



DISABILITY, MARRIAGE, RIGHTS.

Understanding and complicating marriage incentive schemes for women with disabilities in India

The right to marry with free and full consent is a **fundamental human right**. However, this right has been a contentious issue within the feminist movement because of its potential to perpetuate gendered power relationships. Still, within feminist critiques of marriage, both within India and in global scholarship, there has been more focus on the pressure on women and girls to marry, with less attention paid to **groups that have historically had limited access to the institution of marriage**. This has been particularly true for marriage aspirations of women and girls with disabilities.

Thus, while the institution of marriage is criticized for its **patriarchal and paternalistic structure**, it is also important to examine **how accessible it is to**

structurally excluded communities. In the Indian context, for instance, marriage remains a gateway for many women – and perhaps especially for women with disabilities – to access sexual pleasure, reproductive agency, and caregiving.

Although the UN Convention on the Rights of Persons with Disabilities (CRPD) explicitly protects the right of persons with disabilities to marry, for many people with disabilities this is an ideal far removed from reality. This is illustrated by the fact that 41.72% of persons with disabilities in India have never been married; the figure is even higher for women with disabilities, at 46%¹.

While conversations around the rights to education and employment for women with disabilities continue to advance, **discussions relating to their sexuality, relationships and desire remain unaired due to stigma and ableist mindsets**. In response, some

¹ 2011 Census in India and the 'Disabled Persons in India' study by the Ministry of Statistics and Programme Implementation in 2016

Indian state governments have introduced “marriage incentives” for non-disabled persons to marry persons with disabilities with the aim of achieving greater integration and inclusion for the latter group.

This brief comes at a time when we can observe the early effects of the newly introduced schemes that are shifting the gendered disability policy landscape in India. But the data available is limited and there are also differing opinions about the scheme. Since marriage incentives are a byproduct of the charity model of disability², it is important to unpack these schemes from a disability rights perspective, as well as with regard to broader feminist critiques.

In 2019, gender and disability rights activist Shampa Sengupta and her team, with support from CREA, conducted exploratory empirical research³ to provide a brief overview of the marriage incentive schemes implemented in two states (Kerala and Bihar) and the impact that these schemes have had on women with disabilities. This pilot study was based on qualitative interviews with women with disabilities and feminist disability rights activists.

2 The charity model of disability approaches persons with disabilities primarily as care receivers and objects of pity, and treats disability as an individual problem instead of recognizing persons with disabilities as subjects of human rights and disability as an expression of human diversity. Social and human rights models of disabilities highlight the idea that disability is a social justice issue and is created in the interaction between the person with impairment and their social environment.

3 Methodological note: This pilot study of marriage schemes for women with disabilities is based on qualitative research conducted by Shampa Sengupta along with a team of two independent researchers, Mridula Muralidharan and Smriti Dhingra. This pilot study was conducted in 2019 with nine participants, who applied for/ received monetary benefits under the scheme were selected based on targeted sampling and were identified with the support of local resource persons associated with the National Platform for the Rights of the Disabled (NPRD) and Bihar Viklang Manch. In addition, in order to generate a holistic and broader picture of the scheme, including its implementation, impact and role, if any, in advancing rights of persons with disabilities in India, six female disability rights activists working on this issue were also included in the study. None of these activists received monetary benefits from this scheme. The interviews were transcribed and the content analysis was conducted.

4 The paper is based on Shampa’s Sengupta research report and the online seminar organized by CREA and Sruti Disability Center on 19 April 2023.

5 There are huge differences across regions in the eligibility criteria for persons with disabilities to qualify for the scheme.

6 The Rights of Persons with Disabilities Act, 2016, https://www.indiacode.nic.in/bitstream/123456789/15939/1/the_rights_of_persons_with_disabilities_act%2C_2016.pdf

The study included critiques of the broader institution of marriage as well as of the government’s intentions behind incentivizing such a scheme. In light of the competing claims, this brief examines debates around marriage, its place in the lives of women with disabilities, and whether the state should have a role in incentivizing marriage and link rights and benefits to it⁴. Set forth below is an overview of the research findings.

EXAMPLES OF MARRIAGE INCENTIVE SCHEMES IN INDIA

Nineteen states in India have implemented marriage assistance/incentive schemes, two of which were assessed for this research.

In **Kerala**, the government provides “marriage assistance” to “physically handicapped girls and the daughters of physically handicapped parents.”⁵ Importantly, the scheme is framed as “marriage assistance”, with no prescriptions for whether the partner should be a person with disability or a non-disabled person. The scheme is limited to persons with physical disabilities, though, and does not apply to the full range of disabilities listed under the 2016 Rights of Persons with Disabilities Act⁶. The scheme provides a one-time assistance of Rs 30,000 to women with physical disabilities and to daughters of physically disabled parents whose combined annual family income does not exceed Rs 36,000.

