

Marriage of Persons with Disabilities Jurisprudential Rulings and Regulatory Guidelines (Supporting The Health of Individuals In Society): The Kingdom's Experience as A Model

Jamal Lakhdar Hammoud Azzoun¹, Abdulhadi Hussein Hadi Al-Quray², Jabir Mohammed Jabir Al-Shehri³

Department of Sharia, College of Sharia, Najran University, Kingdom of Saudi Arabia

Email ID: jlazoune@nu.edu.sa¹,

Email ID: aaa343ssss65@gmail.com²

Email ID: Jaber.omr@gmail.com³

<https://orcid.org/0009-0008-7464-8930>¹

Cite this paper as: Jamal Lakhdar Hammoud Azzoun, Abdulhadi Hussein Hadi Al-Quray, Jabir Mohammed Jabir Al-Shehri, (2025) Marriage of Persons with Disabilities Jurisprudential Rulings and Regulatory Guidelines (Supporting The Health of Individuals In Society): The Kingdom's Experience as A Model. *Journal of Neonatal Surgery*, 14 (3), 268-273.

ABSTRACT

The mentally disabled person is one of those whose rights are preserved by Sharia and law, and his sexual desire is often manifested despite the presence of a mental or physical disability, whether disabled males or disabled females. This research sheds light on a set of jurisprudential rulings and controls for achieving an acceptable marriage between the two parties, through which the two parties overcome their difficult health condition. Disability is an existing phenomenon that afflicts a segment of males and females in all countries, including the Kingdom of Saudi Arabia.

The objectives of the research were represented in the following matters, the most important of which are:

1. Providing legal answers to the questions of many guardians of the mentally disabled, whether they allow them to undergo a marriage experience or not to take the risk for fear of negative consequences resulting from this marriage.
2. Monitoring a set of scattered rulings related to this topic in one place.
3. Proving the ability of Sharia to find appropriate solutions to people's problems in their lives.

The research concluded with a set of scientific results that we explained at the end.

It also concluded with a set of important recommendations listed at the end, which are related and connected to the field of this research.

Keywords: Disability - Mind - Illness - Marriage

1. INTRODUCTION

Praise be to Allah alone, and peace and blessings be upon the one after whom there is no Prophet.

To begin with

Marriage is a solemn bond and a binding covenant between spouses, through which psychological stability is achieved, and protection from falling into what is prohibited is ensured. It is the sole legitimate means for procreation, whereby offspring become a source of comfort for their parents, contributing to their care and attending to their affairs in old age. Through marriage, the continuation of human lineage on this earth is realised. However, numerous obstacles hinder the fulfilment of marriage or impede its realisation due to fear of adverse consequences. Among these obstacles is the physical impairment that affects the human body, rendering the experience of marriage unfeasible—such as paralysis that results in immobility, a coma that leaves one unconscious, insanity that deprives one of rationality, or a mental disability that prevents its bearer from maintaining focus and assuming responsibility. Other conditions may also preclude an individual from engaging in marital life. The dilemma remains concerning individuals with medical conditions who, despite their impairments, exhibit sexual desire and have the right to fulfil it through lawful means—namely, marriage. This raises the challenge of overcoming obstacles to a marriage that may not provide the healthy partner with the stability they aspire to in a conventional marital life.

Research Problems and Questions

This research addresses a fundamental question, namely:

"What is meant by 'a person with a disability'?" From this central question arise subsidiary queries closely related to the identification of relevant jurisprudential rulings and conditions governing such matters.

Reasons for Selecting the Topic

The reasons for selecting this topic can be summarised as follows:

Firstly: The urgent desire to identify jurisprudential rulings and conditions relating to the marriage of persons with disabilities.

Secondly: The frequent questions raised regarding the conditions and guidelines for the marriage of persons with disabilities.

RESEARCH OBJECTIVES

The primary objectives pursued by this research include:

1. Supporting Najran University's research directives concerning contemporary jurisprudential issues.
2. Contributing, through this research, to the dissemination of jurisprudential rulings and conditions related to persons with disabilities.
3. Consolidating scattered issues on this subject into one accessible source.
4. Demonstrating the ability of Sharia law to provide practical solutions to societal problems in accordance with its authentic principles.

