

Among the Laws of Arab Gulf States: Minimum Age of Marriage for Women in Omani Legislation

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ABSTRACT

This study addresses the issue of legal age of marriage for Omani women from human rights perspective, with a particular focus on the Omani legislation. It provides an analysis of relevant provisions within Omani law, particularly Articles 7 and 10 of the Personal Status Law, which stipulate the necessity of mental capacity and attainment of the age of majority for the validity of a marriage contract, while allowing judicial discretion in exceptional circumstances. The study further explores judicial interpretations by the Supreme Court, underscoring the fundamental principles of a woman's consent and autonomy in the decision to marry. A comparative analysis with Gulf Cooperation Council

(GCC) countries, including the United Arab Emirates, Saudi Arabia, Kuwait, Qatar, and Bahrain, is also conducted, highlighting disparities in the determination of the legal marriage age and the implications of the lack of official marriage registration on the protection of girls' rights. The establishment of 18 as the legal marriage age in Omani law was not a reactive measure to international recommendations but rather preceded and aligns with them, drawing upon respected Islamic jurisprudential authorities such as Ibn Abbas and Imam Abu Hanifa. The Omani experience offers a balanced model that reconciles Sharia laws with the requirements of international conventions, without compromising core principles or yielding to external pressures.

[Penelitian ini membahas usia minimum perkawinan bagi perempuan di Oman dari perspektif hak asasi manusia, dengan fokus pada peraturan perundang-undangan Oman. Kajian ini menyajikan analisis terhadap ketentuan-ketentuan yang relevan dalam hukum Oman, khususnya Pasal 7 dan Pasal 10 Undang-Undang Status Personal, yang mensyaratkan adanya kecakapan mental dan pencapaian usia dewasa sebagai syarat sahnya suatu akad perkawinan, sekaligus memberikan ruang bagi diskresi hakim dalam keadaan-keadaan tertentu yang bersifat luar biasa. Penelitian ini juga mengkaji interpretasi yudisial oleh Mahkamah Agung, dengan menekankan prinsip-prinsip fundamental mengenai persetujuan dan otonomi perempuan dalam pengambilan keputusan menikah. Selain itu, dilakukan pula analisis perbandingan dengan negara-negara anggota Gulf Cooperation Council (GCC), termasuk Uni Emirat Arab, Arab Saudi, Kuwait, Qatar, dan Bahrain, yang menyoroti perbedaan dalam penentuan usia legal perkawinan serta implikasi dari tidak adanya pencatatan perkawinan secara resmi terhadap perlindungan hak-hak anak perempuan. Temuan penelitian menunjukkan bahwa penetapan usia 18 tahun sebagai usia legal perkawinan dalam hukum Oman bukan merupakan respons reaktif terhadap rekomendasi internasional, melainkan telah mendahului dan sejalan dengan rekomendasi tersebut, dengan merujuk pada otoritas-otoritas fikih Islam yang dihormati seperti Ibnu Abbas dan Imam Abu Hanifah. Pengalaman Oman menawarkan sebuah model yang seimbang dalam merekonsiliasi hukum Syariah dengan tuntutan konvensi internasional, tanpa mengorbankan prinsip-prinsip dasar maupun tunduk pada tekanan eksternal.]

KEYWORDS

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Introduction

The issue of the legal age of marriage constitutes one of the most significant legal and social questions that continue to draw the attention of societies due to its close connection with the rights of the child, the family, and the stability of society. This concern is reflected in the determination of the legally recognized age for marriage,

which serves as a safeguard to protect minors and to ensure their capacity to exercise marital rights and obligations in a sound and responsible manner.¹

A clear divergence can be observed among Gulf legislations regarding the determination of the legal age of marriage. In some states, the minimum age has been set as low as thirteen, whereas in others it has been raised to eighteen, often with the requirement of a guardian's consent in cases involving younger individuals. This variation primarily stems from the intimate connection between personal status laws and Islamic jurisprudence, which remains the principal source of legislation in matters of personal status across the Gulf region.