In **Bihar** the scheme is framed as an “incentive”. The scheme offers Rs 100,000 “as an incentive to anyone who marries a person with disability”. The amount is doubled in cases of marriage between two disabled people. The money is provided in the form of a fixed deposit in the name of the disabled person and has a lock-in period of three years during which it cannot be withdrawn. If both partners are disabled, then the amount is deposited into the woman’s account.

Relatedly, another marriage incentive scheme is in place to promote inter-caste marriages in India. The “Dr. Ambedkar Scheme for Social Integration through Inter-Caste Marriages” was implemented in 2015 and provides a limited number of inter-caste couples [a person from a Scheduled Caste marrying a person from a non-scheduled caste] with a monetary incentive for support during the initial years of their marriage. The disability marriage incentive scheme seems to have borrowed from the same stream of thought by seeking to achieve greater integration and inclusion of persons with disabilities by providing incentives to non-disabled persons to marry persons with disabilities.

DISABILITY, INTIMATE RELATIONSHIPS, SOCIAL SECURITY AND PATRIARCHY

As noted earlier, marriage for women with disabilities has received scant attention within scholarship, families, and society at large. In the Indian context, marriage is often the primary **pathway through which sexual, romantic and reproductive desires can be expressed**, at least in ways that are seen as socially acceptable and “legitimate”. This is no different for persons with disabilities⁷. For many women, their **social security** also lies in their marriage. Social security linked with marriage is of particular relevance to women and girls with disabilities in India, in part due

While we rightly and importantly struggle for same sex marriage legislation, which is being debated in the Supreme Court of India, we hardly talk about so many women who are, in fact, denied marriage because of their disabilities. This is something we do not discuss at all in the public sphere. And this is very interesting as there are other laws that define that some disabled people cannot get married, and yet some states are giving money for their marriage. It is also unclear which persons with disabilities are eligible for the incentives; there is a lot of inconsistency in relation to defining. In India, “unsoundness of mind” is among one of the reasons for divorce. But what exactly is “unsoundness of mind” today? We see that because of the divorce law a lot of people are hiding psychosocial disabilities before marriage. If the families learn of the disabilities after marriage, women are thrown out from their families. We have also seen husbands getting false certificates claiming psychosocial disabilities of their wives to get divorce. Thus, our primary aim should be to amend the Marriage Act, because India has ratified the UN CRPD and we have to protect the right for marriage of persons with disabilities.

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7 Rupsa Mallik, 2017. “Bodily Integrity and Freedoms: A Cross-Movement Perspective,” *Development*, Palgrave Macmillan; Society for International Development, vol. 60 (1), pages 40-43, September; Tarshi working paper *Sexuality and Disability in the Indian Context*, 2018, <https://www.tarshi.net/inplainspeak/tarshis-corner-working-paper-sexuality-and-disability-in-the-indian-context-2018/>

to the lack of state infrastructure that provides humane and acceptable forms of caregiving based on a life-cycle approach, which then pushes caregiving into the private domain of the family⁸.

Some disability rights activists contend that marriage incentive schemes are important also because they bring the institution of marriage into sharp focus and **initiate conversations around the importance of intimate relationships** in disabled women's lives. Others have equated the monetary benefits targeted at marriages as **a continuum of the practice of dowry** (payment of money, goods and/or estate by the bride's family to the bridegroom's family that reproduces the low status of women), with the state assuming the role of patriarchal father.

Disability in the Indian context has often been viewed through a charity lens. Thus, the language of providing

an "incentive" or "award" to non-disabled persons to marry persons with disabilities merits greater inquiry into whether the scheme actually promotes inclusion and integration or whether it stops at adopting a charity model towards persons with disabilities.

The scheme puts marriage on a pedestal, **yet it is not consistent with other laws on disability and marriage in India**. For instance, certain types of disabilities **remain a ground for divorce** in the Indian legal system, which contains vague definitions and pejorative language around disability. The country also upholds the deprivation of legal capacity, further complicating the situation of women with disabilities under guardianship, which can impede one's ability to legally consent to marriage. Persons with disabilities in same sex relationships are unable to access marriage altogether, due to **lack of marriage equality in India**.

I'm neither for or against as it definitely benefits some people, but as a feminist this is for me a perpetuation of the dowry system. If we really want social inclusion we should utilize this money for education, setting up livelihood opportunities for women and men with disabilities. Economic independence will help to raise their standard of living and position in society. [...] If two persons with disabilities want to get married, they could be provided with support. I don't mean only financial support, but in terms of making them independent and support in terms of caregiving – whatever customized support they need. But when persons with disabilities want to marry each other they often cannot do it because of family and social barriers. If this support is not given I think marriage is a gamble. Support not only in money, but in other areas also.

