

# Marriage of Persons with Disabilities-Change and Continuity in Discrimination

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**Abstract:** *The importance of marriage cannot be underestimated as it provides social, economic and emotional benefits to partners. Marriage offers many benefits that are not available to single individuals and indeed ‘right to dignity’ includes ‘right to marry’ as well. Marriage universally protects couples and families, and everyone deserves the right to have those protections. Marriage for person with disability (PWD) is a three-tier acceptance-partner, family and society. The problem of disabled people is becoming more and more prominent, especially in the aspect of marriage. This study was conducted to ascertain the challenges faced by persons with disabilities in their marriage within Indian context particularly Kashmir region and tracing the continuity and change in discrimination regarding marriage of persons with disabilities after the Disability Rights Movement of 1970s-both at societal and institutional level. Based on the findings, the paper proposes that the disabled people should improve their self-cognition and build their confidence. Persons with disabilities (PWDs) need to delink the ‘disability-poverty-dependency’ equation by relying less on government jobs and look for other options as well. Other than providing an incentive of Rs.50000/-for marriage between PWDs and normal persons (which concretized stigma); government needs to make the private sector accommodative for persons with disabilities as provided in the Rights of Persons with Disabilities Act (RPDA) 2016. In addition, family members should pay attention to the needs of marriageable disabled people, and the community should plan participative and interactive activities for disabled people, so as to enhance the possibility of marriage for disabled people.*

**Keywords:** persons with disabilities; marriage; disability-poverty-dependency; countermeasures

## 1. Introduction

The importance of marriage cannot be underestimated as it provides social, economic and emotional benefits to partners (Abed et al., 2015). Marriage is expected to promote physical wellbeing due to a greater availability of emotional, social support and control which are key processes to meaning and purpose in life (Choi and Marks, 2008). Married couples enjoy several benefits with notable ones such as having fewer acute illness; fewer fatal injuries; reduce depression; lower rate of psychological distress, and morbidity risk; lower rate of suicide; better mental and physical health; better chance of living longer; and better health and happier life (Liu and Reckzek, 2012, Bhoomika, 2014, Warner and Adams 2015).

A recent survey carried by national newspaper ‘Indian Express’ revealed that choices are limited for the physically disabled in India wanting to get married. The survey shows that 59% women and 48% men refuse to marry anyone with a physical disability. About 34% women and 37% men said it depended on the situation and extent of the disability. Only 7% women and 15% men said that they would marry someone with physical disability.

Enfield (2001) classification of discrimination faced by disabled is based on three types: Institutional, Environmental and Attitudinal. The cultural beliefs and myths within every society has limited the marriage opportunities for people with disabilities. In the like sense, in Kashmir context people with disabilities are perceived as less eligible marriage partners. Stigma to disability is strongly associated making it a ‘question of reputation’ that is only overshadowed by having a government job. Moreover, the right to marry is contingent on a system of classism. There is discrimination in workplaces, a large part of it has to do with the idea that people with disabilities must rely on the government for

their most basic of needs. When people with disabilities have to choose between their basic necessities and marriage, it is a no-brainer. They have no choice but to choose to live and to function, which means being unable to marry. This also unwittingly lends credence to the misconception that people with disabilities do not have relationships, are not sexual beings, and do not have the same desires for family that non-disabled people are able to freely express.

Although Article 21 of the Indian Constitution Provides for the “right to life” to all its citizens, ground realities have a lot to be desired. The persons with disabilities in India are “invisible”, not to politicians alone; society at large disregards the persons with disabilities. Flowing with the currents of Disability Rights Movement in 1970’s, to some extent this attitude was challenged by Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995 which was considered landmark legislation at the time. However, while this Act did go a small distance in ensuring greater acceptance of the persons with disabilities to employment, not only its implementation but its scope left much to be desired. It relies too much on State’s initiative in framing schemes for persons with disabilities while emphasizing their vulnerabilities rather than on enhancing their capabilities. It also leans towards the medical approach, emphasizing the physical disabilities and tending to view welfare measures as the solution. After a long struggle by several NGO’s, Disability Rights Organization and prominent disability rights figure Javed Abidi, Rights of Persons with Disabilities Act (RPDA 2016) was passed by parliament in 2016 and was enacted as law. The RPD Act 2016, does not explicitly mention the right to life. In course of the disability rights legislations, India ratified United Nations Convention on Rights of Persons with Disabilities in 2008. Parallel Report of India on the Convention on the Rights of Persons with Disabilities (CRPD by National Disability Network and

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National Committee on the Rights of Persons with Disabilities (NCRPD) submitted on 31 March 2017 revealed harsh realities by pointing towards numerous cases of PWDs being abandoned, abused and even killed. The report mentions about several cases where parents of PWDs and PWDs themselves have written to the State asking for permission to take recourse to mercy killing and several cases of pregnancy termination of women with disability.

