

Standards of Compatibility in Marriage: Between Tradition and Contemporary Developments

Fatiha Alilouch ^{*1}

- ¹ Senior lecturer B University of Blida 2, Laboratory of Law and Real Estate,

ef.alilouche@univ-blida2.dz

Received: 06 /10/2025

Accepted: 03/05/2026

Published:02./06/2026

Abstract:

This study addresses the issue of spousal compatibility from a legal perspective, focusing on how it is regulated across various Arab legal systems, without delving into its treatment in Islamic jurisprudence. The significance of compatibility lies in its role in fostering harmony between spouses and ensuring the stability of the family relationship. Arab legislations differ in the extent to which they recognize criteria for compatibility. Some do not address it explicitly, referring to it only implicitly within the framework of contractual freedom or the guardian's consent. The study aims to analyze these variations and explore their impact on the social reality.

It also seeks to evaluate the effectiveness of these criteria in maintaining family stability and proposes a unified legal approach that both respects social particularities and responds to the demands of modern development.

Key words: Compatibility; Marriage; Attributes; Comparative Law.

* Corresponding author,

Introduction:

Marriage functions as a fundamental social establishment which unites communities since ancient times. The Qur'anic verse defines marriage as a sacred pact which establishes peaceful family existence through loving care and compassionate treatment according to the verse which states "Among His signs is the creation of mates from your own selves so you may find peace in them and He placed between you affection and mercy."¹ The situation provides evidence for people who think deeply about it. The Qur'an presents marriage as a "solemn covenant" which God uses to show the serious nature of this contract and its related duties.

The Islamic tradition demands people to choose their life partners with care because they need to find partners who match them in various aspects to create lasting relationships and stable households. The selection of compatibility stands as a vital factor because it evaluates religious beliefs and personal traits and sometimes family background and social position to prevent issues that could cause marital breakdown.

Jurists have shown disagreement about how to establish precise limits for compatibility. Some people believe marriage eligibility should only depend on religious and moral standards but others argue that profession and family background and legal status should also be considered since they might affect marital success.

With the development of societies and the transformation of social and economic conditions, it has become necessary to re-examine the effectiveness of these criteria and to consider whether they still constitute a genuine safeguard for family stability.

The significance of this research lies in its focus on the concept of compatibility in marriage, which plays a crucial role in maintaining marital relationships and contributing to family stability. Ensuring compatibility between spouses fosters tranquility and stability within the marital relationship and helps prevent numerous problems and conflicts that may arise due to the absence of compatibility or the lack of one of its essential components.

The study on spousal compatibility aims to achieve the following objectives:

- To identify the traditionally recognized attributes of compatibility and highlight the qualities that have emerged as a result of prevailing customs in Arab societies.
- To determine the position of comparative legal systems regarding the attributes deemed relevant to marital compatibility, without delving into the jurisprudential perspective, given that this topic has already received extensive scholarly attention in Islamic jurisprudence, as evidenced by the considerable body of literature on the subject.

Furthermore, the study focuses on assessing the extent to which Arab legal systems have preserved the traditional attributes of compatibility, while also identifying the changes that have occurred over time. This does not imply a complete exclusion of Islamic jurisprudence, as the concept of marital compatibility originates in Islamic law. Therefore, some jurisprudential aspects will be incorporated into the study for purposes of argumentation, evidentiary support, and analytical depth.

However, the comparative analysis will be limited to the Algerian Family Code in order to highlight the legal gap concerning the issue of compatibility in marriage and to examine its relevant provisions. The study will also address the Libyan Personal Status Law, as it is the only legislation among the Maghreb countries that explicitly discusses marital compatibility. Additionally, the Jordanian Personal Status Law has been selected to represent the legislation

of the Levant, while the Kuwaiti Personal Status Law was chosen as a representative of the Gulf region's legal framework.

- Determining the legal position of comparative legislations regarding whether competence in marriage constitutes a condition for validity or merely a condition for enforceability, as well as identifying the legal consequences that arise when competence is absent in a marital contract.
- Identifying the parties entitled to invoke competence, i.e., the individuals whom the law recognizes as having the right to exercise this prerogative.
- Highlighting the similarities and differences among comparative legal systems in defining the criteria of competence.
- Analyzing the divergences between the legal texts in various Arab legislations with respect to the fundamental standards of competence in marriage.
- Assessing the effectiveness of these legal provisions and determining whether the prescribed criteria adequately meet the demands of contemporary social realities.

This study seeks to address the central question: What is the stance of comparative personal status laws regarding the criteria of competence between spouses? Furthermore, are these criteria compatible with the evolving conditions of modern society?

To answer this research question, the study adopts an inductive approach by collecting and examining the legal provisions of the Algerian Family Code, the Libyan Personal Status Law, as well as the Jordanian and Kuwaiti Personal Status Laws. Additionally, an analytical method is employed to examine the relevant legal texts on competence and its associated issues.

