

# **Discriminatory Laws against Persons Affected by Leprosy**

## **A Compilation of Efforts and Progress Made to Repeal/Amend the Laws**

Prepared by

**Disabled People's International**

Supported by

**The Nippon Foundation**

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## Table of Contents

<b>1. Introduction</b>	<b>3</b>
<b>2. Chronology of actions taken regarding repeal/amendment of discriminatory laws against persons affected by Leprosy</b>	<b>6</b>
<b>3. Interventions made by Government of India : Rajya Sabha and Law Commission</b>	<b>10</b>
<b>4. Recommendations given by various Committees on the discriminatory provisions in various legislations</b>	<b>15</b>
<b>5. Judicial Intervention: Public Interest Litigations /Civil Applications in the Court of Law</b>	<b>29</b>
<b>6. Analysis</b>	<b>33</b>
<b>7. Conclusion</b>	<b>36</b>
<b>8. Annexure 1: Eliminating Discrimination Against Persons Affected by Leprosy (EDPAL) Bill, 2015</b>	<b>37</b>

## 1. Introduction

### **Status of people affected by Leprosy in India**

India has the highest population of people affected by Leprosy in the world. It is seen that 58% of new Leprosy cases are from India. From 2005 till 2014, the National Leprosy Eradication Programme (NLEP) has recorded a rate of 1.25 to 1.35 lakh new cases every year. The number of Leprosy colonies operating in India is estimated to be 850<sup>1</sup>.

There has been little focus on the rights of people affected by Leprosy, the conditions that they live in and the social stigma they have to face. Several archaic and discriminatory laws related to marriage, political participation, transport and so on have remained unchanged and which reinforce the stigma faced by people affected by Leprosy. NGOs working in the area of Leprosy have been advocating for many years to change or discard these archaic laws.

The Disability Act, 1995, recognises Leprosy (Leprosy cured) as a disability. Further, the UN Convention on the Rights of Persons with Disabilities (UNCRPD), ratified in 2007, provides for all rights on an equal basis with others to all people with disabilities without any discrimination. Despite these legislations, the ground realities experienced by persons affected by Leprosy has not changed much. Some efforts have been undertaken by NCPEDP and other organisations to include persons affected by Leprosy in the national and state level disability campaigns. However, these efforts have remained quite piecemeal and have not had continuity. Even today there is lack of awareness within the disability sector about Leprosy. It is considered a disease and not a disability by many people in the sector. Even leaders of the Leprosy movement are not aware of issues concerning people with disabilities in general and the various laws and the policies that include Leprosy.

In order to bridge this gap, Disabled People's International (DPI), which is the largest network of cross disability self-help organisations in the world, with the support of Nippon Foundation, has taken up a campaign to include the self-help organisations of people affected by Leprosy in the state, national and international disability movement. Some of the major activities under the campaign are - (1) including people affected with Leprosy as members in their respective Member National Assembly (MNA) in the countries where there is a high incidence of

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<sup>1</sup> Page 10, Section 2.3.1 and 2.3.2 Report no. 256, Eliminating Discrimination Against Persons Affected by Leprosy, Law Commission of India, April 2015

Leprosy; (2) adding information about Leprosy on the DPI website; (3) organising the first ever Side Event on Leprosy at the 8th Conference of States Parties, United Nations; (4) facilitating the inclusion of Leprosy in the Parallel Report of UNCRPD in at least 2 MNAs and (5) initiating a Focused Campaign in India.

The campaign in India started with a two-day 'National Conference on Leprosy and Disability' held for members of the National Disability Network (NDN)<sup>2</sup> and the Association of People Affected by Leprosy (APAL) in January 2015. The aim of the Conference was to facilitate better understanding of each other's issues amongst people with disabilities and people affected by Leprosy from different States. At the Conference, a unanimous decision was taken to launch a joint campaign for repealing all the discriminatory laws vis-à-vis persons affected by Leprosy. To further strategise the campaign, a Core Group was formed, consisting of NDN and APAL members. It was discussed at the Core Group meeting that several initiatives have been undertaken in the past for repealing discriminatory laws, like petitions to Rajya Sabha, petitions to the Prime Minister, Public Interest Litigations, etc. The Group felt that it would be useful to analyse the steps taken by the various Leprosy organizations in order to work out a strategy for the campaign. Hence, NCPEDP undertook the study to compile the efforts and progress made till date vis-à-vis repealing / amendments to discriminatory laws against persons affected by Leprosy. The objectives, methodology and the findings of this Study are given in the subsequent sections.

## **The Objectives of the Study**

1. To compile the various discriminatory laws against persons affected by Leprosy in India.
2. To document and analyse the actions taken so far by the Leprosy organisations and the progress made.
3. To make recommendations on how the disability sector can further strengthen the current efforts of Leprosy organisations towards repealing discriminatory laws.

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<sup>2</sup> NDN is a network of Disabled People's Organisations (DPOs), Self Help Groups and Non Government Organisations (NGOs), representing the various States and Union Territories of the country with each one expanding its network to the District level. The role of NDN Partners includes information dissemination, capacity building, expanding and strengthening the network and undertaking advocacy initiatives at all levels.

## **Methodology**

1. Various national level Leprosy organisations/associations were contacted for information on the work undertaken by them related to discriminatory laws.
2. APAL shared the petitions/ communications/ papers on the subject.
3. Relevant documents were also gathered from the internet.

All the information gathered was documented and studied in a systematic manner and a Report prepared for the Core Group to further analyse and strategise the joint campaign.

## 2. Chronology of actions taken regarding repeal/amendment of discriminatory laws against persons affected by Leprosy

The issue of discriminatory laws against people affected by Leprosy has been quite often deliberated upon in various conferences, seminars, meetings etc. Resolutions have been passed in various forums seeking the elimination of all discriminatory laws and provisions against persons affected by Leprosy. Legislative, judicial and civil society bodies have called upon the Government to take steps to this effect. Given below are some of the developments in the area of repealing/amending the discriminatory laws.

### Chronology of Actions Undertaken

- **1980's**  
**The Multi Drug Therapy (MDT) was found to cure Leprosy completely at any stage.** The MDT was made freely available by WHO and it was seen that people could be completely cured of Leprosy. It was made clear by WHO that no segregation was required and the medicines were available at Primary Health Centres. This medical development was a turning point in how Leprosy was perceived. However, the laws made prior to the development of MDT, which promoted segregation, remained unchanged.
- **1990's**  
Non Governmental Organisations (NGOs) working in the area of Leprosy **started raising the issue with the Government to repeal the discriminatory laws** against persons affected by Leprosy.
- **March 2004**  
**The High Court of Gujarat** in a Public Interest Litigation (Special Civil Application No.12403/2003), in the matter of 'SuoMoto v/s Union of India & Ors', passed an Order that, "**this matter (discriminatory provisions against the Leprosy affected persons) should attract the attention of the Central and State Governments**".
- **October 2004**  
In view of the High Court Order of Gujarat, **the Ministry of Health and Family Welfare addressed a letter to the Secretaries** of all the Ministries/Departments of the Central Government, Chief Secretaries of all State

Governments and to the Lt. Governors/Administrators of Union Territories, **to identify and delete the discriminatory provisions against persons affected by Leprosy.**

- **October 2007**

A Public Interest Litigation, Writ Petition (Civil) No.8112/2007, was filed before the **High Court of Delhi, praying for the issuance of a Writ of certiorari or any other appropriate writ or directions for identifying and striking down the discriminatory provisions** from various Acts, Laws, Rules and Government Orders etc. as and where these exist therein. This writ petition is pending for adjudication before the High Court of Delhi. The latest Order on 4th August, 2010 stated that, "We have been apprised by learned counsel for the respondent that the W.P. (C.) No. 83/2010 instituted under Article 32 of the Constitution of India is pending before the Apex Court and their Lordships have issued notice. In view of the aforesaid, we think it apposite that this Court should await the decision in the said writ petition. Accordingly, **the present writ petition is adjourned sine die.**"

- **December 2007**

Mr. Ram Naik, along with Dr. P. K. Gopal (President, National Forum of Leprosy), Dr. Sharad Gokhale (President, International Leprosy Union), Mr. Uday Thakar (Treasurer, Kushthrog Nivaran Samiti), Shri Shantaram Bhoir (President, Maharashtra Kushthpidit Sanghatana), and Mr. Bhimrao Madhale (President, Sanjay Nagar Rahivasi Sangh) submitted a **petition for medico-socio-economic empowerment of persons affected by Leprosy to Rajya Sabha through Mr. Ved Prakash Goyal, M.P. from Mumbai.**<sup>3</sup>

- **June - October 2008**

In June 2008, the Chairman, Rajya Sabha forwarded the petition to the Committee on Petitions, chaired by Mr. M. Venkaiah Naidu, for further scrutiny. **The Committee on Petitions studied the issue and presented the Report No. 131 in October 2008 to the Rajya Sabha.** One of the recommendations of the Report was to **urgently consider amendments to such anachronistic and discriminatory provisions in the concerned legislations.**

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<sup>3</sup> Report on Ram Naik's Petition for Empowerment of Leprosy Affected Persons Submitted to Rajya Sabha accessed at <http://www.ramnaik.com/pdf/pressrelease/Oct/Oct24/press%20note%20english%20leprocy.pdf>

- **September 2008**

One of the points made by **Supreme Court in its Judgement**<sup>4</sup> in the case of **Dhirendra Pandua Vs. State of Orissa & Ors.** was, “keeping in view the present thinking and researches carried on Leprosy as also on Tuberculosis, and with professional input, the **Legislature may seriously consider whether it is still necessary to retain such provisions in the statutes**”.

- **2010**

A **Writ Petition was filed in the Supreme Court**, ‘Federation of Leprosy Organisations (FOLO) & ANR. Vs. Union of India & ORS.’<sup>5</sup> with the following Prayers:

- a) issue appropriate writ or order or direction/order to the Respondents **to identify and report the discriminatory provisions** in various Acts, Laws, Rules, Government Orders etc. as and where these exist; and
- b) issue appropriate writ or order or direction/order (s) **striking down the discriminatory provisions** in various Acts, Laws, Rules, Government Orders etc. as and where these exist;
- c) pass any other or further order(s)/direction(s) which this Hon’ble Court deems fit and proper in the facts and circumstances of the matter.

**The case is pending.** It has been listed seven times earlier. The next hearing is likely on 7th July 2015.<sup>6</sup>

- **September 2010**

In September 2010, the **Rajya Sabha Committee on Petitions presented its next Report No. 138**, entitled, “Action taken by Government on Observations/Recommendations contained in its hundred and thirty first report on petition praying for integration and empowerment of Leprosy affected persons”.