Islamic jurisprudence does not confine the validity of marriage to a specific numerical age; rather, it associates marital capacity with the attainment of puberty, intellectual discernment, and the ability to assume marital responsibilities.² This explains the diversity of juristic opinions among scholars some considering biological puberty sufficient for marriage, while others require mental and social maturity as essential conditions for ensuring the stability of marital life. Such divergence allows individual states to adopt the jurisprudential positions most compatible with their social and cultural realities. This is particularly evident in modern Gulf legislations, which have sought to reconcile the requirements of Sharia with the protection of the child's welfare and fundamental rights, in accordance with international conventions on the rights of the child.

Accordingly, the study of the legal age of marriage in Omani legislation compared with other Gulf states provides a crucial foundation for understanding how law operationalizes Sharia principles to protect individuals and regulate family relations. It also enables an analysis of the areas of convergence and divergence between juristic interpretations and legal enactments. The primary objective of this research, therefore, is to elucidate the impact of juristic diversity on contemporary marriage legislation and to analyze the legally recognized age of marriage under Islamic law as applied in the Sultanate of Oman and other Gulf countries.

The significance of this research lies in its examination of one of the fundamental issues related to women's rights in marriage, within a sensitive legal and social context, namely, the "legal age of marriage for women." This importance is heightened amid growing global debate over the appropriate age of marriage and its connection to the principle of conscious and mature consent, in contrast with the religious and constitutional obligations of Islamic countries. This study aims to elaborate the legal and Sharia foundations upon which Omani legislation relies in establishing the age of eighteen as the threshold for full legal capacity of women to marry. It further seeks to analyze the extent to which Gulf legislations

¹ United Nations, fourth report of the Sultanate of Oman to follow up on the implementation of the Convention, pages 10 and 11, paragraphs 53 and 54, to view the report https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/OMN/CEDAW_C_OMN_4_8496_A.docx date of publication 18 July 2022

² Mustafa ibn Husni Al-Sabai, *Al-Mar'ah Bayna Al-Fiqh Wa Al-Qanun* (Dar Al-Waraq li Al-Nashr wa Al-Tawzi', 1999), <https://shamela.ws/book/828/42>.

align or conflict with the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) concerning the legal age of marriage. Additionally, the research examines the Islamic jurisprudential perspective on early marriage and its influence on determining the legal age, while exploring the impact of international recommendations and conventions on the development of Gulf legislations and particularly Omani legislation. The study also highlights the social and legal dimensions of defining the legal age of marriage and analyzes its practical implications for women's rights, the effectiveness of judicial documentation, and the protection of underage girls from early marriage. The central issue lies in the disparity among Gulf legislations regarding the legal age of marriage for women, and the extent to which they differ from what is stipulated in international conventions. This raises questions about the ability of these legislations to achieve a balance between Saria laws and international obligations.

Based on the central research question, several sub-questions branch out to form the main axes of the study and its analysis. The research first aims to determine the legal age of marriage for women in the Sultanate of Oman and to examine how this determination has been established legislatively while considering the foundations of Islamic jurisprudence. It also seeks to study the extent of the influence of international recommendations and conventions, particularly the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), on Gulf legislation, with a focus on the Omani experience as a model for harmonizing international commitments with Sharia-based principles.

The research further addresses the position of Islamic jurisprudence on early marriage and the possibility of reaching a juristic consensus on a specific age for marriage. It also analyzes the legal implications of determining the legal age of marriage with respect to proof and civil rights, and explains how such determination affects the validity of the marriage contract and judicial documentation procedures. Finally, the study seeks to clarify whether adherence to the legal age constitutes a condition for the validity of the marriage contract or merely an administrative and procedural measure intended to regulate documentation and protect the concerned parties, thereby ensuring a comprehensive understanding of the relationship between Islamic Sharia, national law, and international obligations in this field. The study adopts a comparative analytical approach by analyzing Omani legal provisions, examining judicial applications, and conducting a comparison with relevant Gulf legislations and international standards.