In conclusion, I have adopted a comparative approach, juxtaposing the provisions found in the personal status laws under study. This was done in order to identify, wherever possible, the points of convergence and divergence between them, thereby serving both the research question posed and the nature of the inquiry into the concept of compatibility (*kafā'ah*).

Accordingly, the study has been organized into two main sections:

- The nature of compatibility in marriage.
- The legally recognized attributes of compatibility between spouses.

1. The Nature of Compatibility in Marriage

In this section, I examine the concept of compatibility as understood in the Arabic language, in the terminology of Islamic jurists, and as defined in the personal status laws being compared.

Furthermore, this section addresses the individuals who hold the right to stipulate compatibility, as well as the time at which the existence of the compatibility criteria in the husband is assessed in the comparative legal framework.

This section is divided into two subsections:

- The concept of compatibility in marriage.
- The party entitled to claim compatibility in marriage and the time at which it is assessed.

1.1 The Concept of Compatibility in Marriage

In this section, we will examine the meaning of compatibility between spouses from both linguistic and jurisprudential perspectives. We will also explore the legal ruling on compatibility, as well as the party entitled to invoke it, as stipulated in the personal status laws under study.

This section is divided into two subsections:

- Definition of Compatibility in Marriage
- The Legal Position on Compatibility in Marriage

1.1.1 Definition of Compatibility in Marriage

In this part, we will study the meaning of compatibility between spouses from the perspective of Islamic jurisprudence, since classical Islamic legal scholarship addressed the concept of compatibility from an early period, and most personal status laws have followed its approach.

- The Linguistic Definition of Compatibility in Marriage: Ibn Fāris defines *kafāʾah* (compatibility) in his work *Maqāyīs al-Lughā* as follows: “*Kaf*” (كف) — the letters *kāf*, *fāʾ*, and hamza form two primary roots: one denotes equality or equivalence between two things, and the other refers to inclination, tilting, or deviation. The first meaning is illustrated in the expression ‘*kāfaʾtu fulānan*’ (كافأت فلاناً), meaning ‘I responded to him in kind.’ The term *kufʾ* signifies likeness or equal counterpart. God Almighty says: ‘And there is none comparable to Him’ (Qurʾan 112:4).² The term *takāfuʾ* denotes equivalence or parity.”³ This linguistic definition emphasizes the idea of equality and correspondence, which constitutes the foundational meaning of compatibility in the marital context.
- Linguistic Definition of “*Kufʾ*” (Compatibility): The Arabic verb *kafāʾa* carries the meaning of giving rewards or compensation to someone. The phrase *mā lī bihi qibalun wa-lā kifāʾun* shows that the speaker lacks any power to stand against him. The term *kufʾ* describes someone who stands equal to another person in status or position. The concept in marriage requires the husband to match his wife in specific areas including family background and religious beliefs and social position according to traditional marriage norms.⁴ The term *kafāʾa* in marital compatibility represents equality while *kufʾ* stands for an equivalent or matching counterpart.

A. Terminological Definition of Marital Compatibility

a. Jurisprudential Definition

The concept of marriage compatibility has existed since ancient times and classical Sunni jurists between the four Sunni schools of law established its definition. Ibn Manẓūr together with other scholars established compatibility through the method of matching husbands to wives by their family origins and religious beliefs and their complete family history and all other essential factors.⁵ Al-Jurjānī explained the concept by stating that a husband should maintain a relationship of equality with his wife through peer-level status.⁶

However, what is most relevant to this study is the definition provided by contemporary jurists, as the criteria and foundations of compatibility have evolved over time.

Wahbah al-Zuhaylī defined marital compatibility as “the realization of a form of equality in social aspects, with the aim of ensuring harmony and happiness between spouses, such that the wife or her family cannot be reproached or stigmatized on account of the husband’s circumstances, in accordance with prevailing social norms.”⁷

Likewise, Muṣṭafā Shalabī described it as “an attempt to ensure equality between spouses in specific aspects; if these aspects are disrupted, stability and tranquility in marital life are undermined, potentially leading to the humiliation of the wife or her family.”⁸

b. The Legal Definition of Competence in Marriage

Upon examining the Algerian Family Code,⁹ it becomes evident that it does not address the issue of competence in marriage, despite its importance and the significant consequences that may result from its omission. The absence of a clear legal framework for competence can negatively affect women and their families on one hand, and jeopardize family stability on the other. Reliance on Article 222 of the Family Code, which refers to the provisions of Islamic law for matters not explicitly regulated by the Code, does not offer an adequate solution. The issue of competence between spouses continues to generate numerous legal disputes and controversies. Therefore, competence should be explicitly codified, with clear articulation of its conditions and the legal consequences of its absence. Moreover, Article 222 is drafted in general terms and does not specify a particular jurisprudential school to which the courts must refer. This ambiguity can result in inconsistent judicial rulings when disputes concerning competence are brought before the courts. The generality of Article 222 grants judges broad discretion to resolve such disputes according to whichever school of thought they deem appropriate, whereas the unification of judicial interpretation has become a pressing necessity.