- **October 2014**

The **Law Commission undertook the task of identifying laws which can either be repealed or which need amendments.** Through its four Reports, viz., Report Nos. 248-251, the Commission recommended repeal of 288 obsolete laws. **In its Report No. 249**, ‘Obsolete Laws: Warranting Immediate Repeal – Second Interim Report’, the Commission **recommended the repeal of The Lepers Act, 1898** in consultation with the relevant State(s).<sup>7</sup>

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<sup>4</sup>Supreme Court Civil Appeal No. 5743 of 2008 (Arising out of S.L.P. (C) No. 26226 of 2005)

<sup>5</sup>Civil 83 of 2010

<sup>6</sup><http://courtnic.nic.in/supremecourt/querycheck.asp> accessed as on 13th May 2015

<sup>7</sup>Page 32, para 57, Report No.249, “Obsolete Laws: Warranting Immediate Repeal” – Second Interim Report, Law Commission of India, accessed at

- **April 2015**

On a request from the Leprosy Mission Trust of India, the **Law Commission took up the study of amending/repealing laws that are discriminatory towards people affected by Leprosy**. After a series of meetings and deliberations, the Law Commission of India finalized its Report No.256 titled, "Leprosy Affected Persons and the Laws applicable to them". It not only **recommended repealing and amending some discriminatory laws, but also framing a new comprehensive legislation dealing with all aspects of rights of persons affected by Leprosy and their family members, "Elimination of Discrimination against Persons affected by Leprosy Bill, 2015"**.

The subsequent sections detail out the developments mentioned above. Section III provides the broad recommendations of the Rajya Sabha and the Law Commission. Section IV lists the discriminatory provisions and the recommendations for its repeal/amendment. Section V provides a brief regarding various cases in the courts of India vis-a-vis the discriminatory provisions in the laws.

### 3. Interventions made by Government of India : Rajya Sabha and Law Commission

The Rajya Sabha and the Law Commission have taken up the matter concerning issues of persons affected by Leprosy including the discriminatory laws, quite seriously and have come up with strong recommendations. This section provides, in brief, the work done by them and their recommendations.

#### **Rajya Sabha Petitions Committee's Reports (Numbers 131 and 138)**

Mr. Ram Naik, along with Dr. P. K. Gopal (President, National Forum of Leprosy, Tamilnadu), Dr. Sharad Gokhale (President, International Leprosy Union, Pune), Mr. UdayThakar (Treasurer, Kushthrog NivaranSamiti, Panvel), Mr. Shantaram Bhoir (President, Maharashtra Kushthpidit Sanghatana), and Mr. Bhimrao Madhale (President, Sanjay Nagar Rahivasi Sangh, Mumbai) had submitted a petition for medico-socio-economic empowerment of Leprosy Affected Persons, on 5th December 2007, to Rajya Sabha through Mr. Ved Prakash Goyal, M.P. from Mumbai. After processing the petition, the Chairman, Rajya Sabha, forwarded it to the Committee on Petitions, chaired by Mr. M. Venkaiah Naidu, for further scrutiny. All the petitioners rendered oral evidences before the Committee on 10th June 2008. Subsequently, the Committee toured and visited several self-settled colonies of Leprosy affected persons at Mumbai, Hyderabad, Tirupati, Nellore, Chengalpattu, and Chennai. The Committee also had interactions with NGOs working with Leprosy affected persons, State Governments, and Municipal Corporations, before presenting its **Report No. 131** to Rajya Sabha on 24th October 2008. Some of the important recommendations made by the Committee are given below:

- Sustenance Allowance of Rs. 2000/- per person per month to Leprosy affected persons.
- Free Medical Facilities in their self-settled colonies and free Civic Amenities like water, electricity, drainage etc.
- Free Education to the dependent children of Leprosy affected persons upto vocational and degree courses etc.
- Urgently consider amendments to anachronistic and discriminatory provisions in the concerned legislations.
- Launch a nation-wide campaign advocating the curability of Leprosy and the humanitarian aspect of Leprosy affected persons.

- Use Leprosy Affected Persons as the dignified expression. The labels like leper, leprosy patient, ex-patient should not be used.
- Since Leprosy affected persons are tossed between the Ministry of Social Justice & Empowerment and the Ministry of Health & Family Welfare, there is a need for a well-defined policy.<sup>8</sup>

The Rajya Sabha Committee sought information on the action taken on the recommendations of the 131st Report from the nodal Ministry i.e. the Ministry of Health & Family Welfare. The replies were received on 10th December, 2008, which were a collation of replies from as many as twelve Ministries and Departments of Government of India and the State Governments of Maharashtra and Orissa.

On 24th March, 2009, the Committee considered the replies furnished by various Ministries and Departments. **On a number of recommendations, the Committee was not satisfied with the action taken by the concerned Ministries/Departments including the Ministry of Health and Family Welfare, and decided to hear the Secretaries of some Ministries/Departments.** The Committee recorded oral evidence from the Secretaries of the following nodal Ministries i.e. Ministry of Health and Family Welfare, Department of Food and Public Distribution, Ministry of Social Justice and Empowerment, Departments of School Education & Literacy and Higher Education, Ministry of Women & Child Development and Ministry of Road Transport & Highways, Ministry of Labour and Employment and Ministry of Finance (Departments of Financial Services and Revenue) and the Chairman, LIC of India.

The Committee then drafted the Report No. 138, which was adopted in its meeting held on 15th November, 2010.

## **Law Commission Reports (Numbers 249 AND 256)**

### **Report 249: 'Obsolete Laws: Warranting Immediate Repeal'**

The Law Commission undertook the task of identifying laws which can either be repealed or which need amendments. Through its four Reports, viz., Report Numbers 248-251, the Commission recommended the repeal of 288 obsolete laws. In its Report No.249, 'Obsolete Laws: Warranting Immediate Repeal – Second

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<sup>8</sup> Report on Ram Naik's Petition for Empowerment of Leprosy Affected Persons Submitted to Rajya Sabha accessed at <http://www.ramnaik.com/pdf/pressrelease/Oct/Oct24/press%20note%20english%20leprocy.pdf>

Interim Report', the Commission recommended the repeal of The Lepers Act, 1898 in consultation with the relevant State(s). The recommendation is given below.

"Lepers Act, Act 3 of 1898 Category: Public Health Recommendation: Repeal in consultation with relevant State(s). The Act provided for the segregation and medical treatment of pauper lepers. The Act established 'leper asylums' and conditions for employment of personnel to 33 these asylums. Section 1(3) of this Act mandates that it shall not come into force in any territory until the concerned State Government makes a declaration to that effect. The Act has already been repealed in the States of Gujarat, Assam, Nagaland, Meghalaya, West Bengal, Tamil Nadu, Tripura, Punjab, Karnataka, Orissa, Himachal Pradesh, and Maharashtra, and in the Union Territories of Delhi, Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli and Chandigarh. This law, which is completely out of sync with the modern understanding of the disease and its treatment, must be repealed. The Act is unconstitutional for being violative of Article 14 of the Constitution because it legalises forcible segregation of people affected with leprosy. India is a signatory to the United Nations Resolution on the Elimination of Discrimination against Persons Affected by Leprosy and their Family Members, 2011 (A/RES/65/215). This legislation goes against the spirit of this Resolution. Hence, the Central Government should inquire whether it is in force in any other State, and repeal this law in consultation with any such State." <sup>9</sup>

### **Report 256: Leprosy Affected Persons and the Laws applicable to them**

On a request from the Leprosy Mission Trust of India, the Law Commission took up the study of amending / repealing laws discriminatory towards people affected by Leprosy. After a series of meetings and deliberations, the Law Commission of India finalized its Report No.256 titled, 'Leprosy Affected Persons and the Laws applicable to them'.

#### **Following are the recommendations of the Law Commission:**

##### **1. The following Laws and provisions be repealed:**

- The Lepers Act, 1898 in its entirety;
- Sub-section (g) of Section 27 of the Special Marriage Act, 1954;

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<sup>9</sup>Page 32, para 57, Report No.249, "Obsolete Laws: Warranting Immediate Repeal" – Second Interim Report, Law Commission of India, accessed at <http://lawcommissionofindia.nic.in/reports/Second%20Interim%20Report%20on%20Obsolete%20Laws.pdf>

- Sub-section (vi) of Section 2 of the Dissolution of Muslim Marriage Act, 1939;
- Clause (iv) of sub-section (1) of Section 13 of the Hindu Marriage Act, 1955;
- Clause (iv) of sub-section (1) of Section 10 of the Indian Divorce Act, 1869;
- Clause (c) of sub-section (2) of Section 18 of the Hindu Adoption and Maintenance Act, 1956.

## **2. The following Laws be modified or amended:**

- **The Legal Services Act, 1987:**After sub-clause (d) of section 12, the following sub-clause shall be inserted, namely(dd) a person who suffers from, or has previously suffered or has been cured of Leprosy; or
- **The Motor Vehicles Act, 1988:** After the first proviso to sub-section (4) under Section 8 of the Act, the following proviso shall be inserted, namely: "Provided further that the licensing authority shall not refuse to issue a learner's license to a person affected by Leprosy, who has been certified by a registered medical practitioner, as having either been cured of Leprosy, or as having been administered with the first dose under Multi-Drug Therapy, with continuing treatment for Leprosy being provided."

## **3. Provisions enabling the government to undertake affirmative action in the following areas be introduced:**

- Health
- Ownership of property
- Social Welfare
- Education
- Employment
- Awareness and training
- Participation of Persons affected by Leprosy in the formulation of policies
- Setting-up of a Central and State Commission on Leprosy, to monitor the compliance of the provisions of the Act in respect of public and private establishments and to make recommendations to the Central or State Government, as applicable, for the proper implementation of this Act.

Although amendments can be made in each and every law specified above, the Commission recommends that a **single statute should deal with all aspects of rights of persons affected by Leprosy and their family members**. This will ensure coherence and send out a strong signal of the resolve of the Government of India to tackle discrimination faced by persons affected by Leprosy. This statute should be titled as the "**Elimination of Discrimination against persons affected**

**by Leprosy Bill, 2015(EDPAL)”. This stand-alone law, apart from comprehensively covering the repeal/modification of the specified statutes, shall contain principles of non-discrimination and equal protection before law. These principles shall specify that (1) No person, or public or private establishment shall discriminate against any person affected by Leprosy, or members of his family on any ground in relation to their affliction of Leprosy, or their disability, physical attributes or any other form of their association with Leprosy; and (2) All persons affected by Leprosy and members of their family shall be entitled to the recognition, enjoyment and exercise, on an equal basis, of all human rights including freedoms guaranteed by the Constitution of India. Further, the law shall also contain enabling provisions regarding affirmative action and repeal and amend discriminatory provisions listed above. The Law Commission Report has included a Model Bill which is given in Annexure 1. The Law Commission has strongly recommended that the “Bill should be converted into a law as expeditiously as possible by the Government of India.”**

## 4. Recommendations given by various Committees on the discriminatory provisions in various legislations

The table below lists the discriminatory provisions of the legislations and the recommendations of the Rajya Sabha Committee and the Law Commission. It also includes the relevant proposed provisions in the Model Law, EDPAL Bill 2015, as suggested by Law Commission.

