be addressed through other criminal charges such as theft occurring through grave robbing or murder due to homicidal necrophilia, the root cause differs, therefore requiring different processing within the criminal justice system. Such distinction is required to be established by law since opportunistic necrophiles are unlikely to seek out these opportunities and therefore would not require the same rehabilitation nor are they subjected to the same punitive sanctions as homicidal necrophiles.

The findings of this research highlight that due to various reasons ranging from taboo, the rarity of occurrence and lack of reporting, prosecution and conviction, as well as its perception of a victimless crime, necrophilia is not given adequate attention, resulting in legislative lacuna and lack of service provision (Bouregghda et al. 2011). This calls for adequate policy attention to address not only the legal lacunae but also the emergent socio-psychological dimensions arising from such a phenomenon.

3 Due to the varying degrees of possible punishments that may be meted out, the maximum sentence for all was utilised to create uniformity.

Addressing the Un-addressable

Adequate measures to address the lacuna within domestic legislation and service provision need to be preceded by a mature discussion regarding sexual offences, paraphilia and even necrophilia. Without the generation of public concern on such topics, it is highly unlikely that policymakers will address these issues. Such a discussion would also require that sexual and mental health, with all their facets, are no longer considered a taboo area, which may hinder those who need advice or treatment for their sexual proclivities to seek help.

Given its entrenchment in power issues, adequate service provision dealing with perpetrators of sexual violence and abuse need also to uphold experts on necrophilia and other forms of paraphilia. This knowledge and understanding would enable them to better identify potential perpetrators and provide the relevant professional treatment to necrophilic offenders. As in the case of other sexual offenders, risk assessment is pivotal both within a custodial and a community-based context in order to limit any risk of further offences. Victim support ought to be provided to the family and to the loved ones of the victim due to the potential trauma that may be inflicted in knowing that one's loved one's peaceful rest was disturbed.

The comparative analysis of punitive sanctions relating to sexual offences suggests that while certain paraphilia such as paedophilia are heavily sanctioned, which under Maltese legislation carries a punishment of six to up ten years imprisonment (Article 203 of the Criminal Code), necrophilia is considered as a less grievous offence. It is rarely tackled on its own merits but often addressed as an offshoot of other offences such as indecency, mishandling, indignity or abuse of corpses. It is thus recommended that specific legal provisions proscribing necrophilia are enacted. This could be established on the framework of an encompassing framework focusing on sexual offences such as the United Kingdom's Sexual Act (2003) which while referring to other sexual offences, also specifically addresses necrophilia under article 70. Despite its limitations arising primarily from its focus on penetrative acts rather than sexual acts in general, which would otherwise allow for the coverage of a broader range of acts, this legislation represents one of the clearest frameworks specifically addressing necrophilia. An encompassing legal framework dealing with sexual offences within Maltese legislation would also provide coverage for other forms of sexual offences and related paraphilia.

Moreover, in addition to these policy recommendations, further and ongoing research needs to be sustained on the nature, extent, and development of paraphilia and their manifestations in both the local and international context with the intention that the currently existing policy and legislative lacunae are adequately addressed.

This research may serve as a basis for further research on the potential presence of paraphilic offenders on the Maltese islands, as well as to what treatment would work in the rehabilitation of such offenders. Additionally, the question emerged as to whether paraphilic tendencies, like other characteristic traits, can be found across

different generations of the same family, and if so, what would be the implications of such findings on the treatment of sexual offenders and that of their families. Finally, the researcher noticed that although there are plenty of models that explain and categorise necrophilia, there are no available tools to help criminal justice personnel charting behavioural progression between these categorisations, thus leading to them not being put into practice in real scenarios. The creation of such a tool would be essential were legislations to employ the use of categorisations when considering what penal policy ought to be utilised.

Disclaimer:

Any opinion expressed by the author/s are their own and do not represent the point of view or opinion of the institutions to which the authors are affiliated.

The author/s have abided by the ethics regulations and procedures of the Social Wellbeing Faculty Research Ethics Committee (SWB FREC) of the University of Malta.

References

- AGGRAWAL, A., 2009. Forensic and medico-legal aspects of sexual crimes and unusual sexual practices. Boca Raton: CRC Press.
- AGGRAWAL, A., 2010. Necrophilia: forensic and medico-legal aspects. Boca Raton: CRC Press.
- AMERICAN PSYCHIATRIC ASSOCIATION, 2013. Diagnostic and statistical manual of mental disorders: DSM-5. Arlington, VA: American Psychiatric Association.
- BALON, R., 2012. Controversies in the Diagnosis and Treatment of Paraphilias, *Journal of sex and Marital Therapy*, 39(1), pp. 7-20.
- BOUREGHDA, S.S.T., RETZ, W., PHILIPP-WIEGMANN, F. and RÖSLER, M., 2011. A case report of necrophilia – A psychopathological view. *Journal of Forensic and Legal Medicine*, 18(6), pp. 280-284.
- BYBEE, K.J., 2000. The political significance of legal ambiguity: The case of affirmative action. *Law & Society Review*, 34 (2), pp. 263-90.
- Crimes Act 1961. New Zealand: Government of New Zealand.
- Crimes Amendment Act 2005. New Zealand: Government of New Zealand.
- Criminal Code 1854. Malta: Government of Malta
- Criminal Code 1985. Canada: Government of Canada.
- Criminal Law (Sexual Offences and Related Matters) Amendment Act 2007. South Africa: Government of South Africa.
- DEVGUN, M. 2013. Necrophilia--Forensic and Medico-legal Aspects. Anil Aggrawal's Internet *Journal of Forensic Medicine and Toxicology*, 14 (1).
- Equality for Men and Women Act 2003. Malta: Government of Malta
- HOLMES, S.T., 2002. Sex crimes: patterns and behavior. California: Sage Publications.
- Human Rights Act 1993. New Zealand: Government of New Zealand.
- MCLAUGHLIN, E. and MUNCIE, J., 2012. Sex Crime. In: *The SAGE Dictionary of Criminology*, 3rd ed. California: SAGE Publications, pp. 405-408.

- MILNER, J. S., DOPKE, C. A. and CROUCH, J. L., 2008. Paraphilias not otherwise specified: Psychopathology and theory. In: D. LAWS and W. O'DONOHUE, eds., *Sexual Deviance: Theory, Assessment, and Treatment*. New York: Guilford Press, pp. 384-418.
- Penal Code 1860. India: Government of India.
- Penal Code 1940. Brazil: Government of Brazil.
- PETTIGREW, M., 2017. Comorbid, sequential, or different desires? Exploring the relationship between somnophilia and necrophilia. *Journal of Sexual Aggression*, 23(3), pp. 351-359.
- PETTIGREW, M., 2018. Fantasy, Opportunity, Homicide: Testing Classifications of Necrophilic Behaviour. *Journal of Police and Criminal Psychology*, 34(1), pp. 1-9.
- ROSMAN, J.P. and RESNICK, P.J., 1989. Sexual attraction to corpses: A psychiatric review of necrophilia. *Journal of the American Academy of Psychiatry and the Law Online*, 17(2), pp. 153-163.
- Sexual Offences Act 2003. United Kingdom: Government of the United Kingdom.
- STEIN, M.L., SCHLESINGER, L.B. and PINIZZOTTO, A.J., 2010. Necrophilia and Sexual Homicide. *Journal of forensic sciences*, 55(2), pp. 443-446.