The Minimum Age of Marriage for Women in Omani Law

The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)³ is considered one of the most prominent international agreements in

³ United Nations, Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), adopted December 18, 1979, published on the Office of the High Commissioner for Human Rights

the field of human rights in general, and women's rights in particular.⁴ To date, 189 countries⁵ have joined the convention, including the Sultanate of Oman, which acceded to it in 2005.⁶ Oman has also submitted several reports to the international committee responsible for monitoring the implementation of the Convention, including efforts made to harmonize the international agreement with national legislation. Oman grants the international Convention the force of national law upon ratification and is committed to implementing its provisions,⁷ as affirmed by Article (93) of the Basic Statute of the State. Since CEDAW addresses various aspects of women's rights, including marriage, one of the safeguards it has adopted to ensure a woman's freedom in deciding to enter into marriage is the establishment of a minimum legal age.

One of the guarantees to safeguard women's rights in CEDAW regarding marriage is age. That is, the early age of marriage is one of the major effects that may prevent her absolute freedom. Section 2 stated, "The betrothal and the marriage of a child shall have no legal effect, and all necessary action, including legislation, shall be taken to specify a minimum age for marriage and to make the registration of marriages in an official registry compulsory". The text did not mention the exact age at which a woman can decide to conclude a marriage contract by herself. However, the Committee on the Elimination of Discrimination against Women made this clear in its recommendations to Oman, recommending the age of marriage as 18 years.⁸

Referring to the Omani Personal Status Law⁹, Article (7) asserts the legal age for marriage is 18, stating that "Marriage eligibility is decided upon reasoning and the completion of 18 years of age." Also, Paragraph C of Article (10) stipulates that a person who has not completed eighteen years of age may not marry without the judge's permission and after verifying the interest. Article (10) in paragraph (a) went further giving the eighteen-year-old woman the right to determine the fate of her marriage, and if her guardian objects to it, for she to claim her case in the court, which would establish her marriage if the husband is adjudged suitable. It is mentioned that: "If a person, 18 years of age, requests marriage and is refused by the guardian, the case may be referred to a judge."

website, accessed July 2025, <https://www.ohchr.org/ar/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>.

⁴ Fahad Al Aghbari et al., "Rights of Women in the Establishment and Dissolution of Marriage in Oman: Between CEDAW and Sharia Perspective," *Legality: Jurnal Ilmiah Hukum* 32, no. 1 (2024): 33-50.

⁵ United Nations, Office of the High Commissioner for Human Rights, <https://indicators.ohchr.org/>, accessed July 15, 2025.

⁶ Sultanate of Oman, Royal Decree No. 42/2005, published in Official Gazette No. 791, May 15, 2005.

⁷ Fahad Al Aghbari et al., "Assessment of Political Principles in the Constitution of Oman from International Law Perspectives," *Law Reform* 21, no. 1 (2025): 39-57.

⁸ United Nations, Committee on the Elimination of Discrimination against Women, Concluding Observations on the Combined Final Report of the Second and Third Reports of Oman, 2017, Paragraph 24/c pg. 7.

⁹ Personal Status Law, Royal Decree No. 32/97, Official Gazette No. 546, June 1, 1997, accessed July 10, 2025.

The Law adopted this principle because the marriage contract is one of the contracts in which the Sharia law stresses and regulates its provisions, conditions, and pillars, and considered it a strong bond in which it is not permissible to be complacent because of its many consequences on a person's honor, reputation, and lineage. Consent is an essential expression of the person's will to complete that contract. The Omani legislator considered that the eligibility of this, in terms of age and the absence of symptoms affecting the will, is attained only at the age of eighteen.