S.No.	Name of the Legislation, Section No. and Discriminatory Provision/s	Recommendations of Various Committees
1.	<p><b>The Indian Lepers Act, 1898</b> The entire Act is discriminatory. It was framed for the "segregation and medical treatment of pauper lepers." The Act has been repealed in 17 States and UTs of India<sup>10</sup>.</p>	<p><b>Rajya Sabha Committee Report:</b> The Report did not cover The Indian Lepers Act, 1898.</p> <p><b>The Law Commission Report:</b> The Lepers Act, 1898 should be repealed in its entirety.<sup>11</sup></p> <p>The Model Law, <b>EDPAL Bill, 2015</b><sup>12</sup> has the following provision: "4. The statutes and provisions enumerated in Schedule I are hereby repealed." The Schedule 1 - Repealed Provisions and Acts, has listed The Lepers Act, 1898.</p>
2.	<p><b>The Special Marriage Act, 1954, 27(1)(g)</b><sup>13</sup> 27(1) "petition for divorce may be presented to the district court either by the husband or the wife on the ground that the respondent—(g) has been suffering from Leprosy, the disease not</p>	<p><b>Rajya Sabha Committee Report:</b> The discriminatory provisions contained in the following personal laws which stand as barrier to the empowerment of persons affected by Leprosy: (i) Hindu Marriage Act, 1955; (ii) Dissolution of Muslim Marriage Act, 1939;</p>

<sup>10</sup> The States and UTs that have repealed the Lepers Act 1898 are Gujarat, Assam, Nagaland, Meghalaya, West Bengal, Tamil Nadu, Tripura, Punjab, Karnataka, Orissa, Himachal Pradesh, Maharashtra, Delhi, Andaman and Nicobar Islands, Lakshadweep, Dadra and Nagar Haveli and Chandigarh. Page 33, Report No. 249, "Obsolete Laws: Warranting Immediate Repeal, Second Interim Report,, Law Commission of India, October 2014

<sup>11</sup> Section C, Summary, Page 47, Section 7.11(i), Report no. 256, Eliminating Discrimination Against Persons Affected by Leprosy, Law Commission of India, April 2015

<sup>12</sup> Section 4, Repeal of Certain Enactments and Schedule 1 of the Model Bill, Eliminating Discrimination Against Persons Affected by Leprosy

<sup>13</sup><http://indiankanoon.org/doc/4234/>

S.No.	Name of the Legislation, Section No. and Discriminatory Provision/s	Recommendations of Various Committees
	<p>having been contracted from the petitioner”.</p> <p><b>Dissolution of Muslim Marriages Act, 1939, 2 (vi)</b><sup>14</sup></p> <p>2. Grounds for decree for dissolution of marriage.—A woman married under Muslim law shall be entitled to obtain a decree for the dissolution of her marriage on any one or more of the following grounds, namely:—</p> <p>(vi) That the husband .....is suffering from Leprosy ...</p> <p><b>The Hindu Marriage Act, 1955, 13 (1) (iv)</b><sup>15</sup></p> <p>13. Divorce- (1) Any marriage solemnized, whether before or after the commencement of the Act, may, on a petition presented by either the husband or the wife, be dissolved by a decree of divorce on the ground that the other party- (iv) has been suffering from a virulent and incurable form of leprosy;.</p> <p><b>The Hindu Adoption and Maintenance Act, 1956, 18 (2)(c)</b><sup>16</sup></p> <p>18 Maintenance of wife. —(2) A Hindu wife shall be entitled to live separately from her husband without forfeiting her claim to maintenance— (c) if he is suffering from a virulent form of leprosy</p> <p><b>The Divorce Act, 1869, 10 (1)(iv)</b><sup>17</sup></p>	<p>(iii) Indian Christian Marriage Act, 1872; (iv) Indian Divorce Act, 1869; and (v) Hindu Adoption and Maintenance Act, 1956</p> <p>The Committee had also given a time frame of six months to remove discriminatory provisions therein against persons affected by Leprosy.”<sup>18</sup></p> <p><b>Law Commission Report:</b> The following Laws and provisions be repealed:</p> <ul style="list-style-type: none"> <li>• Sub-section (g) of Section 27 of the Special Marriage Act, 1954;</li> <li>• Sub-section (vi) of Section 2 of the Dissolution of Muslim Marriage Act, 1939;</li> <li>• Clause (iv) of sub-section (1) of Section 13 of the Hindu Marriage Act, 1955;</li> <li>• Clause (iv) of sub-section (1) of Section 10 of the Indian Divorce Act, 1869;</li> <li>• Clause (c) of sub-section (2) of Section 18 of the Hindu Adoption and Maintenance Act, 1956.<sup>19</sup></li> </ul> <p>The Model Law, <b>EDPAL Bill, 2015</b><sup>20</sup> has the following provision: “4. The statutes and provisions enumerated in Schedule I are hereby repealed.” The Schedule 1 - Repealed Provisions and Acts, has listed the above mentioned laws.</p>

<sup>14</sup><http://indiankanoon.org/doc/1458498/>

<sup>15</sup><http://indiankanoon.org/doc/590166/>

<sup>16</sup><http://indiankanoon.org/doc/946025/>

<sup>17</sup><http://indiankanoon.org/doc/806295/>

S.No.	Name of the Legislation, Section No. and Discriminatory Provision/s	Recommendations of Various Committees
	<p>10 Grounds for dissolution of marriage. — (1) Any marriage solemnized, whether before or after the commencement* of the Indian Divorce (Amendment) Act, 2001, may, on a petition presented to the District Court either by the husband or the wife, be dissolved on the ground that since the solemnization of the marriage, the respondent— (iv) has, for a period of not less than two years immediately preceding the presentation of the petition, been suffering from a virulent and incurable form of leprosy</p>	
3.	<p><b>The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995<sup>21</sup></b>  Section 2 (i) of the Act says: Disability" means-</p> <ol style="list-style-type: none"> <li>1. blindness;</li> <li>2. low vision;</li> <li>3. leprosy-cured;</li> <li>4. hearing impairment;</li> <li>5. locomotor disability;</li> <li>6. mental retardation;</li> <li>7. mental illness;</li> </ol> <p>n. "leprosy cured person" means any person who has been cured of leprosy but is suffering from-</p> <ol style="list-style-type: none"> <li>a) loss of sensation in hands or</li> </ol>	<p><b>Rajya Sabha Committee Report:</b>  The Secretary, Ministry of Social Justice &amp; Empowerment during his deposition on 16th November, 2009 mentioned that, "Substitution of the words "leprosy cured" by the words "leprosy affected persons" in Section 2(i) (iii) of PWD Act, 1995 may not be possible as there was no illustrative definition for the "leprosy affected persons". He illustrated that if a person had been infected with leprosy in the last fifteen days or one month and his treatment was going on, then according to the definition proposed by the Committee, he would also be treated as "disabled person", which would defeat the intended purpose of providing relief to the actually disabled ones. The Secretary mentioned that</p>

<sup>18</sup> Section 4.13.3, Rajya Sabha Committee on Petitions, 138th Report on Action Taken by Government on Observations/ Recommendations Contained in its 131st Report on Petition Praying for Integration and Empowerment of Leprosy Affected Persons, Rajya Sabha Secretariat, November 2010.

<sup>19</sup> Page 48, Section 7.11, Report no. 256, Eliminating Discrimination Against Persons Affected by Leprosy, Law Commission of India, April 2015

<sup>20</sup> Section 4, Repeal of Certain Enactments and Schedule 1 of the Model Bill, Eliminating Discrimination Against Persons Affected by Leprosy

<sup>21</sup> <http://indiankanoon.org/doc/376202/>

<b>S.No.</b>	<b>Name of the Legislation, Section No. and Discriminatory Provision/s</b>	<b>Recommendations of Various Committees</b>
	<p>feet as well as loss of sensation and paresis in the eye and eye-lid but with no manifest deformity;</p> <p>b) manifest deformity and paresis but having sufficient mobility in their hands and feet to enable them to engage in normal economic activity;</p> <p>c) Extreme physical deformity as well as advanced age which prevents him from undertaking any gainful occupation,</p> <p>and the expression "leprosy cured" shall be construed accordingly;</p>	<p>disability should be long term physical, mental, intellectual or sensory impairment. According to him, the PWD Act was not an instrument for overcoming disabilities and that social disability was something which belonged to a different domain and there were laws like Protection of Civil Rights Act, 1955 etc., which dealt with curbing untouchability or discrimination."</p> <p>The Rajya Sabha Committee "noted the view of the Ministry of Social Justice &amp; Empowerment to the extent that the Persons with Disabilities (Equal Opportunity, Protection of Rights &amp; Full Participation) Act, 1995 does not recognize disease but only disability."</p> <p><b>Law Commission Report:</b>  "The term Leprosy-cured does not appear to include Persons affected by Leprosy who are undetected or undergoing treatment and yet exhibit all or any of the three conditions described in the schedule. This term should therefore be amended to have a wider scope that covers larger number of persons who are affected by Leprosy, such as undetected Persons affected by Leprosy or Persons affected by Leprosy undergoing treatment."<sup>22</sup></p>
4.	<p><b>The Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995:</b>  Section 2(t): "person with disability" means a person suffering from not less than forty per cent of any</p>	<p><b>Rajya Sabha Committee Report:</b>  Give disability certificate to leprosy affected persons having less than 40% of disabilities with the sole purpose of making their economic and social integration into the society effective.<sup>23</sup></p>

<sup>22</sup> Page 37, 7.4, Report no. 256, Eliminating Discrimination Against Persons Affected by Leprosy, Law Commission of India, April 2015

<sup>23</sup> Section 4.2.5, Rajya Sabha Committee on Petitions, 138th Report on Action Taken by Government on Observations/ Recommendations Contained in its 131st Report on Petition Praying for Integration and Empowerment of Leprosy Affected Persons, Rajya Sabha Secretariat, November 2010.

