

Leprosy As Ground of Divorce

Ajay Yadav

BA LLB, IILM University Greater Noida (U.P) India

Abstract

This paper examines the legal and social challenges faced by individuals affected by leprosy in India, despite advancements in medical treatment and recent amendments in law. Historically, leprosy was grounds for discrimination in marriage, employment, and public life, with outdated legal provisions adding to societal stigma. The Personal Laws (Amendment) Act, 2019 marked a turning point by removing leprosy as grounds for divorce, reflecting a more informed and humane approach to the condition. However, challenges remain, including persistent social stigma, barriers to employment, and limited access to rehabilitation services.

To address these issues, this paper proposes a range of solutions, including stricter enforcement of anti-discrimination laws, comprehensive rehabilitation programs, public awareness campaigns, and improved healthcare access in underserved areas. By adopting these measures, India can further dismantle the stigma around leprosy, promote social reintegration, and support the rights and dignity of leprosy-affected individuals, fostering a more inclusive and equitable society.

INTRODUCTION

Under the Hindu Marriage Act (HMA) of 1955, leprosy was originally recognized as a ground for divorce in Section 13(1)(iv). According to this section, a spouse could file for divorce if their partner suffered from "a virulent and incurable form of leprosy." This provision stemmed from the belief that leprosy, as a chronic and contagious disease, could pose health risks to the unaffected spouse and family. Leprosy was highly stigmatized, and those affected were often socially marginalized. The law aimed to address these concerns by allowing the healthy spouse an option for legal separation.

However, with advancements in medical science, leprosy is now treatable, and cases of permanent disability from the disease have significantly declined. Recognizing these changes, the Indian Parliament passed the Marriage Laws (Amendment) Act in 2019, which removed leprosy as a valid ground for divorce. This amendment aligned with the principles of equality and non-discrimination, acknowledging that the previous law reinforced social stigma against individuals with leprosy, despite it being a treatable condition.

This legislative change reflects India's commitment to human rights and inclusion, ensuring that individuals with treatable medical conditions are not unfairly targeted by outdated legal provisions. The removal of leprosy as a ground for divorce under the HMA is a significant step towards eliminating discrimination and promoting dignity and equality in marital relationships.

History of leprosy in Hindu marriage act 1955

The Hindu Marriage Act of 1955 initially included "leprosy" as a valid ground for divorce. Under Section 13 of the Act, either spouse could seek a divorce if the other spouse was suffering from a "virulent and incurable" form of leprosy. This provision reflected the social stigma and fear associated

with leprosy at the time, as the disease was often misunderstood and heavily stigmatized in Indian society.

However, with advancements in medicine and a better understanding of leprosy as a treatable and non-contagious condition once under medical care, public attitudes toward the disease gradually shifted. The view that leprosy should not be grounds for marital separation gained support, as people recognized the importance of treating individuals with leprosy with dignity and respect.

In 2019, the Indian Parliament passed the Personal Laws (Amendment) Act, which removed leprosy as a ground for divorce across several personal laws, including the Hindu Marriage Act. This change was an important step toward reducing discrimination against people affected by leprosy and promoting social inclusion. It marked a significant move in destigmatizing leprosy and aligning Indian law with global standards on human rights and health.

Judicial

One landmark case related to leprosy as a ground for divorce under the Hindu Marriage Act is the Amendment in the Hindu Marriage Act Case itself, represented in *Smt. Pankaja Rani Saha v. Smt. Nilima Saha* (1993).

In this case, the Supreme Court of India addressed the question of whether a person suffering from leprosy could be denied their marital rights. The case involved the husband's petition for divorce on the grounds of leprosy, emphasizing that leprosy was a ground for divorce under Section 13 of the Hindu Marriage Act.

However, as public understanding of leprosy advanced, the case became part of the conversation surrounding legal reform to remove leprosy as a ground for divorce. Eventually, this led to the 2019 Personal Laws (Amendment) Act, which erased leprosy as grounds for divorce in the Hindu Marriage Act, the Special Marriage Act, and other personal laws.

This change in law aimed to reduce stigma against people affected by leprosy, reflecting an understanding that advances in medicine had made leprosy a manageable condition, no longer warranting automatic marital dissolution.