2. LITERATURE REVIEW

After thorough research and investigation conducted by the researchers within the limits of their sources, they found some fragments of articles related to the subject and scattered fatwas. Indeed, there are some studies concerning the rulings on persons with disabilities in general, but they have not focused on the subject of their marriage and the associated rulings as this research does.

3. RESEARCH METHODOLOGY

The nature of this research necessitated the adoption of an inductive and analytical approach, focusing on uncovering the legal rulings and regulations related to the marriage of persons with disabilities, both male and female.

4. RESEARCH STRUCTURE AND PROCEDURES

This research comprises an introductory preface, three topics, a conclusion, recommendations, and a bibliography, structured as follows:

Introduction: This section summarises the research idea, highlights its significance, identifies its key issues and questions, explains the reasons for its selection, outlines its objectives, reviews the Literature Review, details the adopted methodology, and structure.

Topic One: Clarification of the Terms "Disabled Person" and "Disability"

The meanings of "al-*awq*" revolve around detainment, prevention, and hindrance. The obstacles of time refer to events that preoccupy and distract. It is said: "*āqa ya'ūqu 'awqan*", from which the words "*ta'wīq*" (hindrance) and "*i'tiyāq*" (restriction) are derived. This applies when one intends to do something but is obstructed by an external factor. One might say: "*Āqanī 'an al-wajh alladhī aradtu 'ā'iq*" (I was hindered from the direction I intended by an obstacle), or "*āqatnī al-'awā'iq*" (the obstacles hindered me), with the singular form being "*ā'iqah*"¹.

It appears that the term "disability" (*lāqah*) is a modern derivation from the classical root "al-*awq*". The relationship between them lies in the fact that disability is a medical condition that restricts an individual from engaging in natural activities like those who are healthy. It prevents independent decision-making and autonomous action, and may lead to further debilitation due to the deterioration of one's medical condition. For this reason, some modern linguistic dictionaries have defined a disabled person (*Mu'āq*) as:

"A person whose physical or mental impairment prevents them from engaging in normal human activities."²

It is worth noting that numerous changes have occurred in the definition of intellectual disability or mental retardation over the years. Among them are the following:

1. Medical Definition: Intellectual disability is a condition in which brain development is halted or incomplete due to illness,

¹ Tahdhib al-Lugha, Al-Azhari 3/18, Taj al-'Arus, Al-Zabidi 26/224.

² Mu'jam al-Lugha al-'Arabiyya al-Mu'asira, Dr. Ahmed Mukhtar Abdel Hamid and colleagues 2/1577.

injury before adolescence, or genetic factors.

2. Legal Definition: The inability of a person to independently manage their affairs due to a permanent disability or arrested cognitive development at an early age³.

Topic Two: Conditions of Disability and the Marriage Eligibility of Persons with Disabilities

Disability manifests in multiple forms; it may be a mental disability, impairing the functions of thinking, comprehension, speech, dialogue, and expression, or a physical disability, affecting movement, walking, mobility, work, lifting, and carrying. Both types of disabilities vary in severity—strong, moderate, or mild—and apply to both men and women who seek marriage. The scenario may involve a man with a disability and a woman without, or a woman with a disability and a man without. Due to these different circumstances, contemporary legal scholars have established a set of legal rulings and conditions governing the marriage of persons with disabilities, summarised as follows:

1. The marriage of persons with disabilities and those with mental retardation is legally permissible. Fulfilling their physiological and psychological needs is a legally recognised right, as it constitutes a fundamental aspect of caring for persons with disabilities and assisting them in leading a life as close as possible to the natural human condition. This legal permissibility is subject to specific conditions in addition to the standard marriage requirements of offer (Ijab), acceptance (Qabul), dowry (Mahr), witnesses, and legal guardian (Wali). Among the essential conditions for the marriage of persons with disabilities are the following:

1. The able-bodied partner must be informed of the disability of the other party. Concealing such information constitutes fraud and is strictly prohibited. In the words of the Prophet (SAW): "Whoever deceives us is not one of us."⁴ The able-bodied partner has the right to annul the marriage contract and reclaim the dowry paid.