S.No.	Name of the Legislation, Section No. and Discriminatory Provision/s	Recommendations of Various Committees
	disability as certified by a medical authority;	<p><b>Law Commission Report:</b>  "40% and above disability criteria under the Persons with Disabilities Act fails to cover persons cured of Leprosy with only Grade I disability, since the loss of sensation constitutes only 6-9% disability as per calculation process. On account of these observations, the Law Commission recommends that the term Leprosy cured needs to either be removed or broadened to cover all categories of Persons affected by Leprosy."<sup>24</sup></p>
5.	<p><b>The Rehabilitation Council of India Act, 1992</b><sup>25</sup>  Section 2(1)(c) of the Rehabilitation Council of India Act, 1992 uses the same definition of disability with all its sub-categories, as mentioned under Section 2(i) the Persons with Disabilities Act, 1995.</p>	Same as above, as for the Persons with Disabilities Act, 1995.
6.	<p><b>Rights of People with Disabilities Bill, 2014</b><sup>26</sup>  The Schedule:  9: "leprosy cured person" means a person who has been cured of leprosy but is suffering from— (i) loss of sensation in hands or feet as well as loss of sensation and paresis in the eye and eye-lid but with no manifest deformity; (ii) manifest deformity and paresis but having sufficient mobility in their hands and feet to enable them to engage in normal economic activity; (iii) extreme physical</p>	<p><b>Rajya Sabha Committee Report:</b>  It does not cover the RPD Bill, 2014</p> <p><b>Law Commission Report:</b>  Same recommendations as given for Persons with Disabilities Act 1995.</p>

<sup>24</sup> Page 37-38, Section 7.5, Report no. 256, Eliminating Discrimination Against Persons Affected by Leprosy, Law Commission of India, April 2015

<sup>25</sup> <http://indiankanoon.org/doc/223852/>

<sup>26</sup> <http://www.prsindia.org/uploads/media/Person%20with%20Disabilities/The%20Right%20of%20Persons%20with%20Disabilities%20Bill.pdf>

<b>S.No.</b>	<b>Name of the Legislation, Section No. and Discriminatory Provision/s</b>	<b>Recommendations of Various Committees</b>
	<p>deformity as well as advanced age which prevents him or her from undertaking any gainful occupation, and the expression "leprosy cured" shall be construed accordingly.</p> <p>2 (p) "person with benchmark disability" means a person with not less than forty per cent of a specified disability where specified disability has not been defined in measurable terms and includes a person with disability where specified disability has been defined in measurable terms, as certified by the certifying authority;</p>	
7.	<p><b>Juvenile Justice Care and Protection Act, 2000<sup>27</sup> 48 (2) and 58</b></p> <p>48 (2) Where a juvenile or the child is found to be suffering from leprosy, ..... he shall be dealt with separately through various specialised referral services or under the relevant laws as such.</p> <p>58. Transfer of juvenile or child .....suffering from leprosy .....where it appears to the competent authority that any juvenile or the child kept in a special home or a children's home or shelter home or in an institution in pursuance of this Act, is suffering from leprosy..... the competent authority may order his removal to a leper asylum .....</p>	<p><b>Rajya Sabha Committee Report:</b></p> <p>According to the submission made by the Secretary of the Ministry of Women and Child Development to the Rajya Sabha Committee on 18th January 2010, "Any child affected with Leprosy should not be segregated or be removed to a separate place. The words 'leprosy' and 'leper asylum' should be deleted from Sections 48 and 58 of the Act."</p> <p>Rajya Sabha Committee has recommended that, "till the Act is amended, an advisory may be issued to the State Governments not to segregate children suffering from leprosy and other diseases in the Juvenile Home."<sup>28</sup></p> <p><b>Law Commission Report:</b></p> <p>It has not covered/studied the Act.</p>

<sup>27</sup><http://wcd.nic.in/childprot/jjact2000.pdf>

<sup>28</sup> Sections 4.92 and 4.93, Rajya Sabha Committee on Petitions, 138th Report on Action Taken by Government on Observations/ Recommendations Contained in its 131st Report on Petition Praying for Integration and Empowerment of Leprosy Affected Persons, Rajya Sabha Secretariat, November 2010.

S.No.	Name of the Legislation, Section No. and Discriminatory Provision/s	Recommendations of Various Committees
8.	<p><b>Motor Vehicles Act, 1988<sup>29</sup></b>  <b>(4)</b> If, from the application or from the medical certificate referred to in sub-section (3), it appears that the applicant is suffering from any disease or disability which is likely to cause the driving by him of a motor vehicle of the class which he would be authorised by the learner's license applied for to drive to be a source of danger to the public or to the passengers, the licensing authority shall refuse to issue the learner's license: Provided that a learner's license limited to driving an invalid carriage may be issued to the applicant, if the licensing authority is satisfied that he is fit to drive such a carriage.</p>	<p><b>Rajya Sabha Committee Report:</b>  The Ministry of Road Transport and Highways responded that no change in law is required since leprosy is not specified in the Act. "Written advisories have been sent to all State Govt./UTs on 22nd January, 2010 to issue instructions to all RTOs/Licensing authorities not to discriminate persons affected by Leprosy while issuing learner's license or regular driving license." The Rajya Sabha Committee noted with satisfaction the action taken by the Ministry.<sup>30</sup></p> <p><b>Law Commission Report:</b>  Amendment to the Motor Vehicles Act, 1988:  "After the first proviso to sub-section (4) under Section 8 of the Act, the following proviso shall be inserted, namely:  Provided further that the licensing authority shall not refuse to issue a learner's licence to a person affected by Leprosy, who has been certified by a registered medical practitioner, as having either been cured of Leprosy, or as having been administered with the first dose under Multi-Drug Therapy, with continuing treatment for Leprosy being provided."</p> <p>The Model Law, <b>EDPAL Bill 2015</b>, Section 5, "The statutes and provisions enumerated in column I of Schedule II shall stand amended in accordance with respective entries in column II of Schedule II." The Schedule II, Amendments to Certain Enactments, lists the above mentioned</p>

<sup>29</sup><http://indiankanoon.org/doc/785258/>

<sup>30</sup> Section 4.11.1, 4.11.3 and 4.11.4, Rajya Sabha Committee on Petitions, 138th Report on Action Taken by Government on Observations/ Recommendations Contained in its 131st Report on Petition Praying for Integration and Empowerment of Leprosy Affected Persons, Rajya Sabha Secretariat, November 2010.

S.No.	Name of the Legislation, Section No. and Discriminatory Provision/s	Recommendations of Various Committees
		amendments to the Motor Vehicles Act, 1988. <sup>31</sup>
9.	<p><b>The Railways Act, 1989<sup>32</sup></b></p> <p>56. (1) A Person suffering from such infectious or contagious diseases, as may be prescribed, shall not enter or remain in any carriage on a railway or travel in a train without the permission of a railway servant authorised in this behalf.</p> <p>(2) The railway servant giving permission under sub-section (1), shall arrange for the separation of the person suffering from such disease from other persons in the train and such person shall be carried in the train subject to such other conditions as may be prescribed.</p> <p>(3) Any person who enters or remains in any carriage or travels in a train without permission as required under sub-section (1) or in contravention of any condition prescribed under sub-section (2), - such person and a person accompanying him shall be liable to the forfeiture of their passes or tickets and removal from railway by any railway servant.</p>	<p><b>Rajya Sabha Committee Report:</b></p> <p>Ministry of Railways in their written submission to Rajya Sabha stated that, "...in 1989, it was decided to remove the "Leprosy" from the list of contagious/infectious diseases. In other words, there were no restrictions on Leprosy affected persons to travel in trains along with regular passengers since 1989. Since Leprosy is not included in the list of infectious/contagious diseases, provisions of Section 56 of Indian Railways Act, 1989, are not applicable in this case." The Committee has noted the explanations offered by Ministry of Railways.<sup>33</sup></p> <p><b>Law Commission Report:</b></p> <p>It states, "to tackle this issue of movement, the proposed legislation should provide measures that endeavour to ensure that the Persons affected by Leprosy are guaranteed the right of travel in public transport .....". The legislation should also ensure non-discrimination of Persons affected by Leprosy in public transports such as railways".<sup>34</sup></p> <p>The Model Law, EDPAL Bill, 2015 has the following provision: 13. Right to Movement: No person affected</p>

<sup>31</sup> Page 55 and 65, Annexure – EDPAL Bill 2015, Report no. 256, Eliminating Discrimination Against Persons Affected by Leprosy, Law Commission of India, April 2015, <http://lawcommissionofindia.nic.in/reports/Report256.pdf>

<sup>32</sup> [http://www.indianrailways.gov.in/railwayboard/uploads/codesmanual/Railway Act.PDF](http://www.indianrailways.gov.in/railwayboard/uploads/codesmanual/Railway_Act.PDF)

<sup>33</sup> Section 4.10.2 and 4.10.3 Rajya Sabha Committee on Petitions, 138th Report on Action Taken by Government on Observations/ Recommendations Contained in its 131st Report on Petition Praying for Integration and Empowerment of Leprosy Affected Persons, Rajya Sabha Secretariat, November 2010.

<sup>34</sup> Page 44, Section 7.10.13, Report no. 256, Eliminating Discrimination Against Persons Affected by Leprosy, Law Commission of India, April 2015, <http://lawcommissionofindia.nic.in/reports/Report256.pdf>

S.No.	Name of the Legislation, Section No. and Discriminatory Provision/s	Recommendations of Various Committees
		by Leprosy, or any member of his family, shall be denied the right to movement in respect of all or any public transport or for obtaining a driving license for all or any vehicle, on account of being affected with leprosy. <sup>35</sup>
10.	<p><b>Bombay Municipal Corporation Act, 1888<sup>36</sup></b></p> <p>421. Information to be given of existence of dangerous disease or continuous pyrexia of unknown origin. Every medical practitioner who treats or becomes cognizant of the existence of any dangerous disease or any case of continuous pyrexia of unknown origin of more than four days' duration [These words were inserted by Bom. 20 of 1952, s. 17(1).] in any private or public, dwelling, other than a public hospital, shall give information of the same with the least practicable delay to the executive health officer. The said information shall be communicated in such form and with such details as the executive health officer, with the consent of the Commissioner, may from time to time require.</p>	<p><b>Rajya Sabha Committee Report:</b></p> <p>"The State Government of Maharashtra should endeavor to implement its own suggestion and expedite the process of amendment to their extant laws, i.e., a new sentence viz. "The section is not applicable to patients of leprosy whether cured or not", should be inserted at the end of Section 421 of the Bombay Municipal Corporation Act, 1888."<sup>37</sup></p> <p><b>The Law Commission Report:</b></p> <p>"Relevant provisions under the ... State Acts such as the Bombay Municipal Corporation Act, 1888, permit the denial of certain rights, privileges and concessions to persons who suffer from an infectious or contagious disease or disability. Leprosy, in light of its traditional understanding, continues to be included within the range of such contagious diseases and disabilities". However, the report does not give any recommendation for amendment to the Act.<sup>38</sup></p>

<sup>35</sup> Page 58, Section, 13, Annexure – EDPAL Bill 2015, Report no. 256, Eliminating Discrimination Against Persons Affected by Leprosy, Law Commission of India, April 2015, <http://lawcommissionofindia.nic.in/reports/Report256.pdf>

<sup>36</sup> <http://vakindia.org/pdf/BMC-Act-1888.pdf>

<sup>37</sup> Section 4.14.4, Rajya Sabha Committee on Petitions, 138th Report on Action Taken by Government on Observations/ Recommendations Contained in its 131st Report on Petition Praying for Integration and Empowerment of Leprosy Affected Persons, Rajya Sabha Secretariat, November 2010.

