

Compassion Towards Animals: A Study with Special Reference to Offence of Bestiality in India

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ABSTRACT

Human beings are one of the higher animals in whom the sexual instinct is sensitive, highly developed and varied in its manifestations. With the development of civilization, the sex instinct has steadily risen to higher levels of expression. In modern so called civilized societies, physical and moral degeneracy are the common attributes. Different paraphillia have existed since ages. People have recurrent intense sexual urges and sexually arousing fantasies involving either non-humans (e.g.-animals, corpses) or particular humans (e.g.- children, aged etc.). In recent times, various incidents of sexual abuses against the animals have cropped up in India. The present paper highlights some of the incidents and the relevant legislative provisions. The paper urges the need for stronger provisions in case of such offence and sensitization in the society as well. The study is desk based research. It is limited to specific rights of the animals. "The idea of Humanity is no longer confined to man; it is beginning to extend itself to the lower animals, as in the past it has been gradually extended to savages and slaves".¹

Keywords: Paraphillia, civilization, corpses, children, sexual abuses, humanity

R and J Dodsley's *Clemency to Brutes* (1761); Humphrey Primatt's *A Dissertation on the Duty of Mercy and Sin of Cruelty to Brute Animals* (1776); and Thomas Taylor's *A Vindication of the Rights of the Brutes* (1792) are some of the earliest primer on the rights of the animals. The 19th and 20th centuries are considered significant for the development of the rights of the animals. Henry Stephens Salt's book *Animals' Rights: Considered in Relation to Social Progress* (1892); Ruth Harrison's book *Animal Machines: The New Factory Farming Industry* (1964); The Brambell Report (1965) etc. are some of the later works in the field of the rights of the animals. On the basis of arguments by various philosophers, now, it is widely accepted that animals also possess individuality, character and reason, like men.

The first animal anti cruelty provision dates back to USA in 1641- "The Body of Liberties" enacted by the Puritans of the Massachusetts Bay colony. It was followed by U.K.'s law relating to animals for the scrutiny of the treatment of cattle in Smithfield

market in 1781, the first. Soon UK enacted legislation requiring a license to slaughter in 1786. In India, the earliest national legislations were Wild Birds and Game Act, 1887; the Wild Birds and Wild Animals Protection Act, 1912; and the Indian Forest Act, 1927.

India has made tremendous progress in recognizing the various rights of the animals.² Despite the existing measures, instances of misdemeanor against them continue to take place.³ Unfortunately, in 2016-17, some incidents of cruel acts with animals have been reported in India. Blurring the lines between human and sub-human is antithetical to human existence as a unique species.⁴ The earlier slogan used to be "animals are not to be eaten, worn, commercially exploited and used". With more occurrence of unheard incidents of abuse against the animals, need to broaden the slogan is deeply felt.

Animals have been worshipped under Hinduism.⁵ Recently, a picture of Bihnoi woman breastfeeding a baby deer became popular.⁶ In the same country, cases of abuse of sexual nature against the animals

have come up. Sex with animals is not a popular topic of discussion. Sex with animals is still definitely taboo.⁷ Against this background, the present paper aims to address the deviant sexual behaviour against the animals. The object of this paper is, as much as possible, to unfold the reality of prevalence of sexual abuse against the animals in India. It further aims to suggest measures to improve the situation. For the aforesaid objectives, the paper has been structured into various Parts.

Recognition of Animals’ Rights

At the international level, the movement to give animals their basic rights has become stronger post 1960s. Various organisations are working together to adopt and implement documents/ Declarations, laying down the principles for animal rights.

Table 1 highlights how a number of efforts by different organizations and individuals are calling the governments across the globe for a universal commitment to endow animals with minimum rights.