The Libyan legislator, by contrast, addresses competence in marriage in Part One, entitled “Marriage,” Chapter Three, concerning the pillars and conditions of marriage, specifically in Article 15 of the Personal Status Law.¹⁰ However, it does not provide a formal definition of competence, merely stating that it constitutes a right pertaining to the woman and her guardian. The legislator specifies who qualifies as a guardian in matters of competence, identifies the point in time at which competence is to be assessed, and stipulates the conditions under which a marriage contract may be annulled due to the absence of competence.

Similarly, the Jordanian legislator addresses competence between spouses in the Personal Status Law¹¹ under Part One: “Marriage and Its Preliminaries,” Chapter Four: “Competence in Marriage,” Articles 21 through 23. Like the Libyan law, it does not offer a definition of competence, but rather deals directly with its conditions, the legal effect of its absence, and the circumstances under which the right to annul the marriage contract due to lack of competence is forfeited.

The Kuwaiti legislator also regulates¹² competence in marriage in Articles 34 through 39. Like the Libyan approach, the law does not define competence explicitly but elaborates on its conditions, the standards for determining competence, the number of guardians entitled to invoke it, the parties who may seek annulment, and the circumstances under which this right is extinguished.

1.1.2 The Legal Position on Compatibility in Marriage

In this subsection, we address the legal ruling on compatibility, considering that its treatment in Islamic jurisprudence has already been extensively studied. The term “ruling on compatibility” here refers to the legal status of compatibility as a condition of marriage — namely, whether it constitutes a condition for the validity of the contract or merely a condition necessary for its binding effect.

From the perspective of Islamic jurisprudence, compatibility in marriage is considered a condition for the binding nature of the contract rather than a condition for its validity. Accordingly, if the husband is deemed incompatible, this does not affect the validity of the marriage contract. Rather, it grants the guardians the right to object to the marriage and to

demand its annulment, as a means of preventing potential harm or social disgrace that may result from the mismatch. The guardians also have the right to waive their objection. If compatibility were a condition for validity, the marriage would not be legally valid even if the guardians waived their right to object, since conditions for validity cannot be relinquished by consent.¹³

The Algerian Family Code does not explicitly address the concept of compatibility, nor does it provide a legal ruling regarding it. It does not consider compatibility a condition for the validity of the marriage contract. Article 9 of the Family Code stipulates mutual consent as the sole essential pillar of marriage. Article 9 bis enumerates the conditions of marriage: legal capacity, dowry, guardian, two witnesses, and the absence of legal impediments to marriage.

However, the Code does address defects in consent under Article 33, which recognizes fraud as a defect of will. Fraud relating to the attributes of the husband or wife may thus constitute grounds for annulment of the marriage.

As for comparative legislation, the Libyan Personal Status Law addresses compatibility explicitly. Article 15, paragraph 4, provides:

“If the man claims compatibility or if it is stipulated upon him in the contract, and it later becomes apparent that he is not compatible, both the wife and her guardian shall have the right to request annulment of the marriage...”

This provision confirms that compatibility, in Libyan law, is not a prerequisite for the validity of marriage but does establish a legal right to seek annulment if incompatibility is discovered after the contract.

It is understood from this passage that compatibility in marriage is not a condition for the validity of the marriage contract, but rather a condition for its binding effect. This is evident because the Libyan legislator stipulates that, in the absence of compatibility—whether claimed by the husband or stipulated by the wife—the marriage contract may be annulled at the request of the wife or her guardian. Exceptions to this right are provided in the law, namely: if the wife is pregnant, if she has given explicit or implicit consent, or if a year has passed since the marriage.

As for the Jordanian Personal Status Law, it also considers compatibility between spouses a condition for the binding effect of the marriage contract, as stated in Article 21, paragraph (a), which requires that the husband be compatible with the wife in terms of religion and financial capability. Article 23 further grants the right to annul the marriage contract in the absence of compatibility, while similarly providing exceptions where this right lapses—namely, if the wife becomes pregnant, if prior consent was given, or if three months have passed since the guardian became aware of the marriage.

Likewise, the Kuwaiti Personal Status Law treats compatibility as a binding condition for marriage. Article 34 stipulates that compatibility is a necessary condition for marriage, and if absent, the wife and her guardian may petition for annulment. Article 39 specifies that this right is extinguished if the wife becomes pregnant, if there was prior consent, or if a year has passed since knowledge of the marriage.