Determining eighteen years of age as the age of permissibility to act and be responsible is adopted by the Omani legislator in the Civil Transactions Law as well, as Article (41) stipulates: "the age of adulthood is the completion of eighteen years of age." Indeed, Article (39) considers that whoever does not reach this age is called a minor, and whoever is over eighteen years of age and enjoys his mental faculties and is not interdicted, is considered a full-fledged person with complete freedom to exercise his civil rights, including marriage and the freedom to choose a spouse.

Omani law has established the age of eighteen as the legal threshold for a woman's full capacity to conclude a marriage contract. This legislative determination stems from a vision seeking to strike a balance between the objectives of Islamic Sharia preserving human dignity and ensuring genuine consent and free choice and the State's international obligations emphasizing the protection of women from early marriage.¹⁰ This specification aligns with the philosophy of Islamic legislation, which regards marriage as a *solemn covenant (mithāq ghalīz)* founded upon free will, intellectual maturity, and the ability to assume the responsibilities of marital life, rather than mere biological puberty.¹¹

Consistent with this approach, the Omani legislator, in the Omani Personal Status Law, determined that the age of eighteen constitutes the legally recognized age of full capacity for marriage, affirming that valid consent can only be given by a person who has attained full mental and legal capacity.¹² The same principle is upheld in the Civil Transactions Law, wherein Article (41) stipulates that "the age of majority shall be upon the completion of eighteen years," and Article (39) provides that anyone who has not reached this age is deemed a minor, whereas a person who has completed eighteen years, possesses sound mental faculties, and is not under legal interdiction is considered fully competent to exercise civil rights, foremost among them marriage and the freedom to choose a spouse.¹³

This judicial approach is supported considering the age stipulated in the abovementioned articles. The Supreme Court ruled that women who have reached eighteen years of age have the right to marry and justified its verdicts per Article

¹⁰ United Nations. Committee on the Elimination of Discrimination against Women. Concluding Observations on the Combined Final Report of the Second and Third Reports of Oman, 2017, Paragraph 24/c pg. 7. https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Home.aspx?lang=Ar.

¹¹ Mustafa ibn Husni Al-Sabai, *Al-Mar'ah Bayna Al-Fiqh Wa Al-Qanun*.

¹² Omani Personal Status Law, Royal Decree No. 32/97, Article 7

¹³ Omani Civil Transactions Law, Royal Decree No. 29/2013, Article 39

(10/a) of the Omani Personal Status Law and that this is the age at which a woman is eligible for the right to marry and choose a spouse. The court does not accept the marriage of women under this age unless there is an interest that the court assesses under Article (10 / C), which states that: "A person who has not completed eighteen years of age may not be married except with the permission of the judge and after verification of interest."¹⁴ It may appear that the Omani legislation was influenced by CEDAW in this Article. However, the Personal Status Law, implemented in 1997 by Royal Decree 97/32, already established the minimum age of marriage at 18 years, 20 years prior to the CEDAW recommendation published in November 2017.¹⁵

Moreover, Oman's response to the observation submitted by the Committee on the Elimination of Discrimination against Women of the United Nations, whether in its second and third reports or its quarterly report, was that the Personal Status Law preceded this observation by defining the age of eighteen as the official age for marriage. The response also indicated that the Law excluded some cases in which the marriage takes place with a party who did not complete eighteen years or the woman did not complete this age, so it is an exception from the general Law that determined the age of marriage for those who completed (18) years and delegated the Law in this matter to the judge if he finds interest in expediting the marriage.

Moreover, the court can build upon social research on the minor as one of the investigative tools, in cooperation with social workers and psychologists at the Ministry of Social Development before the marriage contract, while also verifying that this marriage is not intended for the interest of a party other than the spouses. The report confirmed that the percentage of these exceptions did not exceed 0.10% of early marriage cases and that the matter is not a phenomenon in Omani society. For females, it adds that the percentage of these cases in the 2020 population census represented (1.08%) of all children in the same age group. Indeed, the average age of first marriages in Oman, as indicated by the National Center for Statistics and Information, increased to 28 years for males and 26 years for females, adding that the percentage of these cases in the 2020 population census represented (1.08%) of the total children in the same age group.¹⁶

¹⁴ See: Judgment issued by the Supreme Court (Sharia Court Circuit / Adlal Claims) under No. (10/2017) on 1/22/2017; and Judgment No. (100/2017) dated 11/12/2017; and Judgment No. (5/2017) dated 8/1/2017; And Judgment No. (62/2017) dated 11/19/2017.