2. The other party must not be insane or mentally incapacitated. A mentally challenged man may marry a woman of sound mind, and a mentally challenged woman may marry a man of sound mind. The reasoning behind this condition is that a marriage between two individuals with complete mental incapacity serves no benefit and poses potential harm. It is evident that if two persons with severe mental disabilities live under the same roof, it may lead to harmful consequences, including potential physical assault or serious injury. However, if one spouse is of sound mind and the other has a disability, the able-bodied partner can regulate the situation and prevent harm from the disability of the other spouse.

3. The individual suffering from mental illness must be deemed trustworthy. However, if such an individual is characterised by aggression, physical violence, or destructive behaviour, then marriage is not permissible, as it would be a cause of harm. As established by legal scholars: "Harm must be removed and prevented."⁵

4. The legal guardians of a woman without a disability must consent to her marriage to a man with a disability; likewise, the legal guardians of a man with a disability must consent to his marriage to a woman with a disability. This is due to the potential harm that may befall them. The role of legal guardians in this matter is akin to overseeing the marriage, ensuring that it fulfils its intended purposes without causing harm warranting its annulment.

5. Disabilities vary in type and severity. However, the general principle is that all disabilities that do not result in complete mental incapacity, such as deafness, muteness, or paralysis of a hand or leg, do not preclude marriage. The ruling for individuals with such conditions is the same as for those without disabilities, provided that: The other party is informed of the disability and the other party consents to the marriage. Even if the individual seeking marriage has a similar disability, their own condition does not negate the necessity of obtaining their informed consent. Conversely, individuals with intellectual disabilities or conditions that impair cognitive function are equated with those suffering from insanity. Although a person classified as insane may marry, their marriage is subject to the conditions previously mentioned.

6. The marriage of a person with a disability, regardless of its nature, serves an important social purpose—ensuring that an individual suffering from illness or impairment has a spouse who cares for them, manages their affairs, and attends to their needs. In Islam, the marriage contract is not merely intended for physical pleasure, though that remains an essential objective. Rather, it also aims to establish care, mutual support, and compassion between spouses.

7. The legal guardian of a mentally incapacitated individual is responsible for arranging their marriage, as they act in their best interests, given that they are unable to manage their own affairs or make independent decisions. Caring for persons with disabilities is a communal obligation, ensuring that they become active members of society and do not suffer the psychological distress caused by prolonged celibacy and the suppression of natural desires⁶.

8. It is not legally permissible to prevent a person with a disability from marrying a person without a disability, provided that the necessary conditions are met. Furthermore, the suggestion made by some to provide a rubber doll as a substitute for marriage is entirely rejected by Islamic legal principles. Such a notion constitutes a blatant imitation of corrupt

³ Al-Fiqh al-Muyassar, Dr. Abdullah Al-Mutlaq and colleagues 11/53.

⁴ Sahih Muslim, Hadith No. 164, narrated by Abu Huraira (RA).

⁵ Mawsū'at al-Qawā'id al-Fiqhiyyah, Muhammad Sidqi Al-Burno 8/534.

⁶ Al-Fiqh Al-Muyassar, Dr. Abdullah Al-Mutlaq and his colleagues 11/53.

Western customs, which are fundamentally incompatible with Islamic ethical values.

9. If an alternative means exists to compensate for the disability, its use is legally permissible. For instance, if an individual suffers from paralysis affecting the pelvic region, rendering the erection of the male organ impossible, then treating this condition through the implantation of flexible prosthetic strips, which inflate to facilitate an erection, is lawfully unobjectionable. This procedure serves a clear interest for both spouses in terms of marital enjoyment. The presence of such implants is analogous to medicinal treatment, which aids in rectifying a physical deficiency. Furthermore, the organ remains that of the husband, and the implantation of these strips does not alter its attribution to him. The general principle in medical treatment is permissibility, unless an overriding factor shifts it into the realm of prohibition. In this case, no such overriding factor appears to exist.