In conclusion, the comparative legal systems agree that annulment of the marriage contract is permissible in the absence of compatibility, provided it is a binding condition of the marriage, stipulated by the wife at the time of contract formation, or claimed by the husband.

1.2 The Right to Claim Compatibility in Marriage and the Time of Its Consideration

This section examines two central issues: first, identifying those who are entitled to demand compatibility between spouses and thus possess the right to seek annulment of the marriage if compatibility is lacking; second, determining the point in time at which compatibility is to be assessed between the spouses. On this basis, the individuals entitled to request the annulment of the marriage contract will either be granted or denied that right.

Accordingly, the study is divided as follows:

- The party entitled to claim compatibility in marriage.
- The point in time when compatibility is considered.

1.2.1 The Party Entitled to Claim Compatibility in Marriage

As previously noted, the Algerian Family Code does not explicitly address the issue of compatibility in marriage, nor does it specify the party entitled to invoke it. However, reference to Articles 9 bis and 11 reveals that the legislator establishes the requirement of a guardian as one of the conditions of marriage.

In contrast, the Libyan Personal Status Law explicitly identifies the party entitled to claim compatibility in marriage. Article 15, paragraph one, stipulates—exclusively—that this right belongs to the wife and her guardian. Paragraph two of the same article sets out the order of guardians, giving priority first to the son, followed by the paternal grandfather, and then the full brother. The legislator further uses the phrase “and no one else,” indicating that the enumeration is exhaustive.

Similarly, the Jordanian Personal Status Law follows the same approach by granting the right to stipulate compatibility to both the wife and her guardian. This is made clear in Article 23, paragraph two, which states that compatibility is a right that pertains to the wife and her guardian.

In contrast to the Libyan legislator, who explicitly set out the order of guardians, the Jordanian legislator did not specify which individuals may be considered as guardians of the wife, nor did it establish their order of precedence. However, a review of Article 14 of the same law reveals that it provides that the guardian in a marriage contract is the male agnates according to the preponderant opinion of the Hanafi school. Consequently, this provision may be applied to competence in marriage, whereby the order of agnatic guardians is as follows: descendants (sons and grandsons, however remote), ascendants (father, grandfather, however remote), brothers (full brothers, paternal brothers, and their descendants, however remote), and paternal uncles (full and paternal uncles, however remote, and their descendants).

As for the Kuwaiti Personal Status Law, it does not explicitly state who is entitled to claim competence in marriage. Nonetheless, through an analysis of Articles 34 and 37, it can be inferred that both the wife and her guardian are entitled to stipulate competence. Article 34 grants both the wife and her guardian the right to seek annulment of the marriage in the event of lack of competence. Thus, it logically follows that if they possess the right to annul the marriage for want of competence, they must also have the right to stipulate competence from the outset. The Kuwaiti legislator, however, made an exception regarding the criterion of age parity between spouses, recognizing it as a right exclusive to the wife, excluding the guardian from its invocation.

Moreover, Article 37 of the same law sets out the order of guardians entitled to invoke competence, namely the agnatic relatives in the following order: father, son, paternal grandfather, full brother, paternal brother, full paternal uncle, and paternal uncle on the father's side.

In conclusion, the comparative legislations are consistent in granting the right to claim competence in marriage to both the wife and her guardian. However, the order of guardians varies from one legal system to another.

1.2.2 The Time of Assessing Compatibility in Marriage

The time of assessing compatibility in marriage refers to the moment at which the equivalence and similarity between the prospective spouses are evaluated with respect to certain relevant aspects prior to marriage.

The Algerian Family Code does not address this issue; consequently, there is no provision specifying the time at which compatibility is to be assessed.

In contrast, the Libyan Personal Status Law explicitly addresses the matter. Article 15, paragraph 3, stipulates that compatibility between spouses is to be considered at the time of the conclusion of the marriage contract.

Similarly, the Jordanian legislator has addressed the time of assessing compatibility in Article 21, paragraph (b), confirming that compatibility is determined at the moment the marriage is contracted. The provision further clarifies that the subsequent loss of compatibility has no legal effect on the validity of the marriage.

The Kuwaiti Personal Status Law also deals with the issue in Article 34, affirming that compatibility is to be considered at the time of the marriage contract.

Accordingly, comparative personal status laws are consistent in establishing that the relevant moment for assessing compatibility between spouses is the time of the conclusion of the marriage contract.

2. The Attributes Considered in Spousal Compatibility

The qualities or criteria regarded as indicators of compatibility in marriage were historically determined based on what earlier societies considered important and suitable to their way of life and circumstances.