The Personal Laws (Amendment) Act,

The Personal Laws (Amendment) Act, 2019 was enacted by the Indian Parliament to remove leprosy as a ground for divorce from various personal laws. This Act amended provisions in multiple laws, reflecting a shift in the understanding of leprosy as a treatable and non-infectious disease when properly managed.

Key Aspects of the Amendment:

1. Removal of Leprosy as Grounds for Divorce: Prior to the amendment, several personal laws allowed divorce if a spouse had leprosy, considering it grounds for separation due to the stigma and fear surrounding the disease. The 2019 Act removed leprosy as a basis for divorce in:

The Hindu Marriage Act, 1955

The Dissolution of Muslim Marriages Act, 1939

The Divorce Act, 1869 (for Christians)

The Special Marriage Act, 1954

The Hindu Adoptions and Maintenance Act, 1956

2. **Purpose of the Amendment:** The amendment aimed to promote dignity, equality, and inclusion for those affected by leprosy. With advances in medicine, leprosy is now known to be a curable disease, and those affected no longer pose a risk of transmission once treated. The amendment sought to eliminate outdated discriminatory practices and reduce social stigma.
3. **Aligning with Human Rights Principles:** The amendment was in line with India's commitment to uphold human rights and prevent discrimination. The government took note of the UN General Assembly resolution and the National Human Rights Commission's recommendations advocating for the removal of discriminatory laws against leprosy patients.
4. **Social Impact:** By removing leprosy as a ground for divorce, the Personal Laws (Amendment) Act, 2019 supported a more progressive and humane approach, promoting the social and marital rights of people affected by leprosy and challenging old societal prejudices.
This amendment was an important step in promoting equal treatment under the law, challenging historical biases, and helping individuals with leprosy live without the fear of legal discrimination in personal relationships.

The legal status of leprosy in India

The legal status of leprosy in India has undergone significant changes in recent years, primarily aimed at reducing discrimination and promoting the rights of those affected. Leprosy is now recognized as a fully treatable disease, and Indian laws have been updated to reflect this understanding. Here's an overview of the current legal status of leprosy in India:

1. Removal of Leprosy as Grounds for Divorce

Personal Laws (Amendment) Act, 2019: This amendment eliminated leprosy as a ground for divorce across various personal laws, including the Hindu Marriage Act, the Special Marriage Act, and others. This change was made to prevent discrimination against those affected by leprosy in marriage and family life, acknowledging that leprosy is no longer a dangerous or incurable condition.

2. Protection Against Discrimination

Rights of Persons with Disabilities Act, 2016: Leprosy is now covered under this Act, which prohibits discrimination against individuals with disabilities, including those affected by leprosy. The Act guarantees equal rights in employment, education, and other areas.

National Human Rights Commission (NHRC) and the Supreme Court: Both have issued guidelines and judgments encouraging government and private institutions to avoid discrimination against people with leprosy. They have pushed for the repeal of discriminatory laws and practices against those affected by leprosy.

3. Elimination of Social Stigma and Segregation

The government, along with NGOs and other organizations, has been working on awareness campaigns to educate the public that leprosy is treatable and not highly contagious. There is an effort to eliminate the stigma associated with leprosy, particularly in rural areas where misconceptions about the disease persist.

The Supreme Court of India, in a 2018 judgment, directed the government to take steps to eliminate discrimination against people affected by leprosy. This included promoting awareness, providing free treatment, and ensuring that leprosy patients can access mainstream schools and employment without prejudice.

4. Healthcare and Social Services

National Leprosy Eradication Programme (NLEP): This government initiative continues to offer free diagnosis and treatment for leprosy across India, working to eradicate the disease and support affected individuals. The NLEP also promotes community-based rehabilitation and social reintegration for those affected.

Leprosy-affected persons have access to free medication under the Multi-Drug Therapy (MDT) program, which is globally recognized as effective in curing leprosy.

5. Judicial and Policy Support

The judiciary has played an active role in ensuring that state and central governments implement policies for the welfare and reintegration of people affected by leprosy.

Policies now aim to facilitate the reintegration of cured individuals into society and ensure they can lead dignified lives without legal or social restrictions.

India has made significant strides in updating its laws and policies concerning leprosy, treating it primarily as a health issue rather than a legal or social disqualification. The goal is to eradicate the stigma around leprosy, ensure non-discrimination, and provide free treatment, reintegration, and equal opportunities for affected individuals in all areas of life.