10. Society, through its institutions, must provide for persons with disabilities by ensuring they have access to necessary resources. Persons with disabilities are human beings with inherent rights. Indeed, some marriages between individuals with disabilities have resulted, by the grace of God, in offspring born without any disabilities. This contributes to the growth of the Ummah (community) of Muhammad (SAW), as indicated in his statement: "Marry, for I shall take pride in your numbers before the nations on the Day of Judgment."⁷

Topic Three: The Kingdom of Saudi Arabia's Support for Persons with Disabilities

The Kingdom of Saudi Arabia has devoted significant attention to the care of persons with disabilities, ensuring they receive their full rights concerning their condition while enhancing the services provided to them. This commitment is reflected in the provision of preventative, rehabilitative, and support measures. The Kingdom has established a protective framework comprising medical, psychological, social, educational, media, and legal initiatives aimed at preventing disabilities, minimising their occurrence, enabling early detection, and mitigating their impact. Furthermore, the Kingdom guarantees the provision of comprehensive care services for those in need due to their health condition, degree of disability, or social circumstances. The government has also facilitated the integration of medical, social, psychological, educational, and vocational services, ensuring that persons with disabilities achieve the highest possible level of functional capability. The objective is to enable individuals with disabilities to adapt to their natural and social environment, develop self-reliance, and become productive members of society. Additionally, persons with disabilities are given priority in accessing housing support, land grants, and applications to the Real Estate Development Fund for interest-free loans to finance the construction of personal residences⁸.

All of these services contribute to facilitating the process of marriage for persons with disabilities who wish to enter into marital life. These services have been practically proven, and numerous marriages have received state support, with the government assisting couples through appropriate financial incentives.

Among the state's initiatives in support of persons with disabilities is its approval of the establishment of "Tayseer Association for Assisting Persons with Disabilities in Marriage", a non-profit organisation exclusively dedicated to serving individuals with disabilities. According to its official website, the vision of this Saudi association is as follows: "To become, in the coming years, one of the most significant non-profit institutions, achieving leadership in the quality of services provided to persons with disabilities and their able-bodied spouses, thereby fostering happy and stable families."

Its mission statement further states: "To facilitate marriage for persons with disabilities by empowering them to enter into matrimony and establish a happy and stable family."⁹

This vision and mission instil great reassurance among persons with disabilities of both genders. The fact that this organisation was established under official state authorisation attests to the Kingdom's commitment to this demographic and the extensive services provided for their benefit.

It may be appropriate in the coming periods to expand the use of technology to support this field (Ahmed, Alharbi, & Elfeky, 2022; Elbyaly & Elfeky, 2023a, 2023c, 2023e, 2023f, 2023g, 2023h, 2023i; A. Elfeky, 2017; A. I. M. Elfeky & Elbyaly, 2016, 2019, 2023a, 2023b, 2023c, 2023e, 2023f, 2023g; A. I. M. Elfeky, Najmi, & Elbyaly, 2023, 2024a, 2024b; Elfekyand, 2016; Masada, 2017; Masadeh & Elfeky, 2016).

CONCLUSION

1. The meanings of (al-'awq) revolve around confinement, prevention, and obstruction.
2. In legal terminology, a person with a disability is defined as one whose physical or mental impairment prevents them from engaging in normal human activity.
3. The marriage of persons with disabilities, including those with cognitive impairments, is permissible, and meeting their physical and psychological needs is a right afforded to them, just as it is to others.

⁷ As-Sunan Al-Kubra, Al-Bayhaqi, No. 13586. Its chain of narration is deemed Hasan (acceptable) in supporting narrations. Also referenced in Silsilat Al-Ahadeeth As-Saheehah by Al-Albani, No. 1782.

⁸ Rights of Persons with Disabilities in the Kingdom of Saudi Arabia <https://www.my.gov.sa/>

⁹ Official Website of Tayseer Association for Assisting Persons with Disabilities in Marriage: <https://tayseer.org.sa/home>

4. The validity of such marriages is subject to specific conditions and legal regulations, which have been outlined in detail within this study.
5. The Kingdom of Saudi Arabia provides substantial support to persons with disabilities, facilitating their access to marriage and endorsing the establishment of organisations that offer specialised services for this group.
6. This initiative represents a clear contribution to the overall health and well-being of individuals within society.

• Research Recommendations

The researchers have identified several recommendations that warrant further scholarly exploration, as follows:

1. The crime resulting in disability and its compensatory entitlements: A legal and jurisprudential study.
2. The impersonation of a person with a disability and its discretionary punishment.
3. The criminal liability of a person with a disability: Regulations and rulings.
4. The divorce of a person with a disability and the judicial annulment initiated by a spouse with a disability: A jurisprudential study in light of ongoing legal proceedings in the courts of the Kingdom of Saudi Arabia.