Any criterion whose absence was deemed to cause harm to the woman or her guardians was treated as a binding condition of marriage. In the present time, it has become necessary to accord custom its proper weight in the selection of compatibility criteria, as it plays a vital and influential role in the formulation of legal rulings and their application to contemporary realities.¹⁴

Accordingly, this topic will be examined in two sections:

- The Fundamental Criteria of Compatibility Between Spouses
- Emerging Qualities in Spousal Compatibility

2.1 Fundamental Criteria of Compatibility Between Spouses

Islamic jurisprudence identifies several qualities or attributes considered essential in a husband, which jurists of earlier times strongly emphasized. These include religion, lineage, legal status (freedom), profession, financial capability, and freedom from defects.

The discussion of these criteria will be organized as follows:

- Compatibility in Religion and Lineage

- Compatibility in Profession, Financial Capability, and Freedom from Defects

2.1.1 Compatibility in Religion and Lineage

This section addresses the criteria of religion and lineage in assessing compatibility between spouses, as well as how these criteria are treated in comparative legal systems.

A. The Criterion of Religion

In this context, “religion” refers to piety, moral integrity, and chastity, as opposed to depravity or immorality, as discussed by Islamic jurists.¹⁵

With reference to family law provisions, the Algerian Family Code considers the absence of the husband’s adherence to Islam as grounds for nullity of marriage. Article 30 explicitly states that the marriage of a Muslim woman to a non-Muslim man constitutes a legal impediment to marriage.

The Libyan law, however, does not specify the attributes of compatibility, leaving them to customary practice, as indicated in Article 15, paragraph 3.

Nevertheless, a significant critique may be directed at the Libyan legislator for omitting explicit reference to the qualities of compatibility between spouses—particularly religion and moral rectitude—which have been unanimously recognized by jurists as essential, unchanging characteristics.

The Jordanian Personal Status Law, on the other hand, explicitly emphasizes the necessity of religious compatibility for the validity of marriage. Article 21(a) stipulates: “For a marriage to be binding, the man must be religiously compatible with the woman.”

Similarly, the Kuwaiti Personal Status Law, in Article 35, provides that: “Compatibility is determined by moral uprightness in religion.”

In sum, both Jordanian and Kuwaiti laws concur in affirming religiosity as a key criterion of compatibility between spouses.

B. The Criterion of Lineage

What is meant by compatibility in lineage is that the husband should be equal to the wife in terms of tribal or social affiliation, such that, according to custom or social tradition, the man must not be of a lower lineage than the woman.

The Algerian legislator did not stipulate lineage as a criterion of compatibility in marriage, either explicitly or implicitly.

Dr. Mohamed Sadeq Baseesa states that compatibility in marriage under Algerian family law is limited to the fundamental religious considerations of faith and mutual consent, and does not extend to social criteria such as lineage, which has not been legally recognized.¹⁶

Similarly, the Libyan legislator has not addressed the criteria of compatibility in general, as previously mentioned.

In the Jordanian Personal Status Law, Article 21, Paragraph A, the legislator likewise does not specify lineage as a criterion for compatibility in marriage.

As previously noted, the Kuwaiti Personal Status Law confines the criteria of marital compatibility to those stipulated in Article 35, where compatibility is determined solely on the basis of religious righteousness. None of the other provisions relating to marital compatibility prescribe additional criteria, whether traditional or newly introduced.

In sum, comparative legislation does not treat lineage as a criterion of compatibility. This reflects a general trend toward facilitating marriage, transcending social distinctions, and

avoiding considerations of lineage or class differences. Such an approach is consistent with the principles of equality and justice and seeks to fulfill the objectives of marriage—namely, the attainment of tranquility and mutual affection between the spouses.

2.1.2 Competence in Profession, Wealth, and Freedom from Defects

This section addresses the three criteria for competence in marriage—profession, wealth, and freedom from defects—as well as how these criteria are treated in comparative personal status laws.

A. The Criterion of Profession

The criterion of profession is one of the factors discussed by jurists when examining competence in marriage. It refers to the type of work or occupation practiced by the man and whether it is socially appropriate to the status of the woman and her family.

Several key considerations have made the profession criterion an important condition for marriage:

- Incompatibility undermines guardianship and the right to divorce: Guardianship entails the responsibility of managing and directing the affairs of the family. It is deemed inappropriate for someone of a lower social standing to be in charge of, and to manage the affairs of, someone who is higher in status or competence. With respect to divorce, this right is granted to the husband, who can terminate the marriage unilaterally if he deems his wife unsuitable. In contrast, if a wife discovers that her husband lacks competence, she must resort to the courts to request dissolution of the marriage.
- Social stigma resulting from disregard of the man's competence: Ignoring competence on the part of the man may bring shame to the woman and her family if she marries someone whose occupation is considered inappropriate or beneath her social standing.

For these reasons, it is generally held that competence should primarily be considered with regard to the man, not the woman, since the social and moral consequences weigh more heavily on the woman. Furthermore, the man has the ability to end the marriage more easily if he feels deceived or finds the wife unsuitable.¹⁷

By examining the texts of comparative personal status laws, we find no explicit provision that adopts profession or trade as a criterion of compatibility in marriage. In my view, this omission stems from the transformation of social structures and the disappearance of occupational class distinctions that once existed. This development is reinforced by the adoption of the principle of equality and justice among individuals—an approach endorsed by both domestic legislation and international conventions—together with the overarching aim of facilitating marriage.