<sup>38</sup> Page 21, Section 4.4, Report no. 256, Eliminating Discrimination Against Persons Affected by Leprosy, Law Commission of India, April 2015, <http://lawcommissionofindia.nic.in/reports/Report256.pdf>

S.No.	Name of the Legislation, Section No. and Discriminatory Provision/s	Recommendations of Various Committees
11.	<p><b>The Industrial Disputes Act, 1947<sup>39</sup> Section 2(o)(oo)(c)</b>  (c) termination of the service of a workman on the ground of continued ill- health</p>	<p><b>Rajya Sabha Committee Report:</b>  "The Secretary, Labour &amp; Employment has informed the Committee that the definition of the term "continued ill-health" in Section 2(oo) of the Industrial Disputes Act, 1947 has the scope of subjective element. He has submitted that the Ministry is examining the issues of clarifying/defining the term 'continued ill-health' under rules. The Rajya Sabha Committee has noted the reply."<sup>40</sup></p> <p><b>Law Commission Report:</b>  "This section does not mention Leprosy as a ground for termination as such, but may be indirectly resorted to terminate the employment of an affected person or his/her family member due to the social stigma attached to the condition".</p> <p>The Law Commission recommended that, "to tackle these issues of employment, the proposed legislation should include measures that prohibit termination of employment of Persons affected by Leprosy and their family members solely on the basis of the infection of the disease and the associated stigma. " <sup>41</sup></p> <p>Model Bill, <b>EDPAL Bill 2015</b>, has the following provisions:  15. Right to Employment: No person affected by Leprosy, or any member of his family, shall be denied the right to be nominated, selected or elected, or to continue his appointment, as the case may be, to a public office or for private employment, after he has duly furnished a</p>

<sup>39</sup> <http://indiankanoon.org/doc/500379/>

<sup>40</sup> Sections 4.12.3 and 4.12.4, Rajya Sabha Committee on Petitions, 138th Report on Action Taken by Government on Observations/ Recommendations Contained in its 131st Report on Petition Praying for Integration and Empowerment of Leprosy Affected Persons, Rajya Sabha Secretariat, November 2010.

<sup>41</sup> Page 42-43, 7.10.8, Report no. 256, Eliminating Discrimination Against Persons Affected by Leprosy, Law Commission of India, April 2015, <http://lawcommissionofindia.nic.in/reports/Report256.pdf>

S.No.	Name of the Legislation, Section No. and Discriminatory Provision/s	Recommendations of Various Committees
		certificate by a registered Medical Practitioner that attests that such person has been administered with the first dose under Multi-Drug Therapy and continues to undergo or has completed treatment for Leprosy. <sup>42</sup>
12.	<p>State Municipal and Panchayati Raj Acts – including the Orissa Municipal Act, 1950, Andhra Pradesh Municipalities Act, 1965, Orissa Gram Panchayats Act, 1964, Andhra Pradesh Panchayati Raj Act, 1994, Chhattisgarh and Madhya Pradesh Panchayati Raj Act, 1993, the Rajasthan Panchayati Act, 1994 and the Rajasthan Municipality Act, 1959 and several other analogous legislations</p> <p>The provisions on eligibility in the various State Municipality and Panchayat Raj legislations listed, state that Persons affected by Leprosy are liable to be disqualified from holding a civic post on the ground of their infection of Leprosy.<sup>43</sup></p> <p>For example, in <b>Orissa Municipal Act, 1950</b>, Section 16, states, "Disqualification of Candidates for election (iv) .....a leprosy or a tuberculosis patient";<sup>44</sup></p> <p>The validity of these provisions has</p>	<p><b>Rajya Sabha Committee Report:</b> The Report has covered only the Orissa Municipal and Panchayati Raj Acts. It mentions that, "The State Government of Orissa in their counter affidavit filed in reply to Writ Petition No. 83 of 2010 (Public Interest Litigation filed by Federation of Leprosy Organisations (FOLO) and International Leprosy Union Vs Union of India) in the Supreme Court of India have submitted that the Acts/Rules/By-laws/Executive Instruction, which are prevalent in the State of Orissa, shall be amended if actually discrimination is found there. To that effect, necessary steps have been initiated by the concerned Departments to bring in amendments to the following Acts so as to bring appropriate Bills before the Orissa Legislative Assembly:- (i) The Orissa Municipal Corporation Act, 1950; (ii) The Municipal Corporation Act, 2003; (iii) The Orissa Panchayat Act, 1959; and (iv) The Orissa Gram Panchayat Act, 1964"</p> <p>The Committee has noted the explanations offered by Government of Orissa.<sup>46</sup></p> <p><b>Law Commission Report:</b> The Law Commission observed that there is a strong basis to do away with the</p>

<sup>42</sup> Section 15, Page 58, Annexure – EDPAL Bill 2015, Report no. 256, Eliminating Discrimination Against Persons Affected by Leprosy, Law Commission of India, April 2015, <http://lawcommissionofindia.nic.in/reports/Report256.pdf>

<sup>43</sup> Section 7.6, Page 38, Report no. 256, Eliminating Discrimination Against Persons Affected by Leprosy, Law Commission of India, April 2015, <http://lawcommissionofindia.nic.in/reports/Report256.pdf>

<sup>44</sup> <http://www.legalcrystal.com/act/136305/orissa-municipal-act-1950-complete-act>

S.No.	Name of the Legislation, Section No. and Discriminatory Provision/s	Recommendations of Various Committees
	<p>been upheld by the Supreme Court in its judgment in the case of Dhirendra Pandua.<sup>45</sup></p>	<p>restrictions on eligibility of Persons affected by Leprosy to stand for civic posts.<sup>47</sup> However, no specific recommendations have been given in the report for amending the Acts.</p> <p>Model Bill, <b>EDPAL Bill 2015</b>, mentions in Section 6, "Laws that are not enumerated in Schedule I or Schedule II, whether Central or State, which directly, or indirectly discriminate against persons affected by Leprosy shall be invalid insofar as such laws discriminate against persons affected by Leprosy."</p>
13.	<p>Beggary Laws - including Andhra Pradesh Prevention of Begging Act, 1977, Bombay Prevention of Begging Act, 1959, Gujarat Prevention of Begging Act, 1959 and several other analogous legislations</p> <p>According to the Law Commission Report, "Under all the State-level beggary prevention laws, the term leper has been used to refer to Persons affected by Leprosy. These laws also allow for beggars and their dependents who suffer from Leprosy to be detained or confined to Leprosy asylums indefinitely."<sup>48</sup></p>	<p><b>Rajya Sabha Committee Report:</b> The Report has covered only the Bombay Prevention of Begging Act 1959. It is mentioned that, "it hopes that the State Government of Maharashtra would endeavor to implement its own suggestion and expedite the process of amendment to their extant laws with a view to integrate and empower the persons affected by Leprosy of its State."<sup>50</sup></p> <p><b>Law Commission Report:</b> ".....persons affected by Leprosy should not be detained or confined to Leprosy asylums indefinitely only on account of their infection of the disease ....."</p>

<sup>46</sup> Section 4.15.2 and 4.15.3, Rajya Sabha Committee on Petitions, 138th Report on Action Taken by Government on Observations/ Recommendations Contained in its 131st Report on Petition Praying for Integration and Empowerment of Leprosy Affected Persons, Rajya Sabha Secretariat, November 2010.

<sup>45</sup> Page 38, Section 7.6, Report no. 256, Eliminating Discrimination Against Persons Affected by Leprosy, Law Commission of India, April 2015, <http://lawcommissionofindia.nic.in/reports/Report256.pdf>

<sup>47</sup> Page 38, Section 7.6, Report no. 256, Eliminating Discrimination Against Persons Affected by Leprosy, Law Commission of India, April 2015, <http://lawcommissionofindia.nic.in/reports/Report256.pdf>

<sup>48</sup> Page 36, Section 7.3, Report no. 256, Eliminating Discrimination Against Persons Affected by Leprosy, Law Commission of India, April 2015, <http://lawcommissionofindia.nic.in/reports/Report256.pdf>

S.No.	Name of the Legislation, Section No. and Discriminatory Provision/s	Recommendations of Various Committees
	<p>Example: The Bombay Prevention of Begging Act, 1959: "Medical Examination and detention of leprosy patients and lunatics.- 26 (1) "where it appears to the Chief Commissioner that any beggar detained in a Certified Institution under any order of a court is of unsound mind or a leper, the Chief Commissioner may by an order setting forth the grounds of belief that the beggar is of unsound mind or a leper, order his removal to a mental hospital or leper asylum or other place of safe custody, there to be kept and treated as the Chief Commissioner directed during remainder of the term for which he has been ordered to be detained or, if on the expiration of that term it is certified by a medical officer that it is necessary for the safety of the beggar or of others that he should be further detained under medical care or treatment, then until he is discharged according to law."<sup>49</sup></p>	<p>"Additionally, the use of the term leper is derogatory and contributes to the stigma associated with the disease. Therefore, the Law Commission recommends that such a term should be removed from the statute book and all government records".<sup>51</sup></p> <p>Model Bill, <b>EDPAL Bill 2015</b>, mentions in Section 6, "Laws that are not enumerated in Schedule I or Schedule II, whether Central or State, which directly, or indirectly discriminate against persons affected by Leprosy shall be invalid insofar as such laws discriminate against persons affected by Leprosy."</p> <p>It gives an illustration: "A, a person affected by Leprosy who is found begging, is arrested and detained under the provisions of a State Prevention of Begging Act, solely on account of his affliction with Leprosy. With the coming into force of this section, any such provision for the arrest and detention of persons affected by Leprosy under the State Prevention of Begging Act shall be invalid. The detention and arrest of A will be invalid."</p>
14.	The Life Insurance Corporation Act, 1956	<p><b>Rajya Sabha Committee Report:</b> The Rajya Sabha Committee Report did not cover this Act.</p>

<sup>50</sup> Section 4.14.9, Rajya Sabha Committee on Petitions, 138th Report on Action Taken by Government on Observations/ Recommendations Contained in its 131st Report on Petition Praying for Integration and Empowerment of Leprosy Affected Persons, Rajya Sabha Secretariat, November 2010.