Notwithstanding all these measures, persons with disabilities in erstwhile State of Jammu and Kashmir remained distant from obtaining adequate opportunities and their aspirations of becoming part of the mainstream society remained far away as ever. Plethora of factors could be held accountable for aggravating the challenges of PWDs and halting the process of rehabilitation of PWDs in Jammu and Kashmir. Among such factors, the stark factor that I came across in this study, is the lack of political will and bureaucratic confusion that was created in the administrative machinery of the erstwhile State of Jammu and Kashmir because of differential Centre-State relations that prevailed since the Independence of India. Despite having the same steering body, Ministry of Social Justice and Empowerment, the legal provisions that were applicable pretext of prevalence of Article 370 in the erstwhile State of Jammu and Kashmir. These differential Centre-State relations adversely impacted private sector development in the State. Thereby, PWDs were left with a solo choice of "Government as the only safeguarding and welfare organization", which was already administratively pulled down owing to differential Centre-State relations. Resulting into the disability-poverty-dependency equation thereby undermining the chances of assuring a dignified life for persons with disabilities and assuring them opportunities for marriage.

## 2. Methods

This study employs literature analysis and empirical research methods. Strategies of empirical research include observation, interview and questionnaire. By referring to relevant literature, relevant trends and marital status of disabled persons are collected for research. Based on the analysis and discussion of statistical results of the current situation of marriage. The author adopts relevant theories to conduct a certain theoretical analysis of the research results, explores their difficulties and needs in marriage, and then puts forth targeted countermeasures.

## 3. Results and Discussions

### 3.1 Difficult Marriage of the Disabled

In India, the greatest obstacle that restricts disabled people from participating in social and political life is the prevalence of deep-rooted negative attitudes on part of the community and family. The societal stigma makes marriage a difficult affair for persons with disabilities even for those who suffer non-severe impairment. They have low marriage rate, high divorce rate and the late first marriage time. The observations in the study revealed that most of the persons with disabilities suffered from inferiority-complex and depression thereby instilling in them the feeling of isolation. The persons with disabilities have fewer chances of

interaction and platform of match-making is not as accommodative for persons with disabilities as for able-bodied persons.

### 3.2 Peculiar Centre-State relations

In Indian context, particularly Kashmir context, the peculiar Centre-State relations hurdled the legislative process of ensuring rights for persons with disabilities thereby undermining the call for rights including 'right to dignity'. The late dawn of internet and its repeated blockade in Jammu and Kashmir coupled with less awareness about rights of persons with disabilities marred the social-integration on virtual platforms. The match-makers (which is the most common channel of match-making) is reluctant towards persons with disabilities because of mis-perceptions about impairment, disability and capability. We find no-profiles of persons with disabilities on famously known matrimonial website 'E-Manzimyor' because of less awareness among persons with disabilities (this website introduced 'specially-abled filter search' option in its design lately after recommendations from several disability rights activists).

### 3.3 Preference for government job

In Kashmir context, pursuing education in an inaccessible and exclusive environment is an uphill task for persons with disabilities. Even facing all odds; persons with disabilities who have excelled in their academics face issues in marriage. The only tool of fighting the age-old discrimination and negative attitude towards persons with disabilities is to have a government job. This is the only tool to overpower negative attitude and give recognition to capability and agency within persons with disabilities. But securing a government job in Jammu and Kashmir is a tough task because of the highest unemployment rate within the country. Adding more to this disappointment is the fact that private-sector is a closed enterprise for persons with disabilities in Jammu and Kashmir despite having a strong and powerful legislation RPD Act 2016 (which was enacted in 2018 in Jammu and Kashmir).

### 3.4 Gender Perspective

The discrimination in marriage is gendered in nature from societal perspective as women with disabilities have less chances of getting married owing to misperception about their capability of carrying out household activities and child bearing.

## 4. Suggestions to improve the marital status of persons with disabilities from the perspective of empowerment

- An inclusive society is only possible when there is mutual respect and understanding. Therefore, it is essential to develop public understanding of disability, tackle negative perceptions, and represent disability fairly. This study revealed that because of peculiar Centre-State relations, the people who are at the helm of affairs in Jammu and Kashmir are insensitive to the

rights of disabled. Therefore, it is important to sensitize these people first, by conducting workshops, seminars and conferences. Involving media is imperative to the success of these campaigns and to ensuring the broadcasting of positive stories about persons with disabilities and families.

- Ministry of Social Justice and Empowerment should embark on a task to spread awareness about the misperceptions about marriage regarding marriage of persons with disabilities other than stigmatising marriage by providing incentives of Rs 50000/-to able-bodied persons for marrying person with disability.
- The Jammu and Kashmir Union Territory needs to enforce all provisions of RPD Act 2016 in letter and spirit as the erstwhile State of Jammu and Kashmir and now Union Territory suffered significantly on this count owing to peculiar Centre-State relations.
- In accordance to RPD Act 2016, education should be prioritised (as this is the powerful tool of empowerment) and the private sector should be made accommodative to persons with disabilities as far as their employment avenues are concerned.
- All departments of the administrative machinery should play its part in smoothening the process of empowerment, capability and agency development.

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