Jeeja Ghosh, gender and disability rights activist

⁸ Chakravarti, U. (2008). Burden of Caring: Families of the Disabled in Urban India. *Indian Journal of Gender Studies*, 15(2), 341–363. <https://doi.org/10.1177/097152150801500207>

ECONOMIC JUSTICE AND INCENTIVIZING MARRIAGE

As a political scientist and a feminist I look at it from an angle of the role of the state, because we have talked a lot about patriarchy in the community but this is a manifestation of the state as a patriarch – it comes out very clearly, that the scheme comes down to marriage [...]. The scheme has very large manifestations because it gives the state the right to intrude into the lives of people. It is what it is doing: I have the right to tell you whom you can marry, I will give you money to marry a person with disability, but if you marry a person without disability I won't give you money, I will intrude in every part of your life. And this is something that we do not want. We do not want intrusion into women's sexuality. This is what the state is not supposed to do and it has a wide manifestation of the role of the state in the field of sexuality. We see that in various legal debates – equal marriage – we see that in marital rape and also in the marriage incentives scheme.

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Even activists who stood firm on the utility of marriage incentive schemes felt: “If specific requirements of an individual at any particular time are being met, we do not require marriage allowance as such.” However, since such schemes or monetary assistance are not in place, the marriage allowance does go at least some distance in supporting persons with disabilities.

All the women with disabilities who participated in the study were overwhelmingly keen to utilize the money received under the scheme, irrespective of the amount received – to fund further education, set up a source of livelihood for themselves, to pay for hospital expenses involved in the delivery of their child, to pay off part of the loan their family might have taken to fund their wedding, etc. (The practice of taking loans for wedding expenses is prevalent across India. Extravagant weddings – often accompanied by lavish dowries – are common because they signal social status, have the effect of “impressing” the groom’s family, and ostensibly help secure the bride’s future⁹.)

Financial support in the form of marriage incentive schemes relates to economic **justice** and the position of persons with disabilities in wealth distribution. As confirmed by numerous studies, persons with disabilities are more likely to live in poverty, with the causality being two-way: on the one hand, disabilities lead to higher risk of poverty and, on the other, disabilities can be caused by socioeconomic conditions (such as lack of access to healthcare and poor working conditions). Economic justice and state financial support for persons with disabilities is thus central for disability rights and justice. From this perspective, it is difficult to critique marriage incentive schemes when they provide direct financial support including for persons living in impoverished and rural settings.

⁹ Bloch F., Rao V., Desai S., 2004, Wedding Celebrations as Conspicuous Consumption: Signaling Social Status in Rural India, *Journal of Human Resources*, 2004, vol. 39, issue 3

However, the **financial benefits provided by the state through marriage incentive schemes is contingent upon a disabled person's willingness to enter into marriage and limits the reach of benefits to those who, in some states, choose to opt out of it at a later stage.** Further, given that in many instances such schemes prioritize marriage between disabled and non-disabled people, it also fails to provide monetary support to **two disabled persons** entering into marriage, which evidence shows is a prevalent preference among many persons with disabilities¹⁰.

THE STATE AND THE GOVERNANCE OF SEXUALITY

While at first look, the schemes seem to address a long-neglected issue – the sexuality and intimate desires of women and girls with disabilities – **they fail to apply a rights-based approach to their sexual and reproductive health and rights (SRHR).** For instance, even as the Rights of Persons with Disabilities Act calls upon the state to ensure that persons with disabilities have access to reproductive and family planning information (Section 10) and to create awareness that fosters “respect for the decisions made by persons with disabilities on all matters related to family life, relationships, bearing and raising children” (Section 39 (2) (c)), these rights-based aspects of SRHR have

not been prioritized. In fact, even in the context of advancing a rights-based approach to sexual and reproductive health, the significance of economic self-reliance has been noted¹¹.

Incentives such as these bring us back to the vast body of feminist work on the state's governance of sexuality and the relationship between the private sphere and state interference.

Burning questions remain. Why must access to financial support related to disability be channeled through one's willingness to marry? Are there other policies that could support economic justice for persons with disabilities, which include access to sexuality, intimate relationships and marriage? It is important for feminist and disability rights movements to understand better the impact of recent marriage incentive schemes in relation to disability, as well as debate how to better address sexuality, the right to marry and economic justice for women with disabilities from disability rights and feminist standpoints.

10 See: Adlakha, R. 2007b. 'How Young People with Disabilities Conceptualise the Body, Sex and Marriage in Urban India: Four case studies', *Sexuality and Disability*, 25(3): 100–113 and Vaidya, S. (2015). Women with Disability and Reproductive Rights: Deconstructing Discourses. *Social Change*, 45(4), 517–533. <https://doi.org/10.1177/0049085715602787>

11 Alexandra Gartrell, Klaus Baesel & Cornelia Becker (2017) “We do not dare to love”: women with disabilities' sexual and reproductive health and rights in rural Cambodia, *Reproductive Health Matters*, 25:50, 31-42, DOI: 10.1080/09688080.2017.1332447



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