<sup>49</sup> Section 26 (1), The Bombay Prevention of Begging Act, 1959  
<http://delhi.gov.in/wps/wcm/connect/f2214e0043383b63b2d1f3cf71a315bd/THE+BOMBAY+PREVENTION+OF.pdf?MOD=AJPERES&lmod=-716342930&CACHEID=f2214e0043383b63b2d1f3cf71a315bd>

<sup>51</sup> Page 36, Section 7.3, Report no. 256, Eliminating Discrimination Against Persons Affected by Leprosy, Law Commission of India, April 2015,  
<http://lawcommissionofindia.nic.in/reports/Report256.pdf>

S.No.	Name of the Legislation, Section No. and Discriminatory Provision/s	Recommendations of Various Committees
		<p><b>Law Commission Report:</b> It is mentioned in the Report that, the Life Insurance Corporation Act, 1956 contains a discriminatory provision, wherein higher premium rates are to be charged from Persons affected by Leprosy on account of the higher risk to their lives as understood through past notions.<sup>52</sup></p> <p>The Model Bill, <b>EDPAL Bill 2015</b>, has provision for equality and non discrimination (Chapter II, Section 3). Moreover, Section 20 for 'Measures Related to Social Welfare' includes access to health insurance or other social insurance.</p>

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<sup>52</sup> Page 19, Section 4.3, Report no. 256, Eliminating Discrimination Against Persons Affected by Leprosy, Law Commission of India, April 2015, <http://lawcommissionofindia.nic.in/reports/Report256.pdf>

## 5. Judicial Intervention: Public Interest Litigations / Civil Applications in the Court of Law

S.No.	Name of the Court and Case number	Status of the Case
1.	High Court of Gujarat at Ahmadabad Special Civil Application No. 12403 of 2003Suo Moto Versus Union of India <sup>53</sup>	<p>Date of Order: 16<sup>th</sup> March, 2004</p> <p><b>Oral Order:</b>(Per: HON'BLE THE CHIEF JUSTICE) After hearing Shri S.N.Shelat, Advocate General for Gujarat, Shri A.K. Phookan, Advocate General for Assam, and Ms. Dharmishta Raval, Senior Standing Counsel for Central Government, we are of the opinion that the matter should receive attention of the State Governments and Central Government instead the Court adjudicating it at this stage. Accordingly, with these observations, the Special Civil Application stands disposed of.</p> <p><b>Follow up of the order:</b> Consequently, on 14<sup>th</sup> October, 2004 the Government of India issued a letter to the Secretaries of all the Ministries/ Departments of the Government of India, Chief Secretaries of all the State Governments, Lt. Governors/ Administrators of all the Union Territories, "to review and amend the laws containing discriminatory provisions against the Leprosy afflicted Persons"</p>
2.	High Court of Delhi W.P.(C) 8112/2007 Kusth Asha Deep Federation Thr. its Secretary Diwa Vs. UOI & ORS. <sup>54</sup>	<p><b>Judgment Pending</b> as on 13th May 2015</p> <p><b>Prayer:</b> For issuance of a writ of certiorari or any other appropriate writ or directions for identifying and striking down the discriminatory provisions from various Acts, Laws, Rules, and Government Orders etc. as and where these exist therein. <sup>55</sup></p>

<sup>53</sup><http://gujarathc-casestatus.nic.in/gujarathc/tabhome.jsp>

<sup>54</sup>[http://delhihighcourt.nic.in/dhc\\_case\\_status\\_list\\_new.asp](http://delhihighcourt.nic.in/dhc_case_status_list_new.asp)

<sup>55</sup>

file:///C:/Users/Rama%20C/AppData/Local/Microsoft/Windows/INetCache/Content.Outlook/OT0SLCV8/Supreme%20Court%20Brahm%20Dutt%20PETITION.htm

S.No.	Name of the Court and Case number	Status of the Case
		<p><b>Latest Order:</b> 4<sup>th</sup> August, 2010            "We have been apprised by learned counsel for the respondent that the W.P. (C.) No. 83/2010 instituted under Article 32 of the Constitution of India is pending before the Apex Court and their Lordships have issued notice. In view of the aforesaid, we think it apposite that this Court should await the decision in the said writ petition. Accordingly, the present writ petition is adjourned sine die.<sup>56</sup></p>
3.	High Court of Orissa Writ Petition under Art.226 & 227.(WP(C)) 12860 of 2004 Dhirendra Pandua Vs. Election Tribunal	<p>The petitioner called in question the order/judgment dated 16<sup>th</sup> November 2004 of the election tribunal cum district judge, Balasore, passed in Election misc. Case No. 7 of 2003. The writ petitioner Dhirendra Pandua contested and was elected as Councillor and also as the Chairman of NAC in 2003. The Opposite Party, Surendra Chandra Mohanti filed the election petition under Section 38 of the Orissa Municipal Act, 1950, alleging disqualification of the writ petitioner under Sections 16 (i)(iv) and 17(1)(b). The opposite party pleaded that the writ petitioner is still suffering from Leprosy and therefore is disqualified to continue as the Councillor as well as the Chairman of NAC. The writ petitioner contested the case denying the allegation and claimed himself to have been cured on the date of the elections.</p> <p><b>Date of Disposal<sup>57</sup>: 7th October, 2005.</b>            The High Court upheld the order of the Election Tribunal which had upheld the provisions of the Orissa Municipal Act which disqualifies a person with Leprosy from holding such posts.</p>
4.	Supreme Court	<b>Judgment delivered on September 19, 2008</b>

<sup>56</sup>[http://delhihighcourt.nic.in/dhcqrydisp\\_o.asp?pn=132349&yr=2010](http://delhihighcourt.nic.in/dhcqrydisp_o.asp?pn=132349&yr=2010)

<sup>57</sup><http://courtnic.nic.in/orissa/main2000.asp>

<b>S.No.</b>	<b>Name of the Court and Case number</b>	<b>Status of the Case</b>
	Civil Appeal No. 5743 of 2008 (Arising out of S.L.P. (C) No. 26226 of 2005) DharendraPandua - Appellant Vs. State of Orissa & ORS. - Respondents	<p>Judgement: The appeal was dismissed. Some of the points made in the Judgment are mentioned below.<sup>58</sup></p> <p>"19. It is perceptible that on appellant's own showing that he was having some doubts about at least the reactivation of the disease and had to approach this Court for appropriate directions to the concerned authorities for providing adequate facilities for periodical check ups including bacteriological tests and issue of fitness certificate. Thus, the District Judge as also the High Court was justified in coming to the conclusion that on facts obtaining at the relevant time, the appellant had not been fully cured of leprosy."</p> <p>"21. Having regard to these circumstances, we are convinced that the said classification does bear a reasonable and just relation with the object sought to be achieved by the statute in question and cannot be said to be unreasonable or arbitrary. Accordingly, we hold that Sections 16(1)(iv) and 17(1)(b) of the Act are not violative of Article 14 of the Constitution."</p> <p>"22. Keeping in view the present thinking and researches carried on leprosy as also on tuberculosis, and with professional input, the Legislature may seriously consider whether it is still necessary to retain such provisions in the statutes."</p> <p>"23. The appeal, being devoid of any merit, is dismissed accordingly, but without any costs."</p>
<b>5.</b>	Supreme Court: Writ Petition (Civil) 83 of 2010.	<b>Prayer:</b> a) issue appropriate writ or order or direction/order to the Respondents to identify and report the

<sup>58</sup> Full Judgment can be accessed at link <http://judis.nic.in/supremecourt/imgs1.aspx?filename=32528>

S.No.	Name of the Court and Case number	Status of the Case
	Federation of Leprosy Organisations (FOLO) and & ANR. Vs. Union of India & ORS.	<p>discriminatory provisions in various Acts, Laws, Rules, Government Orders etc. as and where these exist; and</p> <p>b) issue appropriate writ or order or direction/order (s) striking down the discriminatory provisions in various Acts, Laws, Rules, Government Orders etc. as and where these exist;</p> <p>a. pass any other or further order(s)/direction(s) which this Honourable Court deems fit and proper in the facts and circumstances of the matter.<sup>59</sup></p> <p><b>The case of pending. Listed seven times earlier. Next hearing likely on 7th July 2015.<sup>60</sup></b></p>

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file:///C:/Users/Rama%20C/AppData/Local/Microsoft/Windows/INetCache/Content.Outlook/OT0SLCV8/Supreme%20Court%20Brahm%20Dutt%20PETITION.htm

<sup>60</sup><http://courtnic.nic.in/supremecourt/querycheck.asp> accessed as on 13th May 2015

## 6. Analysis

The Law Commission, the Rajya Sabha Committee on Petitions as well as the Supreme Court of India are unanimous in their opinion that the discriminatory provisions in various laws against persons affected by Leprosy should be repealed/amended as these are based on an archaic understanding that Leprosy was an 'incurable and virulent' disease.

Civil society organisations have been seeking a repeal/ amendment of these laws for almost three decades through PILs, letters, petitions, meetings, etc. A significant outcome of these efforts include the Reports (131 and 138) of the Rajya Sabha Committee on Petitions, the Reports (249 and 256) of the Law Commission of India and the various court orders. The recommendation of all the Reports is to do away/modify these antiquated provisions in the various laws.

The Law Commission in the 256th Report has recommended that although amendments can be made in each and every law that is discriminatory, it would be more effective to frame a single statute to deal with all aspects of rights of Persons affected by Leprosy and their family members. This will ensure coherence and send out a strong signal of the resolve of the Government of India to tackle discrimination faced by Persons affected by Leprosy. This statute should be titled as the "Elimination of Discrimination against Persons affected by Leprosy Bill, 2015". The Law Commission has also included a Model Bill in the annexure of the Report. According to the Report, "This stand-alone law, apart from comprehensively covering the repeal/modification of the specified statutes, shall contain principles of non-discrimination and equal protection before law. Further, the law shall also contain enabling provisions regarding affirmative action."

Following are some of the merits of having a comprehensive Law for Elimination of Discrimination against Persons affected by Leprosy:

### **1. The Bill covers persons affected by Leprosy and their family members:**

- "Persons affected by Leprosy means and includes a person who suffers from, or has previously suffered or has been cured of Leprosy, whether or not such a person has undergone treatment under the Multi-Drug Therapy;
- Members of their family, with reference to persons affected by Leprosy, means —
  - (i) spouse of the person affected by Leprosy;
  - (ii) parents of the person affected by Leprosy;
  - (iii) children of the person affected by Leprosy; and

(iv) brothers or sisters of the person affected by Leprosy.”

**2. The Bill includes specific provisions for repeal and amendments to certain enactments.** The provisions are:

- Repeal of the Lepers Act 1898 in its entirety.
- Repeal of discriminatory provisions in five personal acts related to marriage, divorce, etc.
- Amendments to the Legal Services Act and the Motor Vehicles Act.