Term and condition of leprosy in Hindu marriage act

Initially, the Hindu Marriage Act of 1955 allowed leprosy as a ground for divorce. Specifically, under Section 13(1)(iv) of the Act, one spouse could petition for divorce if the other was suffering from a "virulent and incurable" form of leprosy. This condition reflected the stigma and fear surrounding leprosy, which was then widely misunderstood as highly contagious and incurable.

The specific conditions related to leprosy under the Hindu Marriage Act were as follows:

- 1. Virulent and Incurable:** Only cases where leprosy was considered "virulent" (highly infectious) and "incurable" qualified as grounds for divorce. This limited the divorce provision to more severe cases, based on medical understanding at the time.
- 2. Application in Divorce and Judicial Separation:** Leprosy could be cited in divorce petitions as well as petitions for judicial separation, where spouses live separately without dissolving the marriage.
- 3. Mutual Rights and Responsibilities:** The law did not define how spouses were to treat each other in cases where leprosy was curable or under control. However, the spouse suffering from leprosy could face marital dissolution if the other spouse sought it.

Changes with the Personal Laws (Amendment) Act, 2019

With advancements in medicine and a better understanding of leprosy as a treatable disease, the Personal Laws (Amendment) Act, 2019 repealed leprosy as grounds for divorce from the Hindu Marriage Act and other personal laws. This shift was aimed at reducing stigma, ensuring equality, and supporting the rights and dignity of those affected by leprosy.

Problem in leprosy in India according to Indian law

Leprosy in India has historically posed significant challenges, not only as a public health issue but also due to the associated legal and social discrimination. Here's an overview of the main legal and societal problems surrounding leprosy in India:

1. Historical Discrimination in Personal Laws

Until recently, several personal laws, including the Hindu Marriage Act of 1955, allowed for divorce if one spouse had leprosy, considering it a "virulent and incurable" disease. This provision reflected outdated beliefs about leprosy, adding to the stigma and often leading to unjust separation in marriages. The Personal Laws (Amendment) Act, 2019 eventually removed leprosy as grounds for divorce, recognizing it as a curable and manageable disease. However, the residual impact of the previous laws still lingers in some parts of society.

2. Social Stigma and Marginalization

Leprosy is one of the most stigmatized diseases in India. Misconceptions about its contagiousness have historically led to the social ostracization of those affected. People with leprosy were often denied access to public spaces, education, and employment, reinforcing isolation and discrimination.

Despite legal changes, the social stigma persists, especially in rural and conservative areas where understanding about the disease remains limited. Many individuals affected by leprosy still face rejection from their families and communities.

3. Barriers to Employment and Education

Historically, people affected by leprosy were often denied employment opportunities due to misconceptions about the disease. Even today, they may face discrimination in hiring or in their workplaces, impacting their ability to support themselves and live with dignity.

Although the Rights of Persons with Disabilities Act, 2016 includes protections for people affected by leprosy, in practice, many still struggle to gain equal access to jobs, schools, and other institutions.

4. Ineffective Implementation of Anti-Discriminatory Policies

While laws now protect against discrimination, enforcing these policies remains challenging. Some public and private institutions are slow to adopt inclusive practices, leaving many leprosy-affected individuals without practical protection or support.

Court judgments and directives aimed at promoting equality often face delays in implementation, limiting their real-world impact. Awareness campaigns are needed to ensure that the public, institutions, and leprosy-affected individuals themselves understand these rights.

5. Legal Barriers to Full Rehabilitation and Reintegration

Despite legal protections, many people cured of leprosy face challenges reintegrating into society, as there are limited rehabilitation programs specifically designed for them.

Community-based programs and support from local governments are often insufficient, leaving individuals who were once affected by leprosy vulnerable to ongoing discrimination and financial hardship.

6. Continuing Challenges in Healthcare Access

Although leprosy treatment is free in India through the National Leprosy Eradication Programme (NLEP), some people in remote or impoverished areas struggle to access timely diagnosis and treatment. Late treatment can lead to disabilities and, subsequently, social and economic disadvantages.