¹⁵ On the other hand, the Sultanate of Oman has benefited from the recommendations issued by the Committee on the Elimination of Discrimination against Women (CEDAW) through the amendment of several national legislations. These include granting equal rights to men and women in the allocation of government land, previously restricted to males only, as well as amendments to a number of laws related to passports, and the Civil and Commercial Procedures Law. See Fahd bin Yousuf Al-Aghbari, "The Impact of Human Rights Conventions on Social and Economic Transformations in the Sultanate of Oman," paper presented at Fourth Scientific Conference: Law and Economic and Social Transformations, 2020.

¹⁶ United Nations, fourth report of the Sultanate of Oman to follow up on the implementation of the Convention, pages 10 and 11, paragraphs 53 and 54, to view the report https://tbinternet.ohchr.org/Treaties/CEDAW/Shared%20Documents/OMN/CEDAW_C_OMN_4_8496_A.docx date of publication 18 July 2022

Although Islamic Sharia Law, the primary source for the Law, did not specify a minimum age for marriage, leaving it to the woman's physical and mental maturity. Adulthood is often equated with puberty, as it is the age at which a person becomes legally responsible for their actions according to Islamic law.¹⁷ According to traditional narrations, the concept of maturity in Islamic law is generally derived from the hadith "*the pen is lifted from three people: a sleeping person until he awakens, a child until he becomes an adult, and an insane person until he regains his sanity.*"¹⁸ The age of puberty differs from one person to another and from one society to another, and every act before that is not accounted for, the person's opinion holds no weight, and his consent is not considered. Despite all that, according to Abu Hanifa on determining the age of adulthood, Ibn Abbas—which definitely precedes CEDAW—has set the age of adulthood to 18 years. As it was narrated on the authority of Ibn Abbas, in his interpretation of the Al-Nisa verse 6 "you shall not touch the orphans' money except in the most righteous manner, until maturity." This maturity is 18 years old.

Moreover, the authorized activity in the late Ottoman period, which based on Abu Hanifa's school of thought had set the age of adulthood to 18 years.¹⁹ Article (4) on the Family Rights Decision (Marriage and Divorce) stipulates that "the eligibility to marry is that the fiancé must be at the age of eighteen or more, and the fiancée at the age of seventeen or more."²⁰ Based on the above, we find that the Omani Law and its judicial applications in matters of the age of marriage for women and the need for their full consent and freedom in concluding the marriage contract are derived from Islamic jurisprudence and are compatible with the principles of general international agreements in this regard, including the CEDAW Convention. Accordingly, the marriage contract is nullified if it takes place without the woman's consent, and forcing her to marry someone is not permissible if she does not want.

Since Sharia law does not specify a particular age of marriage for women, scholarly disagreement over the permissibility of marrying off young girls and minors has existed since early times. Some scholars prohibited it entirely, permitting marriage only for women who had reached maturity, whose consent and decision would be considered.²¹ Among those holding this view was the Omani Tabi'i (Successor) Jaber bin Zayd, who deemed such marriages invalid.

The second opinion allowed such marriages initially but suspended the contract if the girl reaches puberty or dissatisfaction and desires to end the marriage, giving her the choice after puberty to either accept and continue the marriage or to reject and annul it. This right is known in classical Islamic

¹⁷ Ghālib Ghānim, *Munkarāt Al-Afrah Reviewed by Muḥammad 'Assāf* (Ramallah, 2011).

¹⁸ Narrated by Ibn Majah, No. 2031, in which the marriage and divorce of a minor are not considered because he lacks the capacity to act and discriminate.