It further states clearly that the provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment or instrument having the force of law.

**3. It also addresses the specific problems of people living in Leprosy colonies with respect to their ownership of the land.**

- “The appropriate government shall make efforts to provide security of tenure, title and ownership of property for all persons affected by Leprosy and members of their family living in leprosy colonies.
- No person affected by Leprosy or members of his family shall be removed or evicted from the existing leprosy colonies without prior sanction of the Central or the State Commission of Leprosy, as the case may be, and without being rehabilitated and adequately compensated.”

**4. The Bill has provisions to ensure non discrimination of persons affected by Leprosy by any person or any public or private establishment:**

“No person, establishment or government, shall discriminate against any person affected by Leprosy, or members of his family on any ground in relation to their affliction with Leprosy, or their disability, physical attributes or any other form of their association with Leprosy”

**5. The Bill provides clarity with respect to the term that should be used to refer persons affected by Leprosy:**

“Notwithstanding any other law for the time being in force, in all laws that are in force, and in all official records of the Government of India, State Governments, and establishments defined under sub-section (2) of Section 2, the term ‘leper’ and other such terms in national, regional and local languages, shall be substituted by the term ‘persons affected by Leprosy’ or any other term in the national, regional or local language that is synonymous.”

**6. The Bill has provisions for the government to undertake affirmative action in the following areas:**

- Health
- Ownership of property
- Social Welfare
- Education
- Employment
- Awareness and training
- Participation of Persons affected by Leprosy in the formulation of policies
- Setting-up of a Central and State Commission on Leprosy, to monitor the compliance of the provisions of the Act in respect of public and private establishments and to make recommendations to the Central or State Government, as applicable, for the proper implementation of this Act.

The Bill is not in contradiction with but would complement the Rights of Persons with Disabilities Bill. For example, The Disability Bill provides for reservation in education, employment, and several other rights and measures that would benefit people affected by Leprosy, which are not part of the Leprosy Bill.

According to the Disability Bill, only persons having 40% or above of any disability are considered as persons with disability. This condition may exclude several persons affected by Leprosy. This issue should be seriously looked into when the guidelines are being drafted so that the loss of sensations and other barriers are taken into account while ascertaining the percentage of disability in persons affected by Leprosy. In addition, the term 'Leprosy cured' in the Schedule of the Disability Bill should be replaced by the term 'persons affected by Leprosy'.

## 7. Conclusion

The sustained effort of persons affected by Leprosy and the various NGOs for almost three decades to repeal/amend the discriminatory laws, has reached a point where there seems a clear cut way forward, i.e. to enact a comprehensive Bill "Elimination of Discrimination against Persons affected by Leprosy Bill, 2015".

The task ahead for the Leprosy organisations is to take a closer look at the Leprosy Model Bill to ensure all the relevant issues are covered and to make any changes if required to the Bill. The larger disability sector should provide its support to the leprosy organisations in campaigning for the speedy passage of the Bill.

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## **8. Annexure 1: Eliminating Discrimination Against Persons Affected by Leprosy (EDPAL) Bill, 2015**

A Bill to enact a comprehensive protection regime for persons affected by Leprosy and members of their family; to eliminate any discrimination or denial of equal treatment; to repeal and amend existing laws that negatively affect such persons and promote their segregation and discrimination; and to enable the State to discharge its positive obligations through affirmative action

REAFFIRMING that all human beings are born free and equal in dignity and rights, and that everyone is entitled to the enjoyment of human rights without distinction of any kind, such as caste, sex, language, religion, disability or deformity, national or social origin, birth or other status;

REAFFIRMING that persons affected by Leprosy and members of their family are entitled to be treated as individuals with dignity and bearers of human rights, including equality before the law and the equal protection of the law, without any discrimination;

RECALLING India's obligations as a signatory to the United Nations Resolution on the Elimination of Discrimination against persons affected by Leprosy and their Family Members, 2011, the United Nations Principles and Guidelines for the Elimination of Discrimination against persons affected by Leprosy and their Family Members, 2010, and the United Nations Convention on the Rights of Persons with Disabilities 2006;

ENABLING the government to give due consideration to the principles and guidelines mentioned herein, while repealing certain obsolete and archaic laws and formulating policies and guidelines for the equal and non-discriminatory treatment of persons affected by Leprosy;

Now therefore be it enacted in the Sixty-fifth year of the Republic of India:-

## **CHAPTER I: PRELIMINARY**

### **SHORT TITLE AND COMMENCEMENT**

1.

- (1) This Act may be called the Elimination of Discrimination against Persons affected by Leprosy Act, 2015.
- (2) It extends to the whole of India.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

### **DEFINITIONS**

2. In this Act, unless the context otherwise requires,—

(1) "appropriate government" means,—

- (i) in relation to the Central Government or any establishment wholly or substantially financed by that Government, or any body constituted by a law made by Parliament or a Cantonment Board constituted under the Cantonments Act, 2006, the Central Government; or
- (ii) in relation to the State Government or any other establishment under sub-section (2) of this section that is not covered under clause (i) of this sub-section, the State Government;

(2) "establishment"— means and includes a company, club, firm or any other body corporate or association of persons jointly carrying out a systematic activity for consideration or otherwise including but not limited to;

- (i) a society registered under the Societies Registration Act, 1860, or a co-operative society under the Co-operative Societies Act, 1912
- (ii) a trust under the Indian Trusts Act, 1882 or corresponding state law under which trusts may be established;
- (iii) any organisation or institution or authority established by or under a Central Act or State Act or otherwise;
- (iv) any industry under Section 2(j) of the Industrial Disputes Act, 1947; or
- (v) any shop or establishment governed by a State Act concerning such shops and establishments;

(3) "disability due to Leprosy" – means grade 1 or grade 2 disability in the hand, leg or eye that hinders full and effective participation of a person affected by Leprosy in society equally with others, whether or not his extent of disability has been specified in measurable terms;

*Explanation:*

- (i) Grade 1 disability includes sensory impairment, scars with sensory impairment or muscle weakness without contractures.
- (ii) Grade 2 disability includes visible impairment, Lagophthalmos, Iridocyclitis, visual acuity of <6/60, burns, deep cracks, wounds (both simple and deep ulcers), muscle atrophy, bone absorption of shortening or contractures.

- (4) "Leprosy" – means a disease triggered by *Mycobacterium Leprae* characterised by symptoms of pale and reddish skin, numbness of hands or feet or loss of feeling in a patch of skin, and which may lead to disability as defined under sub-section (3) of this section;
- (5) "leprosy cured person" – includes, notwithstanding anything in the Persons with Disability Act, 1995 or any other law pertaining to persons with disability, any person affected by Leprosy, regardless of the percentage of his disability, who has been certified by a registered medical practitioner, as having been administered with the first dose under Multi-Drug Therapy, which renders his illness non-contagious, and such person continues with or has completed treatment for Leprosy.
- (6) "person affected by Leprosy" – means and includes a person who suffers from, or has previously suffered or has been cured of Leprosy, whether or not such person has undergone treatment under Multi-Drug Therapy;
- (7) "Multi-Drug Therapy" (MDT) – means the medical treatment wherein a combination of drugs are administered to a person affected by Leprosy in order to render the infection non-contagious through the first dose and kill *Mycobacterium Leprae*;
- (8) "members of their family", with reference to persons affected by Leprosy, means –
- (i) spouse of the person affected by Leprosy;
  - (ii) parents of the person affected by Leprosy;
  - (iii) children of the person affected by leprosy; and
  - (iv) brothers or sisters of the person affected by Leprosy.

## **CHAPTER II: EQUALITY AND NON-DISCRIMINATION EQUALITY AND NON- DISCRIMINATION**

3.

- (1) No person, establishment or government, shall discriminate against any person affected by Leprosy, or members of his family on any ground in relation to their affliction with Leprosy, or their disability, physical attributes or any other form of their association with Leprosy;
- (2) All persons affected by Leprosy and members of their family shall be entitled to the recognition, enjoyment and exercise, on an equal basis, of all human rights including freedoms guaranteed by the Constitution of India.

### **REPEAL OF CERTAIN ENACTMENTS**

4. The statutes and provisions enumerated in Schedule I are hereby repealed.

### **AMENDMENTS TO CERTAIN ENACTMENTS**

5. The statutes and provisions enumerated in column I of Schedule II shall stand amended in accordance with respective entries in column II of Schedule II.

### **CERTAIN LAWS TO BE INVALID**

6. Laws that are not enumerated in Schedule I or Schedule II, whether Central or State, which directly, or indirectly discriminate against persons affected by Leprosy shall be invalid insofar as such laws discriminate against persons affected by Leprosy.

### **Illustration**

A, a person affected by Leprosy who is found begging, is arrested and detained under the provisions of a State Prevention of Begging Act, solely on account of his affliction with Leprosy. With the coming into force of this section, any such provision for the arrest and detention of persons affected by Leprosy under the State Prevention of Begging Act shall be invalid. The detention and arrest of A will be invalid.

### **SUBSTITUTION OF CERTAIN TERMS**

7. Notwithstanding any other law for the time being in force, in all laws that are in force, and in all official records of the Government of India, State Governments, and establishments defined under sub-section (2) of Section 2, the term 'leper' and other such terms in national, regional and local languages, shall be substituted by the term 'persons affected by Leprosy' or any other term in the national, regional or local language that is synonymous.

## **CHAPTER III: RIGHTS OF PERSONS AFFECTED BY LEPROSY**

### **DUTY TO UPHOLD RIGHTS**

8.

- (1) No government, establishment or person, shall deny persons affected by Leprosy and members of their family, any rights guaranteed to them under this Chapter.
- (2) All legislative, administrative and other measures necessary to ensure compliance of the provisions of this Chapter shall be undertaken by the appropriate government.

### **RIGHT TO HEALTH AND TREATMENT**

9.

- (1) No person affected by Leprosy shall be denied the right to treatment for Leprosy under Multi-Drug Therapy.
- (2) All persons affected by Leprosy shall have the right to access other healthcare facilities including but not limited to reconstruction surgeries and medicines.

### **DISCLOSURE OF MEDICAL RECORDS**

10. The medical records relating to Leprosy of persons affected by Leprosy and members of their family shall be treated as confidential and shall not be disclosed to any person or establishment unless:
- (1) the prior informed consent of the affected person to such disclosure has been obtained; or
  - (2) such disclosure, without such consent, is authorised by law.

### **RIGHT TO OWNERSHIP OF PROPERTY**

11. No person affected by Leprosy, or members of his family, shall be denied the right to own property or to reside, purchase, rent, use or otherwise occupy, any property, merely for reason of such person being affected by leprosy.