Concept and Manifestation of Bestiality

Bestiality is the formal name for the practice of

having sex with animals.¹⁰ It is a paraphilia¹¹ characterized by sexual intercourse between a human and an animal.¹² The most widely animals used are dogs, horses, cows, snakes.¹³ Both male and female animals can be involved depending on the preferences of the human regarding penetrating, or being penetrated. Depictions of sexual interactions between humans and animals have a long tradition in mythology and art but typically reflect the anthropomorphism of animals rather than historic fact.¹⁴ Public responses to the phenomena of bestiality and zoophilia vary. Zoophiles do not want to be rubber stamped as sadists, but be seen as real people with a genuine sexual orientation.¹⁵ The civilized world sometimes fails to acknowledge the existence of bestiality.

(a) Arguments against Bestiality

- ❑ Sexual abuse of animals is one of the most trivial and obscene expressions of human behavior.
- ❑ Bestiality carries human health risks too. Leptospirosis, Echinococcosis, Rabies etc. may be carried through sexual intercourse with animals.

Table 1: International Instruments / Approaches on protection of Animals

Sl. No.	Instrument	Propounder	Objective
	Five Freedoms of Animals	Professor Roger Brambell and UK Farm Animal Welfare Council	To stress basic freedoms of animals <i>viz;</i> sufficient freedom of movement to be able without difficulty, to turn round, groom Itself, get up, lie down and stretch its limbs
	Universal Declaration on Animal Rights, 1977	International League for Animal Rights and affiliated national leagues	To help humanity restore its harmonious relationship with the universe
	Universal Declaration on Animal Welfare, 2003 (UDAW) (Conceived in 2000)	World Society for the Protection of Animals (WSPA)	To acknowledge the importance of the sentience of animals and human responsibilities towards them; to encourage and enable national governments to introduce and improve animal protection legislation and initiatives.
	Draft Declaration on Animal Welfare, 2011 ⁸	World Society for the Protection of Animals (WSPA)	To develop the earlier draft arising from the Manila conference on animal welfare (2003) and the Costa Rica draft (2005) which incorporated suggestions made by the Steering Committee.
	Charter for Animal Compassion ⁹	Rob Percival	To inspire compassion towards non-human animals. It is an initiative to highlight the significance of compassion in relationship of humans with animals

Source: Compiled by Researcher.

Table 2: Penal Provisions in India for Sex with Animals

Sl. No.	Statute	Relevant Provision	Punishment	
			Imprisonment	Fine
1	Indian Penal Code, 1860	Section 377	Shall be punished with imprisonment for life or with imprisonment of either description for a term which may extend to ten years	and shall also be liable to fine
		Section 428	Shall be punished with imprisonment of either description for a term which may extend to two years	or with fine, or both
		Section 429	Shall be punished with imprisonment of either description for a term which may extend to five years	or with fine, or with both
2	Prevention of Cruelty to Animals Act, 1960	Section 11(a)	In second or subsequent offence – or with imprisonment for a term which may extend, to three months, or with both	In first offence - with fine which shall not be less than ten rupees but which may extend to fifty rupees and In second or subsequent offence committed within three years of the previous offence - with fine which shall not be less than twenty-five rupees but which may extend, to one hundred rupees

- ❑ Animals can carry human sexually transmitted diseases, bacterial or parasitic infections of the genital, intestinal or urinary tract as well as cancer-causing viruses.
- ❑ The link between animal abuse and human violence is well established.¹⁶ Zoophilic offenders often have significant crossover with other paraphilic behavior.