B. The Financial Criterion

The criterion of financial capacity, or wealth, remains one of the recognized standards for determining compatibility between spouses.

This criterion refers to the husband's ability to meet his marital obligations, including payment of the dowry and the provision of adequate maintenance for the wife—such as housing, clothing, and daily expenses—in a manner consistent with her social standing. It also presupposes that the husband is not destitute or incapable of bearing the financial burdens of married life, which could otherwise expose the wife to harm or deprivation.

The underlying objective of this criterion is to protect the wife from neglect or poverty and to ensure the material stability of married life.

Although Algerian legislation does not explicitly mention this criterion—given that it does not provide for the concept of compatibility between spouses—it does emphasize the duty of maintenance. This is reflected in the criminalization of failure to provide maintenance for the wife and children, as well as in granting the wife the right to seek judicial divorce on this ground, as stipulated in Article 53 of the Algerian Family Code.

Similarly, Libyan legislation does not explicitly provide for the financial criterion as part of marital compatibility, as previously noted.

The Jordanian legislator, however, has expressly adopted this criterion in Article 21(a), clarifying that “wealth” refers to the husband’s ability to pay the prompt dowry and to provide for his wife’s maintenance.

From this article, it can be understood that the Jordanian legislator deems a husband financially capable—and thus meeting the criterion of financial compatibility—if he is able to pay the prompt dowry and provide adequate maintenance.

As for the Kuwaiti Personal Status Law, it does not explicitly stipulate financial capacity as a condition of compatibility in marriage.

C. The Criterion of Freedom from Defects

In the context of marital compatibility, freedom from defects refers to the condition whereby both spouses are free from defects that repel the other party, prevent the realization of the purposes of marriage, or undermine the stability of married life.

The term “defects” here refers to those significant impairments which, if present in one spouse and unknown to the other at the time of contracting, entitle the latter to seek annulment of the marriage. The most prominent examples include leprosy, vitiligo, serious contagious diseases, and impotence.

D. Rationale for Considering Freedom from Defects

Several key considerations underlie the recognition of this criterion:

- Protection of Marital Stability: It safeguards the right of each spouse to a stable and secure marital life.
- Prevention of Deception: It prevents fraud or misrepresentation in the marriage contract, thereby reinforcing transparency, trust, and mutual consent in the marital relationship.

E. Comparative Legal Perspectives

- Algerian Family Law: The Algerian Family Code does not explicitly address freedom from defects as a criterion of compatibility in marriage. However, Article 53 recognizes the presence of a defect that obstructs marital life as grounds for the wife to seek judicial dissolution.
- Libyan Personal Status Law: The Libyan law does not explicitly mention this criterion, nor does it detail any other attributes of compatibility between spouses, as noted earlier.
- Jordanian Personal Status Law: As previously mentioned, the Jordanian legislator limited the explicit criteria of compatibility to religiosity and financial capacity. Nevertheless, Articles 128 and subsequent provisions address the issue of separation on the grounds of defects. Article 131 allows the wife to petition for annulment if the

husband suffers from a defect that prevents the establishment or continuation of marital relations.

- Kuwaiti Personal Status Law: While the Kuwaiti law considers only moral uprightness in religion as a criterion of compatibility, Articles 139 and subsequent provisions grant either spouse the right to seek annulment of the marriage on account of repulsive, harmful, and incurable defects that obstruct marital intimacy.

2.2 Emerging Qualities of Compatibility Between Spouses

Compatibility in marriage, like other legal and social matters, has evolved under the influence of changing times and circumstances. Social customs vary according to era and environment, and new standards have emerged that were previously not considered. These include:

- Educational Attainment: Academic or professional qualifications as a factor in assessing compatibility.
- Age Criterion: The consideration of age differences between spouses.
- Other Social Criteria: Additional factors that may differ from one region to another based on cultural and societal norms.

Accordingly, this section will be divided as follows:

- The Criterion of Educational Attainment
- The Criterion of Age

2.2.1 The Criterion of Educational Attainment

The criterion of educational attainment in marital compatibility refers to the expectation that there be a degree of parity in educational level between the spouses. This is particularly significant when the wife possesses a high level of education while the husband has a lower level, which could result in an intellectual and cultural gap between them. The emergence of this criterion is attributed to several considerations:

- Promoting Intellectual and Cognitive Understanding: A significant disparity in education may hinder communication, dialogue, and mutual understanding between the spouses.
- Enhancing Mutual Respect: In some cases, the more educated partner may feel a sense of superiority, or the less educated partner may experience feelings of inadequacy, which could weaken the marital relationship.
- Family and Social Acceptance: Many families prefer that their son's or daughter's spouse possess a similar educational level in order to preserve social status.¹⁸

Upon reviewing the relevant family law provisions under comparison, no text was found indicating that educational attainment is considered a criterion of compatibility between spouses. However, lived reality has imposed the consideration of education as a factor in accepting or rejecting a potential spouse—particularly following the increased emphasis on women's education.

