

SHOULD INDIA CRIMINALIZE CANNIBALISM - AN INHUMAN ACT THAT VIOLATES HUMAN RIGHTS OF DECEASED

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Abstract

In this research article, the writer has tried to explain and analyze the meaning of Cannibalism. She has explained some recent cases of cannibalism including the of Nithari killings. The writer has also tried to analyse whether Cannibalism should be criminalized in India or not by bringing a legal angle of human right violation of deceased persons, with the help of some landmark judgments of the Supreme Court, which upheld the rights of deceased persons.

Keywords: *Cannibalism, Victim, CBI, Supreme Court*

Introduction

The term “cannibalism” emerged from Carib, an infamous tribe of West Indies who are famous for practicing Cannibalism. Cannibalism was widespread in early human history and is still prevailed in some parts of the world, like that in West and Central Africa, Melanesia (especially Fiji), New Guinea, and Australia. Cannibalism refers to the practice of eating the flesh of one’s own specie. In early times, people of some regions equated human flesh with that of animals. For instance, the Victorious Maoris, after winning a battle arranged a feast on human flesh & “Batak” an ethnic group in Sumatra used to sell human flesh

openly in the market. This practice by Batak ceased after Dutch Control².

Cannibalism in animals can be accepted as they are uncivilized but it cannot be accepted & practiced in a civilized society. It creates a sense of horror in the minds of people. Unfortunately, at present, the Criminal laws of India do not provide any provision that has explicitly provided any punishment for such a grave offense. At present, the accused gets charged of Murder because of lack of laws on this matter. In today’s time, developed & developing societies consider Cannibalism as a “sick psychopathic tendency to eat human beings”.

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² Available at (<https://www.britannica.com/topic/cannibalism-human-behaviour>). Last visited -13.09.2022

Surendra Koli vs State of U.P. Ors on 15 February, 2011

This is an infamous case that triggered sensation in *Noida's Nithari*, after several girls of nearby villages started disappearing. This case is also known as *Nithari* case and several serious & heinous crimes like rape, murder and abduction happened. It is This case has also ignited a debate on inclusion of cannibalism as an offence under Indian Criminal System.

In May 2006, a teenage girl named Payal got missing. Her father approached SSP to request the registration of FIR with Police. Police tried to find Payal with the location of her phone. The police on its investigation discovered skeletons from the drain that was located behind the bungalow. But, mere finding of skeletons could not prove the guilt of Moninder Singh Pander & Koli. After huge hue and cry by the public & demand of justice, the UP Government transferred this case from Police to CBI.

Pander & Koli both got arrested as prime suspects. CBI also found 30 more bones in the bungalow. After 60 days of Police custody, Koli confessed his crimes of abduction, murder, attempt to rape dead bodies and cannibalism in front of Magistrate. He told that he used to lure

teenage children and adult women and some boys to come to the bungalow, where he kill them & attempt an intercourse with dead bodies & then chop the bodies & eat the parts & threw the remaining parts in the drain.

Pander used to live alone in that bungalow and had employed some more employees. It is quite shocking to know that none of them noticed the commission of such crimes. Koli used to murder all the victims in drawing room from 9am to 4pm & then chopped them in bathroom located upstairs & after eating them, he used to clean the drawing room & the bathroom.

The special CBI Court awarded death sentence to Koli for rape & murder. Allahabad court upheld the death sentence of Koli. The apex court also upheld that this case comes under the category of "Rarest of Rare Cases" and there Koli should be hanged to death. In may 2022, Special court of CBI awarded awarded seven years 'imprisonment to Pander for rape & immoral trafficking. Earlier, Koli was handed death sentences in more than 10 cases earlier. Pandher too was sentenced to death in three cases.

Recent cases of Cannibalism

1. In July 2022, Kolhapur district and sessions court upheld the guilt of Sunil Rama Kuchkorvi who allegedly killed his mother for money and then chopped her body. He was in drunken situation when he committed the alleged act. The neighbours saw the accused with a bloodstained mouth when he stepped out. The court has already termed the accused as guilty on the basis³.
2. Recently, in December 2021, a US man was charged with cannibalism. He killed a 80 year old man and ate his body parts, believing that it would “cure his brain”. Police recovered the body of victim from the premises & car of the accused⁴.

Should Cannibalism be made an Illegal Act?