(b) Arguments for Bestiality

- ❑ Bestiality or zoophilia is on the psychologist's list of paraphilias or mental disorders. Homosexuality was a few decades ago included in that list and off lately has managed to remove the shadow of a mental disorder.
- ❑ Most self-identified zoophiles engage in sexual acts with animals because sexual contact with animals is pleasurable and is a way of easily obtaining perceived affection.¹⁷
- ❑ After open-minded consideration of the facts and arguments, any rational person should recognize that bestiality as a practice is not intrinsically immoral.¹⁸
- ❑ Many bestialists maintain a deep and caring emotional bond with their non- human partners.¹⁹

Legislative Provisions regarding Sex with Animals in India

The modern resurgence of legislation has revealed a shift in the conceptualization and legal classification of bestiality from a crime against public morals to an act of animal cruelty.²⁰ Germany, Columbia, South Africa, Sweden, Denmark, Brazil, Hungary etc. still legalise bestiality.²¹

The Constitution of India calls upon every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wild life, and to have compassion for living creatures.²² India has a number of statutes, dealing with protection of rights of the animals.²³ Still no specific and exclusive provision with regard to prohibiting sex with animals exists in India. Table 2 above presents the relevant provisions under the Indian Penal Code and the Prevention of Cruelty Act.

Section 377, Indian Penal Code is a wide provision covering various unnatural offences. It becomes difficult to know that offence against animal has been done, unless exclusive provision is made to cover bestiality. England in 2003 brought change regarding the offence of bestiality- having separate provision for it.²⁴

For the present, however, what is most urgently needed is some comprehensive and intelligible principle which shall indicate, in a more consistent manner the truelines of man’s moral relation towards the lower animals.²⁵

Recent Incidents of Sexual Abuse against Animals in India

Indian society is reaching the heights of barbarism with regard to its behaviour with other humans.²⁶ Cow, dog, goat, etc. have been also been wretched. Animals are often treated as inferior to humans and thus made subject to cruelties. Many kinds of abuses and cruelty take place against the animals by the humans. The cruelties range from unkind behaviour towards pet/companion animals; performing animals; draught animals; wild animals and so on. These incidents are the evidence that an ‘empathy gap’ exists among the humans today. They perhaps fail to understand the pain, suffering and misery of other living beings.

Sadly, India has no body or organization that maintains any data regarding sexual abuse against animals. National Crime Records Bureau, Animal Welfare Board of India, Ministry of Environment, Forests and Climate Change (MoEFCC) etc. have no data pertaining to cases of abuse against the animals.²⁷ Over the years, more incidents are being reported.

Table 3 is a mere reflection of offence of bestiality in today’s civilized society. It appears to be unbelievable at the first instance. Unfortunately, the actual brutality is harder to imagine. The animals are being made targets to satisfy the sexual urges.

Table 3: Reported Cases of Sexual Activities with Animals in India (2015-2017)

Sl. No	Offence under Indian Penal Code	Place of Incident	Victim Animal	Age of Accused
1	Section 377 ²⁸	New Delhi	Calves	18 years
2	Section 377 ²⁹	Ahmedgarh, Bulandshahr	Baby Calf	25 years
3	Section 377 ³⁰	Kerala	Dog	-
4	Section 377 ³¹	Betul, Madhya Pradesh	Cow	50 years
5	Section 377 ³²	Kochi, Kerala	Goat	23 years

6	Section 427 & Section 377 ³³	Hyderabad	Pregnant bitch	22 years
7	Section 429 and Section 377 ³⁴	New Delhi	Female Puppy	34 years
8	Section 377 ³⁵	Pauri, Uttarakhand	Cow	23 years
9	Section 377 ³⁶	Mahisagar, Vadodara	Goat	34 years
10	Section 377 ³⁷	Mumbai	Dog	41 years
11	Section 377 ³⁸	Powai, Mumbai	Stray Dog	19 years

CONCLUSION

Various forms of abuses – either at home, entertainment business, food industries, etc. take place against the innocent animals. Humans are falling off towards savage age and resorting to brutal acts towards humans as well as humans. Dismally, the legal system is less responsive to the need of protection of the animals.

A moral duty exists upon the humans to understand their obligations towards the animals. Since humans have the capacity for rational thought; a conscience and a sense of right and wrong, they owe responsibilities to others. A moral and legal introspection must be made to deal with deteriorating civilization. Effective penal provisions to deter the offenders must be brought.