2.2.2 The Criterion of Age

The criterion of age in marital compatibility refers to the requirement that the spouses be relatively close in age, such that there is no considerable age gap between them. A significant difference in age could disrupt the marital relationship, potentially leading to estrangement or incompatibility. The rationale for considering age compatibility includes:

- A large age gap may result in major differences in thought, interests, and life perspectives.
- Age proximity facilitates mutual understanding and interaction between spouses.
- In certain societies, marriage between an older man and a much younger woman may be regarded as socially inappropriate, leading to discomfort or social pressure.

A review of comparative personal status laws reveals that the Algerian Family Law does not explicitly or implicitly stipulate age proximity as a criterion of marital compatibility. Similarly, the Libyan Personal Status Law does not include any provision indicating that age is taken into consideration for marital compatibility.

As for the Jordanian Personal Status Law, it does not mention age as a criterion, as previously noted, but confines compatibility to two elements: religiosity and financial capacity. Nevertheless, Article 11 does address age in the context of marriage prohibitions, stipulating that a marriage contract may not be concluded with a woman if the man is more than twenty years her senior, and the judge must verify her consent and willingness.

In the Kuwaiti Personal Status Law, Article 36 explicitly recognizes that age compatibility is considered a right belonging solely to the wife.

This means that the Kuwaiti legislator has regarded age compatibility as one of the desirable qualities in marriage; however, this right is considered to belong solely to the wife, not to her guardian.

The consideration of age compatibility between spouses is inherently relative, and its assessment is left to the couple themselves. Nevertheless, age compatibility plays a crucial role in reinforcing the foundations of the Muslim family and ensuring its balanced and stable continuity. This consideration has become even more significant in the present era, where a substantial age gap between spouses can give rise to numerous disputes, along with negative repercussions that may destabilize the family structure and undermine its cohesion in the long term.¹⁹

Conclusion

The examination of spousal competence between Arab legislations shows that this issue remains without appropriate legal frameworks which comparative family law needs to address properly. Different legal systems maintain distinct approaches to competence regulation because some systems treat it as a marriage requirement but others only mention it in passing. The process lets judges decide which results will establish an unpredictable legal framework. The research analysis produced multiple findings together with specific recommendations.

Study Findings

- Lack of a comprehensive legal definition: There is no unified legal definition of competence in the personal status laws under review, resulting in inconsistent interpretation and application.
- The Arab legal systems show different approaches to spousal competence through various legal methods and different levels of depth. The Algerian Family Code shows no signs of addressing this matter which creates a basis for criticism because other laws differ in how they address competence requirements.
- Some laws maintain their registration under old standards which do not match the present social state because they use family background as a measurement.

- The legal system fails to integrate modern assessment standards because it does not recognize the importance of educational achievement and age as assessment factors which reflect social changes in Arab communities.
- The judiciary faces challenges when it comes to executing competence requirements in marital disputes because the legal framework lacks specific provisions which protect the rights of all parties.

Study Recommendations

- Establish a clear and comprehensive legal definition of marital compatibility within family law, taking into account the cultural and social diversity that exists among Arab societies.
- Amend the Algerian Family Code to explicitly provide for the principle of compatibility between spouses, as its absence is often criticized given the significance of the issue and its connection to numerous family disputes.
- The review process of current laws needs to evaluate social and economic transformations which have occurred recently to introduce modern compatibility standards for maintaining legal relevance in present times.
- People should avoid using family background or social standing as selection criteria because these practices lead to discrimination and limit personal freedom.
- Strengthen the judiciary's role in assessing compatibility when marital breakdowns occur, particularly in disputes brought before the courts.
- Legal family counseling centers should exist to teach couples about compatibility and how missing this understanding can affect their family stability and long-term relationship success.
- The organization should study different legislative systems to identify the best legal methods for managing compatibility in its modern interpretation.
- Academic research along with sociological studies should focus on how compatibility criteria affect family stability in Arab societies.