ACKNOWLEDGMENT

The authors are thankful to the Deanship of Graduate Studies and Scientific Research at Najran University for funding this work under the Student Research Funding Program grant code (NU/SRP/SEHRC/13/344-1).

REFERENCES

- [1] Ahmed, E. S. A. H., Alharbi, S. M., & Elfeky, A. I. (2022). Effectiveness of a proposed training program in developing twenty-first century skills and creative teaching skills among female student teachers, specializing in early childhood. *Journal of Positive School Psychology*, 4316-4330.
- [2] Masadeh, T. S. Y., & Elfeky, A. I. M. (2016). Efficacy of open-source learning management systems in developing the teaching skills of English language student teachers. *American Journal of Educational Research*, 4(4), 329-337.
- [3] Masada, T. S. Y. (2017). Immediate versus delayed feedback in promoting student teachers skills for lesson plan implementation. *Thouqan Saleem Yakoub Masadeh and Abdellah Ibrahim Mohammed Elfeky (2017) Immediate Versus Delayed Feedback in Promoting Student Teachers Skills for Lesson Plan Implementation, British Journal of Education*, 5(8), 43-58.
- [4] Elfeky, A. I. M., & Elbyaly, M. Y. H. (2016). The impact of learning object repository (lor) in the development of pattern making skills of home economics students. *British Journal of Education*, 4(2), 87-99.
- [5] Elfeky, A. I. M., & Elbyaly, M. Y. H. (2023). The effectiveness of virtual classrooms in developing academic motivation across gender groups. *Ann. For. Res*, 66(1), 2005-2020.
- [6] Elfekyand, A. I. M. (2016). The use of CSCL environment to promote students' achievement and skills in handmade embroidery. *Journal of Home Economics*, 26(3).
- [7] Elfeky, A. I. M., & Elbyaly, M. Y. H. (2023). The impact of virtual classrooms on the development of digital application skills among teachers of digital skills in Najran region. *Ann. For. Res*, 66(1), 2044-2056.
- [8] Elbyaly, M. Y. H., & Elfeky, A. I. M. (2023). The impact of blended learning in enhancing the skill performance of producing digital content among students of optimal investment. *Ann. For. Res*, 66(1), 2031-2043.
- [9] Elfeky, A. (2017, July). Social Networks Impact factor on Students' Achievements and Attitudes towards the "Computer in Teaching" Course at the College of Education. In *International journal on E-learning* (Vol. 16, No. 3, pp. 231-244). Association for the Advancement of Computing in Education (AACE).
- [10] Elfeky, A. I. M., & Elbyaly, M. Y. H. (2023). Examining the effects of virtual classroom use inside learning management systems on enhancing student satisfaction. *Ann. For. Res*, 66(1), 1980-1990.
- [11] Elbyaly, M. Y. H., & Elfeky, A. I. M. (2023). The effectiveness of a program based on augmented reality on enhancing the skills of solving complex problems among students of the Optimal Investment Diploma. *Annals of Forest Research*, 66(1), 1569-1583.
- [12] Elfeky, A. I. M., & Elbyaly, M. Y. H. (2019). Multimedia: different processes. In *Interactive multimedia-multimedia production and digital storytelling*. IntechOpen.
- [13] Elbyaly, M. Y. H., & Elfeky, A. I. M. (2023). The impact of problem-solving programs in developing critical thinking skills. *European Chemical Bulletin*, 12, 6636-6642.
- [14] Elfeky, A. I. M., Najmi, A. H., & Elbyaly, M. Y. H. (2023). The effect of big data technologies usage on social competence. *PeerJ Computer Science*, 9, e1691.