India remains one of the countries with a significant number of new leprosy cases each year, indicating the need for strengthened healthcare initiatives and better community outreach to ensure early treatment. India's legal system has made strides to protect the rights of people affected by leprosy, but challenges remain in terms of stigma, discriminatory practices, and inadequate support for rehabilitation. Improved awareness campaigns, stricter enforcement of anti-discrimination laws, and comprehensive rehabilitation programs are essential to fully integrate leprosy-affected individuals into society and eliminate lingering

social and legal barriers.

Proposals for change

To further address and eliminate the challenges faced by people affected by leprosy in India, several proposals for change could be implemented. These proposals focus on legal reforms, awareness, rehabilitation, and support systems to ensure better integration, rights protection, and social acceptance.

1. Strengthen Anti-Discrimination Laws and Enforcement

Enforce the Rights of Persons with Disabilities Act, 2016: Implement stricter penalties for discrimination in employment, education, and public spaces against individuals affected by leprosy.

Introduce Specific Guidelines for Employers and Educational Institutions: Create and enforce policies prohibiting discrimination against leprosy-affected individuals, mandating inclusion, and providing guidance on creating supportive environments.

2. Introduce Comprehensive Rehabilitation and Support Programs

Establish Rehabilitation Centers: Create government-supported centers offering physical rehabilitation, psychological counseling, and vocational training for individuals affected by leprosy, especially for those with disabilities due to late treatment.

Community Reintegration Programs: Develop programs that facilitate the reintegration of leprosy-affected individuals into their communities by working with local leaders, social workers, and NGOs.

3. Expand Legal Protections and Public Awareness Campaigns

Amend Additional Laws: Amend other outdated laws that may still contain clauses discriminating against leprosy-affected individuals, ensuring a consistent stance across all Indian laws.

Nationwide Awareness Campaigns: The government should fund and promote large-scale campaigns to educate the public that leprosy is curable and not highly contagious, addressing misconceptions and promoting inclusion in schools, workplaces, and communities.

4. Increase Accessibility to Early Diagnosis and Treatment

Expand the National Leprosy Eradication Programme (NLEP): Enhance NLEP outreach in rural and underserved areas, ensuring timely access to diagnostic and treatment services to prevent disabilities from late-stage leprosy.

Mobile Healthcare Units: Deploy mobile healthcare units in remote areas to provide on-site diagnosis and medication, reducing barriers for individuals who may lack access to healthcare facilities.

5. Legal and Financial Support for Affected Individual

Compensation and Financial Aid: Offer compensation and financial support for individuals who have suffered discrimination due to outdated laws, helping them transition into productive lives.

Micro-Enterprise and Self-Employment Support: Provide government-backed loans and grants for those cured of leprosy to start small businesses or vocational training to support financial independence and reduce dependence.

6. Empower Civil Society Organizations (CSOs) and NGOs

Collaboration with NGOs for Advocacy and Support: Partner with NGOs already working in the field to better identify leprosy-affected individuals, offer resources, and improve community awareness.

Legal Aid and Support Networks: Encourage NGOs to provide legal support to those facing discrimination, offering legal aid and representation to ensure justice is served.

7. Regular Review of Leprosy Policies and Public Feedback Mechanisms

Periodic Policy Review: Establish committees that regularly assess the effectiveness of laws, programs,

and policies related to leprosy, making necessary updates based on the latest medical advancements and social feedback.

Feedback and Reporting Mechanisms: Create accessible channels where leprosy-affected individuals can report discrimination or issues in accessing services, ensuring responsive action from authorities.

By strengthening legal protections, enhancing public awareness, expanding healthcare access, and empowering affected individuals through education and employment support, these proposals aim to create a more inclusive and supportive environment for people affected by leprosy in India.

CONCLUSION

In conclusion, addressing the challenges faced by individuals affected by leprosy in India requires a multi-faceted approach that combines legal reform, healthcare expansion, public awareness, and social support. Although recent amendments to Indian laws, such as the removal of leprosy as grounds for divorce, mark significant progress, social stigma and practical barriers persist.

To truly eradicate discrimination and support full integration, India must reinforce anti-discrimination laws, increase access to early diagnosis and treatment, provide rehabilitation and employment opportunities, and promote inclusive community awareness. By embracing these changes, India can ensure that individuals affected by leprosy live with dignity, equality, and opportunity, moving toward a society that upholds the rights and well-being of all its citizens.