-
- 1- The Holy Qur'an: Surah Ar-Rum, Verse 21.
 - 2- The Holy Qur'an: Surah Al-Ikhlās, Verse 4.
 - 3- Ibn Faris: *Maqayis al-Lughā*, ed. Abd al-Salam Muhammad Harun, Dar al-Jil, Beirut, n.d., p. 2260.
 - 4- Ibn Manzur: *Lisan al-‘Arab*, n. ed., Dar Sadir, Beirut, n.d., Vol. 1, p. 139.
 - 5- *Ibid.*, p. 139.
 - 6- Al-Jurjani: *Mu‘jam al-Ta‘rifat*, n. ed., Dar al-Fadilah, Cairo, n.d., p. 155.
 - 7- Wahbah al-Zuhayli: *Encyclopedia of Islamic Jurisprudence and Contemporary Issues*, 1st ed., Dar al-Fikr, Damascus, 2010, Vol. 8, pp. 227–228.
 - 8- Mustafa Shalabi: *Ahkām al-Uṣrah fī al-Islām* (Rules of the Family in Islam), 4th ed., Al-Dar al-Jami‘iyyah, Beirut, 1983, p. 309.
 - 9- *Algerian Family Code* No. 84-11, amended and supplemented by Ordinance No. 05-02, *Official Gazette* No. 15, 27 February 2005.
 - 10- Libyan Personal Status Law No. 10 of 1984 on Special Provisions for Marriage, Divorce, and Their Effects, dated 19 April 1984, *Official Gazette* of 1984, No. 16, 22nd Year.

- 11- *Jordanian Law* No. 15 of 2019, published in *Official Gazette* of the Hashemite Kingdom of Jordan, No. 5578, dated 28 Ramadan 1440 AH / 2 June 2019 CE.
- 12- *Kuwaiti Personal Status Law* No. 51 of 1984, *Official Gazette* No. 1570, 23 July 1984 (8 Shawwal 1404 AH).
- 13- Al-Zuhayli, op. cit., Vol. 8, p. 232.
- 14- Ibid., p. 244.
- 15- Mohamed Mastouri: *Competence in Marriage and the Role of Custom in Expanding Its Scope*, *Journal of Law and Human Sciences*, Faculty of Law and Human Sciences, Vol. 13, No. 1, April 2020, p. 316.
- 16- Mohamed Sadeq Bsayssa: *Explanation of the Algerian Family Code*, University Publications Office, Algiers, 2012, p. 112.
- 17- Malek Belmokhtar: *Rulings on Marital Compatibility in Profession and Its Contemporary Variables*, *Journal of Research in Contracts and Business Law*, Vol. 8, No. 1, 2023, p. 78.
- 18- *European Council for Fatwa and Research*, full address: <https://www.e-cfr.org/?lang=ar>, browsing history: 18 July 2025, 14:30.
- 19- Mastouri, op. cit., p. 326.

Bibliography List:

A – Books

- Ibn Faris, *Maqayis al-Lugha*, ed. Abd al-Salam Muhammad Harun, Dar al-Jil, Beirut; n.d.
- Ibn Manzur, *Lisan al-‘Arab*, n. ed., Dar Sadir, Beirut; n.d.
- Al-Jurjani, *Mu‘jam al-Ta‘rifat*, n. ed., Dar al-Fadilah, Cairo; n.d.
- Wahbah al-Zuhayli, *Encyclopedia of Islamic Jurisprudence and Contemporary Issues*, 1st ed., Dar al-Fikr, Damascus; 2010.
- Mustafa Shalabi, *Ahkam al-Usrah fi al-Islam (Rules of the Family in Islam)*, 4th ed., Al-Dar al-Jami‘iyyah, Beirut; 1983.
- Mohamed Sadeq Bsayssa, *Explanation of the Algerian Family Code*, University Publications Office, Algiers; 2012.

B – Newspaper / Journal Articles

- Mohamed Mastouri, *Competence in Marriage and the Role of Custom in Expanding Its Scope*, *Journal of Law and Human Sciences*, Faculty of Law and Human Sciences, Vol. 13, No. 1, April 2020.
- Malek Belmokhtar, *Rulings on Marital Compatibility in Profession and Its Contemporary Variables*, *Journal of Research in Contracts and Business Law*, Vol. 8, No. 1, 2023.

C – Legal Texts

- The Holy Qur'an: Surah Ar-Rum, Verse 21.
- The Holy Qur'an: Surah Al-Ikhlās, Verse 4.
- Algerian Family Code No. 84-11, amended and supplemented by Ordinance No. 05-02, *Official Gazette* No. 15, 27 February 2005.
- Libyan Personal Status Law No. 10 of 1984 on Special Provisions for Marriage, Divorce, and Their Effects, *Official Gazette* of 1984, No. 16, 22nd Year.
- Jordanian Law No. 15 of 2019, published in *Official Gazette* of the Hashemite Kingdom of Jordan, No. 5578, 2 June 2019 CE (28 Ramadan 1440 AH).
- Kuwaiti Personal Status Law No. 51 of 1984, *Official Gazette* No. 1570, 23 July 1984 (8 Shawwal 1404 AH).
- European Council for Fatwa and Research, *Official Website*: <https://www.e-cfr.org/?lang=ar> (consulted on 18/07/2025).