

**Abolition of Section 377 of the Indian Penal Code from the Bharatiya Nyaya Sanhita, 2023: With Special Reference to the Need of Criminalising Bestiality**

Divyanka Tripathi\*

**ABSTRACT**

The Bhartiya Nyaya Sanhita is enacted and enforced by the Parliament of India in order to nullify past colonial criminal laws and to harmonise with the fundamental principles of Indian society and efficiently tackle the problems arising out of the changing legal scenario. Several alterations, additions, and abolitions were made. The removal of Section 377 of the Indian Penal Code (Unnatural Offences) from The Bhartiya Nyaya Sanhita is one of them. However, its complete removal has created a legislative vacuum in the case of bestiality. This paper investigates the scope and impact of Section 377, examining its historical context, judicial interpretation, and the legal and social implications of its elimination on bestiality. It critically analyses the absence of any express legal provision for the protection of animals from sexual offences. The study indicates the need for making bestiality an offence expressly by showing some real incidents in India. The paper concludes by recommending statutory and social reforms that are needed to deal with the problem. It will lead to vital contributions in future studies and implications for present policy makers, environmentalists, animal activists, researchers and academics.

**Keywords:** Section 377 Indian Penal Code, Bestiality, Legislative Vacuum, Unnatural Offences, Consensual adult relationships.

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## 1. INTRODUCTION

The Parliament of India has introduced a very important transformation in the criminal law field in India by enacting the three new criminal laws, namely the Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS) and Bharatiya Sakshya Adhinyam (BSA)

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\* Divyanka Tripathi is a Research Scholar at Barkatullah University, Bhopal.

in place of the Indian Penal Code, 1860 (IPC), the Code of Criminal Procedure, 1973 (CrPC) and the Indian Evidence Act, 1872. It was done to separate it from the perceived influence of colonial laws and to deliver justice.<sup>1</sup> The law against bestiality was covered under the Indian Penal Code, Section 377. It said that engaging in a sexual act with any animal would be treated as an unnatural offence and punishable by life imprisonment or imprisonment of either type for up to 10 years or a fine. Since the Bharatiya Nyaya Sanhita, 2023, does not include Section 377 IPC, bestiality is no longer an offence. Animals are significant in regulating the normal functioning of the environment and ecosystem, as well as human lives. Animals contribute to the welfare of mankind by being their companions, by aiding in physical and mental health therapy, and by playing a significant role in rescue operations during natural disasters. It is a matter of concern that a country where it is considered that animals also possess individuality, character, and reason, could not provide them safety and protection from grievous offence against any creature. It is the need of the hour to recognise bestiality as an offence in India to keep up with the developed nations, due to its difference from other forms of cruelty, to protect citizens, for public morality, and for animal welfare. The penalties imposed should have a deterrent effect.<sup>2</sup>

## 2. BACKGROUND OF SECTION 377 OF THE INDIAN PENAL CODE

Section 377 of the Indian Penal Code was included in the criminal law system of India during the British rule era, with a mindset that condemns non-procreative sexual acts. Such acts were considered unnatural and were criminalised to maintain social order. With the passing of time, it was used for policing particular sexualities, which was a problem for the LGBTQ community. Earlier Judicial Interpretations of section 377 were conservative and held to be in favour of public morality.

However, with the transformation of society, the law received subjectivity and public denial.<sup>3</sup>

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<sup>1</sup> Srija Singh and Anant Gupta, 'Beyond Decriminalization: The Ripple Effects of Section 377 Repeal on India's Criminal Justice System' (*Manupatra*, 16 February 2024) <[articles.manupatra.com/article-details/Beyond-Decriminalization-The-Ripple-Effects-of-Section-377-Repeal-on-India-s-Criminal-Justice-System](https://articles.manupatra.com/article-details/Beyond-Decriminalization-The-Ripple-Effects-of-Section-377-Repeal-on-India-s-Criminal-Justice-System)> accessed 15 December 2025

<sup>2</sup> Earth reminder for everyone, 'Importance of Animals to Humans and Environment' (*Earth reminder*, 19 August 2025) <[www.earthreminder.com/importance-of-animals-to-humans-and-environment/](https://www.earthreminder.com/importance-of-animals-to-humans-and-environment/)> accessed 19 March 2026