There is need of caring about animals in a respectful, non-patronizing, and unapologetic way. It is a little difficult to arouse sensitivity amongst the human beings for the dignity and rights of the animals, in a world where even human rights are often violated. The topic of bestiality must become open to public discourse. The laws alone would not bring change. Participation of social workers, veterinarians and society as a whole is required. The above incidents signal the need for additional legislative protection and policy changes to ensure right of animals’ to dignity.

Suggestions

- ❑ The younger generations must be made familiar about history of human compassion for the animals. Examples of kindness must be set before them.
- ❑ A multidisciplinary effort involving veterinarians, law enforcement and animal

welfare groups is necessary to protect animals. Veterinarians should be aware that accurate record keeping and documentation of these cases is their duty.

- ❑ There is need to clarify the meaning of the terms - zoophilia and bestiality among the masses.
- ❑ Separate penal provision punishing bestiality must be incorporated under Indian Penal Code, 1860. At the same time, government bodies should be mandated to keep records regarding it.

FOOT NOTES

1. Henry S. Salt, *Animals' Rights Considered in Relation to Social Progress* 82 (G. Bells and Sons Ltd., London, 1922).
2. Bhumika Sharma & Priyanka Sharma, "Rights of Animals at Practice in India", *Journal on Contemporary Issues of Law*, Vol. 3 Issue 7, July 2017.
3. *Ibid.*
4. Seth Cooper, "Life, Liberty and the Pursuit of Horses", January 23, 2007, available at http://www.americanthinker.com/2007/01/life_liberty_and_the_pursuit_o.html#ixzz4wcK6YTFK (accessed on 20 Nov, 2017).
5. Jayaram V, "The Sacred Animals of Hinduism" available at <http://www.hinduwebsite.com/hinduism/essays/sacred-animals-of-hinduism.asp> (accessed on 24 Nov, 2017).
6. "In Rajasthan, Bishnoi Woman Breastfeeds Baby Deer, Respect, Tweets Chef Vikas Khanna" ; November 23, 2017, available at https://www.ndtv.com/offbeat/in-rajasthan-bishnoi-woman-breastfeeds-baby-deer-respect-tweets-chef-vikas-khanna-1779180?ndtv_prevstory (accessed on 24 Nov, 2017).
7. Peter Singer, "Heavy Petting" *Nerve* 2001, available at <http://www.utilitarian.net/singer/by/2001.htm> (accessed on 14 Nov, 2017).
8. The present Draft is based on earlier draft arising from the Manila conference on animal welfare (2003) and the Costa Rica draft (2005) which incorporated suggestions made by the Steering Committee.
9. It quotes the Cambridge Declaration on Consciousness, written by Philip Low and colleagues.
10. Zoophilia is defined as extreme love for animals, specifically abnormal sexual attraction to animals, whereas bestiality is about just sex.
11. A paraphilia is a mental disorder, characterized by recurrent sexual arousing fantasies, urges, behaviour. Every paraphilia has inclination towards either particular non-human object, particular human (e.g- child); non-consenting partner etc.
12. Andrew M. Colman, *Dictionary of Psychology* at 88 (Oxford University Press, New York, 2009).
13. Mona Chalabi, "Bestiality: which animals are most at risk", *The Guardian*, 21 June 2017, available at <https://www.theguardian.com/world/datablog/2017/jun/21/bestiality-animal-sex-laws-zoosexual-community> (accessed on 28 Nov, 2017).
14. Rebekah Ranger and Paul Fedoroff, "Commentary: Zoophilia and the Law", 422 *W. J. Am. Acad. Psychiatry Law*, Volume 42, Number 4, 2014.
15. Phyllis M. Daugherty, "Sex with Animals: Should CA Bestiality Law be Changed?", 1 May, 2017, available at <http://www.citywatchla.com/index.php/los-angeles/13128-sex-with-animals-should-ca-bestiality-law-be-changed> (accessed on 30 Oct, 2017).
16. Allie Phillips, Understanding the Link Violence to Animals and People - A Guidebook for Criminal Justice Professionals National District Attorneys Association, 2014.
17. Brian Holoyda and William Newmann, "Zoophilia and the Law : Legal Responses to a Rare Paraphilia", 413 *Journal of the American Academy of Psychiatry and the Law*, December 2014, 42 (4).
18. Sarah Wheeler, The morality of bestiality <http://www.fifine.org/whitefangsTexte/86-Englisch.html>
19. *Ibid.*
20. Emily Moran Barwick, "Sex With Animals: The Blurred Lines of Bestiality", 27 Jan 2017, available at <http://bitesizevegan.com/ethics-and-morality/sex-with-animals-the-blurred-lines-of-bestiality/> (accessed on 16 Nov, 2017).
21. Brett Ermilio, "10 Nationalities Who Fornicate With Animals", 1 Oct 2016", available at <https://www.therichest.com/rich-list/most-shocking/10-nationalities-who-fornicate-with-animals/> (accessed on 16 Nov, 2017).
22. Constitution of India, 1950; Article 51(g).
23. For details, see Bhumika Sharma & Priyanka Sharma, "Freedom of Animals: Need to Aware and Sensitize Masses in India" at 47 *Law and Society: A New Challenge*, July-Dec 2016. The authors have discussed how India has incorporated the five freedoms of animals under its legislative framework.
24. Sexual Offences Act, 2003; Section 69. It provides (a) on summary conviction- imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both; (b) on conviction on indictment- imprisonment for a term not exceeding 2 years.
25. *Supra* note 1 at 7.
26. For details, see Bhumika Sharma, "Sexual Violence in India: Manifestation of Savage Character of Human Beings", *Law Mantra Online Journal*, Vol. 5, Issue - 1, 2, 3. The author has discussed that sexual violence prevalent in India knows no boundaries and the victims are man and woman of all ages, all places. *The offence extends even to sexual abuse against the corpse of woman and innocent animals.*
27. The researcher vide various applications under The Right to Information Act, 2005 approached the above public authorities. No information on the issue is available.