Cannibalism is an anti-social activity which is committed by a person who has an abnormal & highly impulsive behavior. For instance, Ram Niranjana Alias Raja

Colander was a notorious cannibal, who used to kill people over petty issues. He also ate the brains of some people believing that he would become an intellectual person & because of this disturbing psychology, he used to hang the skulls of his victims as a trophy, in his house⁵. Cannibalism is linked to the psychology of the cannibal. In many situations, the cannibal is constantly drawn to their past events & trauma that occurred in their unhappy & negligent childhood, which in most cases is associated with a lack of love, care & nurturing. Cannibalism is also associated with the mental illness of a person, which makes the offenders of weak ego which substantiates their aggression.⁶

India does not have any specific law or provision that criminalizes cannibalism. So the question that arises is, how the police & judiciary deal in such situations? Basically, a person accused of cannibalism gets charged under murder which results in life imprisonment. Now the question arises, what happens when a person eat a

³ Available at (<https://timesofindia.indiatimes.com/city/kolhapur/sentencing-on-cannibalism-murder-case-on-thursday/articleshow/84180872.cms> _ (last visited -18.09.2022)

⁴ Available at (<https://www.indiatoday.in/world/story/us-man-cannibalism-eating-flesh-would-cure-his-brain-idaho-1890172-2021-12-21>). Last Visited - 18.09.2022

⁵ Available at (<https://www.lawinsider.in/trending/ram-niranjana-alias-raja-kolandar-the-notorious-cannibalistic-killer>.) Last visited - 18.09.2022

⁶ Raymond, Sophie & Iger, Anne?Sophie & Gasman, Ivan. (2019). The Psychopathological Profile of Cannibalism: A Review of Five Cases. *Journal of Forensic Sciences*. 64.10.1111/1556-4029.14099.

dead person who got buried? How police will take action against a person who is eating a dead body, on which the accused did not commit murder? These questions go unanswered, as there is no specific provision or law that criminalize such acts.

Cannibalism should get criminalized as the cannibal violates the rights of dead people. In a recent judgement too, a Supreme Court bench comprising Justices Surya Kant and JB Pardiwala observed that “*The right to dignity and fair treatment under Article 21 of the Constitution is not only available to a living man but also to his body after his death*”⁷. Cannibalism also violates the human rights of dead persons. Though, Indian Legal System does not have a specific law that protects the rights of dead persons. However, the Apex Court & the High Courts have upheld the rights of dead. Cannibalism violates the basic principles for upholding & protecting the rights of deceased person, as a cannibal physically exploits a dead person. These judgements have given dead persons a significant moral standing within our legal system. The two landmark cases in this matter are ⁸-

1. **Parmanand Katara v. Union of India, 1989** - In this case, Apex Court widened the scope of Art.21 of Indian Constitution by recognising that right to fair treatment & dignity extends to both living & dead persons. This case is significant because the Apex Court stressed on importance of establishing & maintaining the rights of posthumous persons.
2. **Ashray Adhikar Abhiyan v. Union of India, 2002** - In this case, the Apex Court upheld the judgment given in Parmanand Katara Case, but also ruled that dignity of posthumous person should always be maintained and respected. Therefore, a homeless or destitute person also has the right to have a decent cremation, that too in accordance with the religious customs & traditions to which such deceased person belongs to. The court also made the State duty bound, to ensure that such homeless person is given proper cremation.

⁷ Available at (<https://www.livelaw.in/top-stories/supreme-court-consider-legislation-exhumation-dead-body-209049>).

⁸ National Human Rights Commission - <https://nhrc.nic.in/sites/default/files/NHRC%20Advisory%20for%20Upholding%20Dignity%20%26%20Protecting%20the%20Rights%20of%20Dead.pdf>

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Conclusion

The flaw in Indian Legal System, for not having appropriate laws to deal with inhuman acts of cannibalism, needs to be corrected. The mental complexities & illness of humans is raising at a great speed. Lack of law on such an important matter, which violates the rights of posthumous person to a huge extent, is a weak spot of Criminal Law of India. It also

helps, cannibal evade the punishment & proper mental treatment. Cannibalism not only violates the right of deceased person, but also hurt the sentiments of the family members of the deceased person. Such persons are a threat for the society at large, as some people kill other humans, just to satisfy their hunger for human flesh. They create a sense of fear in the conscious of people.