<sup>3</sup> Sanat Singhal, 'From Criminalization to Decriminalization: The Journey of Section 377 IPC and Its Repeal' (2025) 2(7) IJLRA <[www.ijlra.com/details/from-criminalization-to-decriminalization-the-journey-of-section-377-ipc-and-its-repeal-by-mr-sanat-singhal](https://www.ijlra.com/details/from-criminalization-to-decriminalization-the-journey-of-section-377-ipc-and-its-repeal-by-mr-sanat-singhal)> accessed 15 December 2025

In *Naz Foundation v. Govt. of National Capital Territory of Delhi*<sup>4</sup> The constitutionality of Section 377 was challenged before the High Court of Delhi because it infringes the rights guaranteed under Articles 14, 15, and 19 and to the extent that it applies to consensual adult relationships. The High Court declared that Section 377 is not constitutional because Section 377 is contrary to the values entrenched in Article 14, Article 15, and Article 21.

However, this judgment was challenged before the Supreme Court in the *Suresh Kumar Koushal* case.<sup>5</sup> The Delhi High Court judgment was altered by the Supreme Court, and Section 377 was declared to be constitutional. According to the Supreme Court, homosexuality in the face of Section 377 of the Indian Penal Code is illegal and still will remain an offence and thus is illegal. The court stated that no infirmity was found in Section 377 against the constitution, and it was up to the parliament to amend or repeal Section 377. Later, the *Navtej Singh Johar* case<sup>6</sup> was a landmark of the Indian constitutional jurisprudence. The Supreme Court, with a five-judge Constitution Bench, unanimously decriminalised same-sex relationships between adults in consensual relationships and struck down Section 377 to some extent. The Court declared that Articles 14, 15, 19, and 21 were violated by criminalising the act of consensual homosexuality. The ruling acknowledged that sexual orientation is also a part of identity, dignity, and individual freedom. The Court reiterated the statement that it was constitutional morality rather than the prejudice of the society that had to be taken into consideration during the interpretation of the law. This ruling decriminalised homosexuality in India, and it was an enormous victory for the LGBTQ community.

### 3. EXTENT OF THE NAVTEJ SINGH CASE

Although the provision of Section 377 was in 2018 read down to decriminalise consensual same-sex relationships, it continues to apply to sodomy (intercourse per anus by a man with a man or with a woman or an animal with a man or with an animal) and non-consensual sexual acts between individuals of the same sex or against men and bestiality (sexual intercourse by a man with an animal or by a woman with an animal).<sup>7</sup>

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<sup>4</sup> *Naz Foundation v Govt of NCT of Delhi* (2009) 160 DLT 277

<sup>5</sup> *Suresh Kumar Koushal & Anr. v Naz Foundation & Ors.* (2014) 1 SCC 1

<sup>6</sup> *Navtej Singh Johar & Ors v Union of India* (2018) 10 SCC 1

<sup>7</sup> Deepti Singla, 'Abolition without Substitution Revisiting Section 377 IPC in Light of the Bharatiya Nyaya Sanhita, 2023' (2025) 7(3) IJLSI <<https://www.ijlsi.com/wp-content/uploads/Abolition-without-Substitution-Revisiting-Section-377-IPC-in-Light-of-the-Bharatiya-Nyaya-Sanhita-2023.pdf>> accessed 22 December 2025

#### 4. DELETION OF SECTION 377 UNDER BHARTIYA NYAYA SANHITA, 2023: EFFECT ON BESTIALITY

Now, since the provision is repealed from the new criminal law on bestiality, there is no legal remedy for bestiality explicitly to safeguard animals from sexual exploitation. This omission directly conflicts with the provisions of the Constitution and judgments that declared the importance of the care and protection of animals.<sup>8</sup> This omission has defied one of the objectives of criminal law to protect every living creature from exploitation.