¹⁹ Although the majority of jurists believe that the age of puberty in a person who does not show signs of puberty is fifteen years; See: Al-Jabi, Bassam, *Journal of Legal Rulings*, Dar Ibn Hazm, Beirut, 2004, p. 501.

²⁰ Muḥammad al-Faqī Al-Maghāwīrī, *Tahdīd Al-Sinn Fi al-Zawāj: Dirāsah Muqāranah Fi al-Fiqh al-Islāmī Wa-al-Qānūn al-Waḍ'ī* (Dār al-Wafā', n.d.).

²¹ Abdullah bin Muhammad Al-Tayyar et al., *Al-Fiqh al-Muyassar*, vol. 11 (Dar Al-Watan Publishing, 2011).

jurisprudence as the right of Al-Ghair (rights of others). A third opinion, supported by the later Omani scholar Imam Al-Salmi, permits the marriage of minors unconditionally, based solely on the consent of the guardian, without requiring the girl's own consent or waiting for her to reach puberty. Imam Al-Salmi even authored a dedicated treatise on the subject titled "Idhah al-Bayan fi Ahkam Nikah al-Sibyan" ("Clarifying the Rulings on the Marriage of Children").²² However, the current Grand Mufti of the Sultanate of Oman, His Eminence Sheikh Ahmad Al-Khalili, holds that guardians should not hastily invoke this scholarly concession to marry off their young daughters or sisters before they have matured and fully understood the rules and responsibilities of marriage. He warns that rushing into such marriages can lead to disastrous consequences.²³

Sheikh Al-Khalili also issued a special ruling regarding orphaned minor girls, emphasizing that they should not be married off until they reach puberty. If they are married before that, their husbands must not consummate the marriage until the girls come of age, to avoid potential problems and to steer clear of scholarly disagreement.²⁴ Along with permitting underage marriage, it should generally be held that only the father among the guardians should perform the marriage, and there must be no suspicions arising from the marriage. Accordingly, the Omani law mandates judicial approval for such marriages to eliminate any doubt. The law also requires that the prospective husband be a suitable match; not poor, elderly, or afflicted with illness.²⁵

In Comparison with Arab Gulf Countries Laws and Its Impact on Registration and Validity of Marriage

This section examines the legal frameworks in selected Arab Gulf countries (UAE, Kuwait, Qatar, Saudi Arabia and Bahrain) governing the determination of the legal age of marriage. It explores how variations in statutory provisions affect the registration process and the recognition of marriage validity.

1. UAE Law

The Emirati legislator distinguishes between the legal capacity of Muslims and non-Muslims²⁶, regulating each group's marriage contracts under separate legislative frameworks. Each of these frameworks uses a different calendar system to determine the legal age of marriage. For Muslims, age is calculated based on the lunar (Hijri) calendar²⁷ "*Lunar calculation shall prevail for the periods set forth*

²² Muhammad Al-Hashimi, *Al-Tal'ah al-Bahiyah Fi Qanun al-Ahwāl al-Shakhsīyyah*, vol. 1 (Maṭābī' al-'Inān, 2018).

²³ Al-Mu'taṣim Al-Ma'wuli, *Al-Mu'tamad Fi Fiqh al-Nikāh* (Beirut, 2012).

²⁴ Al-Khalili Ahmad, *Fatāwā Al-Nikāh*, 2nd ed. (Al-Ajyal li-l-Taswīq, 2003).

²⁵ Muḥammad Muḥammad Mu'āfi, "Tazwīj Al-Ṣaghīrah Fi al-Fiqh al-Islāmī," *Journal of the Faculty of Arabic Language in Girga*, no. 22 (2018): 1793–845.

²⁶ Federal Law No. 28 on Personal Status regulates the eligibility for marriage of Muslims, whereas Federal Law No. 41 of 2022 on Personal Status governs the eligibility for marriage of non-Muslims.

²⁷ Article 3 of Federal Law No. 28 on Personal Status.