### **RIGHT TO ACCESS PUBLIC GOODS AND SERVICES**

12. No person affected by Leprosy, or any member of his family, shall be denied the right to access, or enjoy or use any goods, accommodation, service, facility, benefit, privilege or opportunity dedicated for the use of the general public or customarily available to the public, whether or not for a specific fee, including shops, public restaurants, hotels and places of public entertainment or the use of wells, tanks, bathing ghats, roads, burial grounds or funeral ceremonies and places of public resort.

### **RIGHT TO MOVEMENT**

13.No person affected by Leprosy, or any member of his family, shall be denied the right to movement in respect of all or any public transport or for obtaining a driving license for all or any vehicle, on account of being affected with leprosy.

### **RIGHT TO EDUCATION**

14.No person affected by Leprosy, or any member of his family, shall be denied the right to education and training opportunities in any institution, including the right to continue or resume his education or training in any institution, after duly furnishing a certificate by a registered Medical Practitioner that attests that such affected person has been administered with the first dose under Multi-Drug Therapy and continues to undergo or has completed treatment for Leprosy or any such similar treatment as approved by the Government of India or World Health Organisation.

### **RIGHT TO EMPLOYMENT**

15.No person affected by Leprosy, or any member of his family, shall be denied the right to be nominated, selected or elected, or to continue his appointment, as the case may be, to a public office or for private employment, after he has duly furnished a certificate by a registered Medical Practitioner that attests that such person has been administered with the first dose under Multi-Drug Therapy and continues to undergo or has completed treatment for Leprosy.

### **RIGHT TO FORM FAMILY**

16.No person affected by Leprosy, or any member of his family, shall be denied the right to marry, and form a family including through access to adoption or assisted procreation (including donor insemination).

## **CHAPTER IV: MEASURES FOR AFFIRMATIVE ACTION**

### **DUTY TO UNDERTAKE MEASURES**

17. Without prejudice to the generality of the obligations mentioned under Section 8 and in addition to them, the appropriate government shall undertake all measures specified in this Chapter.

### **HEALTH- RELATED MEASURES**

18. The appropriate government shall undertake the following measures relating to healthcare, for all persons affected by Leprosy and members of their family, that shall include but not be limited to:

- (1) implementation of awareness programmes for all persons affected by Leprosy that emphasise the importance of an early treatment through Multi-Drug Therapy, to reduce chances of any kind of disability as a result of Leprosy;
- (2) formulation of guidelines and protocols for addressing the healthcare needs of all persons affected by Leprosy;
- (3) access to healthcare facilities that include reconstruction surgeries, and goods and services for all persons affected by Leprosy, to improve the health status of, and respond to the needs of all persons affected by Leprosy;
- (4) humane treatment of all persons affected by Leprosy by health care providers;
- (5) adoption of policies, and programmes for education and training of healthcare professionals, to enable them to deliver the highest attainable standard of healthcare to all persons affected by Leprosy and members of their family;
- (6) protection of all persons affected by Leprosy and members of their family against unethical or involuntary medical procedures or research, including in relation to vaccines, treatments or microbicides for terminal or such other diseases; and
- (7) providing medical and psychological treatment and counselling for all persons affected by Leprosy and members of their family, to assist them in overcoming their trauma suffered on account of their disability, physical attributes or any other form of their association with Leprosy.

### **MEASURES RELATED TO OWNERSHIP AND TITLE**

19.

- (1) The appropriate government shall make efforts to provide security of tenure, title and ownership of property for all persons affected by Leprosy and members of their family living in leprosy colonies.
- (2) No person affected by Leprosy or members of his family shall be removed or evicted from the existing leprosy colonies without prior sanction of Central or State Commission of Leprosy, as the case may be, and without being rehabilitated and adequately compensated.

## **MEASURES RELATED TO SOCIAL WELFARE**

20. The appropriate government shall undertake the following measures relating to social welfare, for all persons affected by Leprosy, and members of their family, that shall include but not be limited to:
- (1) formulation of special financial packages that are designed for providing means of livelihood and adequate housing for persons affected by Leprosy and their family members, during and after the treatment;
  - (2) formation and establishment of a Community- based Rehabilitation forum;
  - (3) promotion of schemes for neighbourhood support and security;
  - (4) access to social security and other social protection measures, including employment benefits, parental leave, unemployment benefits, health insurance or other social insurance, family benefits, funeral benefits, pensions and benefits with regard to the loss of support for spouses or partners as the result of illness or death on account of Leprosy, and poverty reduction strategies and programmes; and
  - (5) enforcement of social programmes, including support programmes, to address factors relating to discrimination of the affected persons, that increase their vulnerability to isolation, homelessness and mental trauma.

## **MEASURES RELATED TO EDUCATION AND EMPLOYMENT**

21. The appropriate government shall undertake the following measures relating to education and employment for persons affected by Leprosy, who have either been cured of Leprosy, or who have been duly certified, by a registered Medical Practitioner, as having been administered with the first dose under Multi-Drug Therapy and is continuing treatment for Leprosy, and members of the family of any person affected by Leprosy, that shall include but not be limited to:
- (1) implementation of educational programmes that impart education and training that is directed at the development of personalities, talents, and mental and physical abilities of persons, to their fullest potential, and responds to their needs; and
  - (2) access to employment and advancement opportunities, in all areas of public service, including all levels of government service and employment in public institutions.

## **OTHER MEASURES**

22. The appropriate government shall undertake the following other measures in the interest of all persons affected by Leprosy and members of their family, that shall include but not be limited to:
- (1) enforcement of social awareness programmes to dispel misconceptions surrounding Leprosy and disseminate information in respect of its treatment through Multi-Drug Therapy;
  - (2) enforcement of special programmes for addressing discrimination, prejudice and other social factors that undermine the health of persons affected by Leprosy because of their disability, physical attributes; and

- (3) implementation of training and awareness- raising programmes in all establishments and institutions, including but not limited to schools and hospitals, to raise awareness regarding the needs of those affected by or associated with the disease.

#### **PARTICIPATION IN THE FORMULATION OF POLICIES**

23. Persons affected by Leprosy shall be entitled to participate in the formulation of policies affecting their welfare.

#### **ADMINISTRATION**

24.

- (1) The Central Government shall within 12 months of the coming into force of this Act, by notification, constitute a Central Commission on Leprosy, to monitor the compliance of the provisions under Chapter III and Chapter IV of this Act in respect of all establishments for which the Central Government is the appropriate Government, and to make recommendations to the Central Government, for the proper implementation of this Act.
- (2) State Governments shall, within 12 months of the coming into force of this Act, by notification, constitute a State Commission on Leprosy, to monitor the compliance of the provisions under Chapter III and Chapter IV of this Act in all establishments for which the State Government is the appropriate Government, and to make recommendations to the State Government, for the proper implementation of this Act within 12 months of the coming into force of this Act.

## **CHAPTER V: ENFORCEMENT AND REMEDIES**

### **NON- COMPLIANCE OF PROVISIONS, RULES OR MEASURES UNDER THE ACT**

25. Notwithstanding any other law for the time being in force, any person affected by Leprosy or member of his family or a person acting bona fide on their behalf, aggrieved with the violation or non-compliance of the provisions of Part III of this Act or any rules made thereunder, may institute a petition against the concerned persons or establishments in the District Court in whose jurisdiction the said person ordinarily resides or where the violation or non-compliance is alleged to have taken place and the provisions of the Code of Civil Procedure, 1908, shall apply to such proceedings.

### **LEGAL AID**

26.

(1) Where persons aggrieved under Section 25 of this Act, are unable to, or do not have the sufficient means to, engage a legal practitioner to represent them in any proceeding under this Act, the appropriate Legal Services Authority under the Legal Services Authorities Act, 1987 shall provide legal aid to such persons.

(2) Persons affected by Leprosy and members of their family filing a petition under Section 25 of this Act shall be deemed to be persons entitled to legal services under Section 12 of the Legal Services Authorities Act, 1987.

### **LIABILITY FOR NON- COMPLIANCE**

27. In any petition under Section 25, where the Court finds that any person or establishment has breached or not complied with the provisions of this Act, it shall award to the person affected by Leprosy or a member of his family, compensation, and damages of not less than twenty five thousand rupees along with all costs incurred in litigation.

## **CHAPTER VI: MISCELLANEOUS**

### **POWER TO ISSUE DIRECTIONS**

28. The appropriate government may, in exercise of its powers and performance of its functions under this Act, issue such directions, as it may deem fit, for the purposes of this Act, to any person or establishment and such person or establishment shall be bound to comply with such directions.

### **POWER TO CALL FOR INFORMATION**

29. The appropriate government may call for such information from any person or establishment as it may deem necessary to carry out the purposes of this Act.

### **POWER TO MAKE RULES**

30.

- (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act;
- (2) Every rule made under sub-section (1) shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive session aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

### **POWER TO REMOVE DIFFICULTIES**

31. If any difficulty arises in giving effect to the provisions of this Act, the Central government may, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty:  
Provided that no order shall be made under this section after the expiry of the period of two years from the date of commencement of this Act.

### **APPLICATION OF CERTAIN LAWS**

32. The provisions of this Act shall be in addition to, and not in derogation of the Persons with Disabilities Act, 1995 or any laws pertaining to persons with disability.

### **ACT TO HAVE OVERRIDING EFFECT**

33. The provisions of this Act shall have effect notwithstanding anything inconsistent therewith contained in any enactment or instrument having the force of law.

## SCHEDULE I – REPEALED PROVISIONS AND ACTS

- 1) Repeal of the Lepers Act, 1898 in its entirety;
- 2) Repeal of *explanation (g) of Section 27* of the Special Marriage Act, 1954;
- 3) Repeal of *sub-section (vi) of Section 2* of the Dissolution of Muslim Marriage Act, 1939;
- 4) Repeal of *clause (iv) of sub-section (1) of Section 13* of the Hindu Marriage Act, 1955;
- 5) Repeal of *clause (iv) of sub-section (1) of Section 10* of the Indian Divorce Act, 1869;
- 6) Repeal of *clause (c) of sub-section (2) of Section 18* of the Hindu Adoption and Maintenance Act, 1956.

## SCHEDULE II – AMENDMENTS

<b>Legislation (I)</b>	<b>Amendment (II)</b>
1) Legal Services Act, 1987	After sub-clause (d) of section 12, the following sub-clause shall be inserted, namely: (dd) a person who suffers from, or has previously suffered or has been cured of Leprosy; or
2) Motor Vehicles Act, 1988	After the first proviso to sub-section (4) under Section 8 of the Act, the following proviso shall be inserted, namely: Provided further that the licensing authority shall not refuse to issue a learner's licence to a person affected by Leprosy, who has been certified by a registered medical practitioner, as having either been cured of Leprosy, or as having been administered with the first dose under Multi-Drug Therapy, with continuing treatment for Leprosy being provided.