##### 4.1. Bestiality and Its Causes

Bestiality means a sexual relation between a man/woman and an animal. Being involved in any form of sexual activity with an animal is termed bestiality. The nature of bestiality can be defined as the sexual relations between humans and animals, or just being in physical contact with an animal to stimulate sexual feelings in the abuser.<sup>9</sup> According to a report by Miletski and the Indian Journal of Community and Medicine, there are the following causes for a person to commit this offence:

1. People in rural areas, due to low levels of educational qualification, who are working in animal farms, are most likely to commit this act.
2. It can be observed in person who is a victim of a sexual offence in childhood, belonging to a poor family.
3. Persons having a history of watching porn on bestiality also commit the crime.
4. Alcoholism, mental incapacity, sexual and emotional immaturity, anger, and lack of self-discipline and morals are some of the contributing factors in it.<sup>10</sup>

#### 5. ANALYSIS OF REPORTED INCIDENTS OF ANIMAL SEXUAL ABUSE IN INDIA

- a. **Dogs** - According to research by the founder of the Voice of Stray Dogs, Rakesh Shukla, dogs are raped every day on every 1 lakh streets in India. In 2009, 26-year-old taxi driver Mahesh

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<sup>8</sup> Nutan Kharat, 'Voiceless at Risk: Absence of § 377, IPC IN BNS, 2023' (2025) 7(1) IJLLR <<https://www.ijllr.com/post/voiceless-at-risk-absence-of-377-ipc-in-bns-2023>> accessed 2 January 2026

<sup>9</sup> Monika Khathiwada, 'Bestiality as a crime: Historical Evolution and Legal, Ethical and Psychological Perspective' (*Researchgate*, June 2024)

<[www.researchgate.net/publication/381796192\\_Bestiality\\_as\\_a\\_Crime\\_Historical\\_Evolution\\_and\\_Legal\\_Ethical\\_and\\_Psychological\\_Perspectives](https://www.researchgate.net/publication/381796192_Bestiality_as_a_Crime_Historical_Evolution_and_Legal_Ethical_and_Psychological_Perspectives)> accessed 19 March 2026

<sup>10</sup> Suryansh Mishra, 'Bestiality: Is it a Practice or Behavioural Problem?' (2022) 5(1) IJLMH

<<https://ijlmh.com/paper/bestiality-is-it-a-practice-or-behavioural-problem/>> accessed 2 January 2026

Kamath raped a stray dog. It became a landmark case in India in which the investigation was done in the same manner as in the case of humans.<sup>11</sup> A 22-year-old man named Aslam Khan Subhash Singh, from Hyderabad, attacked the pregnant dog and then raped it.<sup>12</sup>

- b. **Goats** - In July of 2018, 8 men raped a pregnant goat in Haryana, after which the goat died of bleeding in the brain and other injuries. The news reports that in a case in Uttar Pradesh, an assistant development officer (agriculture department) was arrested because he was allegedly raping a 10 -year -old girl and a goat.<sup>13</sup> In 2022, three men raped and killed a pregnant goat in Kerala.
- c. **Horses** - There was a case in Uttar Pradesh where three men allegedly raped a female horse.<sup>14</sup> Recently news came to light that a 30 -year -old man was arrested for sexually assaulting a horse at a riding academy in Maharashtra.
- d. **Cows** - According to news of NDTV India, a man was arrested in 2023 for raping a calf in Madhya Pradesh. In 2022, a former restaurant employee was arrested for raping a cow. In a recent case from Madhya Pradesh a 35- year -old man was arrested for sexually exploiting a cow under the cattle shed of his uncle.<sup>15</sup>
- e. **Buffaloes** - A man was arrested in Pune for raping a buffalo calf.<sup>16</sup> Similarly, recently, a man was booked in Uttar Pradesh for sexually assaulting a buffalo calf.
- f. **Cats** - According to a news article in Aaj Tak in Dehradun, a tenant was caught red - handed committing the rape of the landlady's cat.<sup>17</sup> A 65-year-old man from Mumbai was arrested by police for committing rape on a kitten. It was also reported that he had more in cages at his residence.<sup>18</sup>

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<sup>11</sup> *Id*

<sup>12</sup> 'Youth kills pregnant dog, sexually assaults corpse; arrested' *The New Indian Express* (Hyderabad, 24 October 2016)

<sup>13</sup> Rahul Singh, 'UP's Bulandshahr Agriculture Department Official Held For "Raping" 10 Year Old Girl & Goat' *The Times of India* (Mumbai, 14 August 2024)