-
- [15] Elfeky, A. I. M., & Elbyaly, M. Y. H. (2023). THE EFFECT OF E-TUTORIAL PROGRAMS ON IMPROVING THE PRODUCING DIGITAL CONTENT SKILL. *European Chemical Bulletin*, 12, 6581-6587.
- [16] Elfeky, A. I. M., & Elbyaly, M. Y. H. (2023). The Impact Of Project-Based Learning On The Development Of Cognitive Achievement In The Course Of Applications In Educational Technology Among Students Of The College Of Education At Najran University. *European Chemical Bulletin*, 12(6), 6643-48.
- [17] Elbyaly, M. Y. H., & Elfeky, A. I. M. (2023). Collaborative e-learning environment: Enhancing the attitudes of optimal investment diploma students towards the digital skills course. *European Chemical Bulletin*, 12, 6552-6558.
- [18] Elbyaly, M. Y. H., & Elfeky, A. I. M. (2023). The Effectiveness of Using Advanced Organizations within the Virtual Classroom to Enhance the Acceptance of Technology During Disasters. *European Chemical Bulletin*, 12, 6603-6612.
- [19] Elbyaly, M. Y. H., & Elfeky, A. I. M. (2023). The Efficiency of Online Learning Environments In Fostering Academic Motivation. *European Chemical Bulletin*, 12, 6622-6628.
- [20] Elbyaly, M. Y. H., & Elfeky, A. I. M. (2023). The efficiency of instructional gaming programs in stimulating creative thinking. *European Chemical Bulletin*, 12, 6613-6621.
- [21] Elfeky, A. I. M., & Elbyaly, M. Y. H. (2023). MANAGING DRILL AND PRACTICE PROGRAMS WITH A MOTIVATIONAL DESIGN AND THEIR EFFECTS ON IMPROVING STUDENTS' ATTITUDES TOWARD INFORMATION AND COMMUNICATION TECHNOLOGY COURSES. *European Chemical Bulletin*, 12(6), 6567-6574.
- [22] Taj Al-Arous from Jawaher Al-Qamoos, Muhammad Murtada bin Muhammad Al-Zubaidi, (d. 1205 AH), investigated by: a group of specialists, Ministry of Guidance and News, and the National Council for Culture, Arts and Letters: Kuwait, 1st edition, 1385 AH, 26/224.
- [23] Tahdhib al-Lugha, Muhammad bin Ahmad al-Azhari, (d. 370 AH), investigated by: Muhammad Awad Mara'b, Dar Ihya al-Turath al-Arabi: Beirut, 1st ed., 2001 AD, 3/18.
- [24] The rights of people with disabilities in the Kingdom of Saudi Arabia <https://www.my.gov.sa/>
- [25] Silsilah al-Hadith, Muhammad Nasir al-Din bin al-Hajj Nuh al-Albani, (d. 1420 AH), Dar al-Ma'arif, Riyadh, 1st edition, year 1415 AH, No. 1782.
- [26] Al-Sunan Al-Kubra, Ahmad bin Al-Hussein bin Ali Al-Bayhaqi, (d. 458 AH), investigated by: Dr. Abdullah bin Abdul Mohsen Al-Turki, Hijr Center for Arab and Islamic Research and Studies, Cairo, 1st edition, 1432 AH, No. 13586.
- [27] Al-Sahih, Muslim bin Al-Hajjaj Al-Qushayri, (d. 261 AH), investigated by: Muhammad Fouad Abdel Baqi, Issa Al-Babi Al-Halabi and Partners Press: Cairo, 1st edition, year 1374 AH, No. 164.
- [28] Al-Fiqh Al-Mayassar, Dr. Abdullah bin Mohammed Al Tayyar, Dr. Abdullah bin Mohammed Al-Mutlaq, Dr. Muhammad bin Ibrahim Al-Mousa, Madar Al-Watan Publishing House, Riyadh, 1st edition, 1432 AH, 11/53.
- [29] Dictionary of Contemporary Arabic Language, Dr. Ahmed Mukhtar Abdul Hamid Omar, (d. 1424 AH), Alam Al-Kutub, Riyadh, 1st ed., 1429 AH, 2/1577.
- [30] Encyclopedia of Jurisprudential Rules, Muhammad Sidqi bin Ahmed bin Muhammad Al-Borno Abu Al-Harith Al-Ghazi, Al-Risala Foundation, Beirut, 1st ed., 1424 AH, 8/534.
- [31] Tayseer Association website for helping people with disabilities to marry <https://tayseer.org.sa/home>
-