*herein unless stipulated otherwise.*²⁸ For non-Muslims, age is calculated according to the Gregorian calendar “The Georgian calendar shall be used for calculating the periods of time stipulated in this Decree-Law.”²⁹

The legal capacity to contract marriage also differs between Muslims and non-Muslims, with each legal framework establishing what it considers most appropriate for determining marital capacity, taking into account the diversity of citizens and residents from various nationalities and religions. The legal capacity to contract marriage for non-Muslims is established at the age of twenty-one (21) years. The UAE civil marriage law requires the following conditions to be met for a valid marriage contract:

“Both the husband and wife have attained at least (21) twenty-one Gregorian years, and that the age is established by any official document issued by the State of their nationality...”³⁰

It is noteworthy that the age of legal capacity to contract marriage is the same as the age of legal majority in the UAE Civil Transactions Law.³¹ Since valid consent in marriage must be expressed through legally recognized intent, the Emirati legislator resolved potential cultural differences by setting the age of majority as the age of legal capacity to contract marriage, considering marriage to be one of the most significant contracts, requiring foresight and wisdom to assume its responsibilities. However, Federal Law No. 28 concerning personal status regulation differs in determining the age of legal capacity to contract marriage. At first glance, its provisions may appear to not specify an age, instead setting the standard based on puberty and cognitive competence.

Children may reach puberty at an early age as some girls may experience puberty at the age of nine; however, a child may reach the age of eighteen without exhibiting any signs of puberty. In such cases, the Emirati legislator considered eighteen years to be the age of majority. Clause one of Article (30) of the Personal Status Law, titled (Marriage and the Requirement of Puberty and Cognitive Maturity), stipulates that “1- Marriage eligibility shall be completed by reason of maturity and adolescence. The age of adolescence is eighteen years for those who have not been legally adolescent prior to that age.” However, this general provision is clarified in the subsequent clause, where the legislator sets eighteen as the age of legal capacity to contract marriage.

The second clause stipulates that “2- A person who is legally adolescent prior to reaching the age of eighteen shall not marry, except in accordance with controls issued by a Cabinet resolution at a proposal of the Minister of Justice.”

²⁸ United Arab Emirates, Federal Decree No. (5) of 2022 on the Issuance of the Personal Status Law, Official Gazette, no. 727, February 1, 2022 (accessed July 16, 2025). See Ghānim, *Munkarāt Al-Afrāh Reviewed by Muḥammad ‘Assāf*.

²⁹ Article 2 of Federal Law No. 41 of 2022.

³⁰ Article 5 of Federal Law No. 41 of 2022.

³¹ Article 85(2) stipulates that a person reaches the age of majority upon completing twenty-one lunar years.

In this specification, clause one of Article (30) is redundant as it has no legal effect. An individual who is under eighteen years of age and has reached puberty is not competent to marry and must obtain the approval of relevant authorities. The Emirati legislator does not differentiate between women and men's legal capacity to contract marriage. In this matter, the Omani and Emirate legislators agree that eighteen is the age of legal capacity to contract marriage. However, it is noted that legal capacity to contract marriage is not a fundamental element or condition of a marriage contract according to both the Emirati³² and Omani legislators. Therefore, questions arise on the seriousness of setting a legal age of marriage? This is applicable to all Gulf legislations as will be demonstrated in the following sections.

2. Kuwaiti Legislation³³

The Kuwaiti legislator distinguishes between capacity to contract marriage and the formal registration of the marriage contract. Article 24(a) of the Kuwaiti Personal Status Law states: (Marriage capacity requires puberty and cognitive competence.) This general provision governs the validity of a marriage between any boy and girl who have reached puberty and are mentally competent, without specifying a minimum age beyond puberty. Accordingly, the marriage of a girl who reaches puberty at the age of ten is considered valid, as is that of a boy at any age upon reaching puberty. However, Article 26 of the same law provides: (It is prohibited to formally register or certify a marriage contract unless the girl has completed fifteen years of age and the boy seventeen at the time of registration.)