<sup>14</sup> Abhishek Tiwari, 'Three arrested for unnatural sex with mare in UP's Bareilly' *Republic World* (Noida ,23 October 2023)

<sup>15</sup> PTI, 'Madhya Pradesh: Man arrested for 'sexual intercourse with cow' *Deccan Herald* (Bengaluru, 8 April 2025)

<sup>16</sup> PTI, 'Maharashtra: Man held for raping buffalo calf in Pune' *The Telegraph* (Kolkata, 29 October 2022)

<sup>17</sup> TNN, 'Man booked for "unnatural act" with landlady's cat in Dehradun' *The Times of India* (Mumbai, 5 November 2023)

<sup>18</sup> Mitali Parekh, 'The senior man had cages of kittens to rape' *Mid-Day* (Mumbai, 21 July 2024)

## 6. LEGAL JUSTIFICATIONS FOR CRIMINALIZING BESTIALITY

- a. To match the standard of developed nations** - the laws against bestiality have been passed in America, the United Kingdom of Great Britain, Canada, and Australia.

The US has the Preventing Animal Cruelty and Torture Act,<sup>19</sup> and some states, such as California, have directly criminalised bestiality. The Sexual Offences Act 2003 of the UK criminalises acts of sex with animals. The deterrent approach to such actions is established in Section 69, which states that a person who commits an offence according to this section is liable to imprisonment in case of conviction under indictment.<sup>20</sup>

Under the Criminal Code u/s 160 (1) of Canada, bestiality is criminalised, and any individual committing bestiality shall be punished with up to a ten-year sentence or a summary conviction.<sup>21</sup>

Australia's law punishes imprisonment for 7 years for such acts.<sup>22</sup> Norway, Germany, and Sweden have also enacted laws that expressly penalise bestiality.

- b. An act against public morality** - The main reason for the criminalisation of bestiality can be found in the ethics and morals of human beings, along with the socially deviant sexual behaviour of humans that needs to be controlled. Sexual exploitation of animals is against the people's sense of decency. This kind of sexual misconduct is considered the fundamental breach of duties, where the perpetrator not only loses his/dignity but also harms all of mankind.

- c. According to studies, harmful acts to animals can become harmful to humans** - In fact, according to research conducted by Northeastern University and the Massachusetts Society to Prevent Cruelty to Animals in the US it was determined that individuals who started to abuse animals are five times more prone to commit homicidal crimes against other individuals, and a researcher of University of Yale determined that among all convicted violent offenders, 80 percent had injured or killed animals previously.<sup>23</sup> Similarly, an experiment conducted for twenty - one years showed that 70% of the people who abused animals were found to have committed other offences, approx. 2/3 also assaulted a human, and 100 per cent were guilty of sexual homicide or were involved in cruelty to animals at

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<sup>19</sup> Preventing Animal Cruelty and Torture Act 2019, s 48

<sup>20</sup> Sexual Offences Act 2003, s 69

<sup>21</sup> Criminal Code RSC 1985, s 160

<sup>22</sup> Criminal Code Act 1899, s 211

<sup>23</sup> Manilal Valliyate, 'Criminalising Bestiality Safeguards Society' (*Down To Earth*, 20 August 2018)

<[www.downtoearth.org.in/wildlifebiodiversity/criminalising-bestiality-safeguards-society-61415](http://www.downtoearth.org.in/wildlifebiodiversity/criminalising-bestiality-safeguards-society-61415)> accessed 22 December 2025

some point of time in the past.<sup>24</sup> In research related to domestic violence, 80 per cent of the victim women state that their abusive husbands were ruthless to their pets. According to a blog of PETA India, a teen from Bulandshahr who tortured a cat and other animals was arrested and found to be involved in the sexual abuse of a child. It shows a practical scenario of a study that states that persons committing acts of cruelty on animals repeatedly can also be dangerous to human beings.<sup>25</sup>