28. "Delhi teenage boy ends up in hospital after having sex with calf", Dec 22, 2015, available at <http://www.ibtimes.co.uk/india-delhi-teenage-boy-ends-hospital-after-having-sex-calf-1534520> (accessed on 12 Nov., 2017).
29. "Youth booked for raping 7 months old calf in Bulandshahr", *Hindustan Times*, Aug 05, 2015.
30. "Dog raped by man in Kerala, says animal rights body", 18 Feb 2016, available at <http://www.dnaindia.com/india/report-dog-raped-by-man-says-animal-rights-body-2179325> (accessed on 12 Nov., 2017).
31. "Drunk man 'rapes' cow in Betul", *The Times of India*, Mar 29, 2016.
32. "Jisha rape case: Accused also had sex with goat, mutilated private parts", *Deccan Chronicle*, Jun 22, 2016.
33. "Delhi man held for killing pregnant dog, having sex with the carcass", *The Times of India*, Oct 25, 2016.
34. "Taxi driver has sex with female puppy that later bled to death", 1 Sept. , 2017, available at <http://www.ibtimes.co.uk/taxi-driver-has-sex-female-puppy-that-later-bled-death-1637539> (accessed on Nov. 10, 2017).
35. "Man has sex with cow and enrages right-wing activists in India", Aug. 4, 2017, available at <http://www.ibtimes.co.uk/man-has-sex-cow-enrages-right-wing-activists-india-1633498> (accessed on 12 Nov., 2017).
36. "Man arrested for unnatural sex with goat", *The Times of India*, Apr 29, 2017.
37. "Housing society security guard arrested for sex with dog", *The Times of India*, Sept. 10, 2017.
38. "Mumbai man arrested for unnatural sex with stray dog", *The Times of India*, Oct. 15, 2017.