- d. Inadequacy of Prevention of Cruelty to Animals Act 1960** - Following the adoption of *Bhartiya Nyaya Sanhita 2023*, bestiality is indirectly addressed in Section 11 of the *Prevention of Cruelty to Animals Act, 1960*, under the heading of treating animals with cruelty. Under the section Punishment as a First-Time Offender, there should be a fine of between Rs. 10 and 50 and in the event of a second or third offence, a fine of between 25 and 100 or imprisonment for a period of up to 3 months, or either. This is a soft punishment, indeed, for a kind of heinous crime.<sup>26</sup>
- e. Nature of act** - Unlike the sexual offences in the case of humans, where consent plays a vital role, bestiality is a non-consensual act, and so in every case it is coercive and exploitative due to the inability of animals to give consent.
- f. A person committing bestiality is prone to diseases** - A person can get penile or venereal cancer, or Leptospirosis (caused by sexual contact with the private parts of animals like pigs, horses, sheep, and dogs). Death is confirmed in 10 per cent of cases. Rabies (caused by contact with the saliva of dogs, cats, and horses and affects the central nervous system), Echinococcosis (caused by the waste of animals and causes damage to the lungs, liver, spleen, heart, kidney, and brain).

## 7. SUGGESTIONS

The following steps need to be taken:

- a. The legislature should adopt a comprehensive and inclusive definition of sexual assault, which not only includes penile or vaginal intercourse but also covers all forms of non-consensual sexual activity, including oral penetration and digital penetration, insertion of

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<sup>24</sup> *Id*

<sup>25</sup> Erika Goyal, 'Bulandshahr Teen who tortured cat now detained for abusing variety of other animals and for involvement in child sexual abuse after PETA India intervention' (*PETA India*, 8 October 2024)

<[www.petaindia.com/blog/bulandshahr-teen-who-tortured-cat-now-detained-for-abusing-variety-of-other-animals-and-for-involvement-in-child-sexual-abuse-after-peta-india-intervention/](http://www.petaindia.com/blog/bulandshahr-teen-who-tortured-cat-now-detained-for-abusing-variety-of-other-animals-and-for-involvement-in-child-sexual-abuse-after-peta-india-intervention/)> accessed 27 December 2025

<sup>26</sup> The Prevention of Cruelty to Animals Act 1960, s 11

objects, and coercive sexual conduct. The word “animal” should also be defined so that there can be legislative clarity.

- b. Any person involved in the production, possession, use, or transfer of any animal-abuse material should also be liable to punishment, with the actual offender to have a deterrent effect.
- c. Punishment should be categorised according to the act of the person, which should be extended to life imprisonment in the case of a heinous act, so that proportionate punishment can be imposed according to the offence committed by the accused.
- d. The procedure should be speedy, and provisions for the rescue and rehabilitation of victim animals should be there at the expense of the state. This will ensure justice towards animals.
- e. Second or subsequent offenders should not be allowed ownership and/or handling of any animal to prevent further offences on their part.
- f. In some cases, the offender may be suffering from a mental illness, so tailored rehabilitation and a psychosocial approach should be practised because sometimes a reformative approach is needed rather than deterrence.
- g. Awareness and educational programs will play a vital role in increasing empathy and achieving a fairer, more cohesive, and equitable environment for animals.
- h. Continuous input by lawmakers, activist groups, and society is required to normalise acknowledging the crime and encourage reporting against animals.

## 8. CONCLUSION

The Supreme Court partially abolished Section 377 of the Indian Penal Code, making sodomy and bestiality offences due to the heinous and dangerous nature of these acts. On the other hand, decriminalisation of consensual sex under same-sex was a reformative and well-intended measure of promoting dignity and rights of LGBTQ+ individuals. But now that it is absent in the Bharitya Nyaya Sanhita, it is a major problem. The New Criminal Laws were enacted to ensure justice and to overcome the shortcomings of previous laws. Since animals are the key to ecological stability and an asset to the country, and human being is a rational creatures, it is their moral duty that the silent suffering of animals should not be ignored. It is many times seen

that animals are good companions to human beings because they are intelligent and have emotional capacity. In light of evolving social realities and the increasing sexual violence against animals, a detailed, comprehensive, and intelligible framework with social reforms is urgent and necessary. The introduction of new robust laws or amendment in the existing laws can ensure the protection of animals as well as humans from bestiality and its aftereffects.

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