This raises the question: If a marriage between two pubescent, mentally competent individuals is valid under the law, how does registration legally affect the validity of the marriage? This is because registration is not considered a fundamental element of the marriage contract, but rather a subsequent procedural requirement imposed by the competent authorities as a legal formality. Determining fifteen years for girls and seventeen for boys as the age of capacity to contract marriage in the Kuwaiti Personal Status Law is somewhat imprecise, as these age thresholds apply only to the formal registration of the marriage contract. For example, if a mentally competent boy marries at the age of sixteen, the

³² The Explanatory Memorandum to the Personal Status Law clarified that it is permissible to prove the occurrence of marriages that were not officially documented through acknowledgment of the marital relationship, provided that the conditions required for the validity of marriage are fulfilled and no legal impediments exist. (Explanatory Memorandum to the Personal Status Law, United Arab Emirates, Ministry of Justice, 14th edition, p. 36, available on the official website: <https://www.moj.gov.ae/ar/about-moj/judicial-training-institute/laws-and-legislation.aspx>, last accessed 22/8/2024). This serves as an interpretation of Article 27(1) of the Personal Status Law, which stipulates that: "A marriage shall be officially documented, and it may, under certain circumstances, be proven through lawful evidence."

³³ Articles 24 and 26 of the Kuwaiti Personal Status Law No. 51 of 1984 address the eligibility for marriage and the documentation of marriage. (Kuwaiti Personal Status Law No. 51 of 1984, State of Kuwait, Official Gazette, Issue No. 1793, dated 25 November 1984, available at: <https://www.e.gov.kw/sites/kgoarabic/Forms/QanoonAlAhwalAlMadaniyah.pdf>, last accessed 20/7/2025).

marriage is still valid, as all legal conditions are met and no prohibitions exist. The contract remains a consensual one; however, it cannot be officially registered until the boy reaches seventeen.

Researchers observe that the Kuwaiti legislator has taken a distinct approach regarding capacity to contract marriage by drawing a clear distinction between the capacity to marry and the capacity to formally register the marriage. This distinction leads to practical challenges, as the law does not explicitly declare the invalidity of marriages involving girls under fifteen or boys under seventeen. On the contrary, it clearly affirms that puberty and cognitive competence are the only two conditions required for marriage eligibility. In this regard, the explanatory memorandum to the Kuwaiti Personal Status Law supports this interpretation, stating: (Prohibiting the registration of a marriage does not invalidate the marriage of either party who has reached natural puberty before this age (17) and (15), provided that the marriage fulfills all the legal conditions under this law. In such cases, paternity is also legally established.)³⁴

A significant legal challenge arises in disputes where the existence of a marriage is denied, particularly due to the stringent evidentiary requirements. Under Kuwaiti law, proof of marriage is generally inadmissible unless presented in the form of an official marriage certificate, unless a statutory exception applies. Notable exceptions include cases involving paternity claims or where establishing lineage is a prerequisite for asserting another legal right. Article 92 of the Kuwaiti Personal Status Law provides: (In matters arising after the enactment of this law:

A- claim of marriage shall not be admissible if it is denied, unless supported by an official marriage certificate or if the marriage was previously acknowledged in official records.

Exceptions are permitted where the claim of marriage serves as a basis for a separate claim of lineage, or where establishing lineage is necessary to assert another legal right. In such cases, a ruling affirming lineage shall also be deemed a ruling affirming the marriage.

b- Claim of marriage shall not be admissible if the wife is under fifteen or the husband is under seventeen at the time of submitting the claim.

Based on the above, marriage eligibility in the Kuwaiti law is established solely through puberty and cognitive competent. However, this leads to complications concerning the formal registration of the marriage. The core issue with this approach, distinguishing between the capacity to marry and the capacity to register the marriage, emerges in denial claims unrelated to paternity, such as claims for alimony, dowry, or deferred dower. In such cases, the rights of a married girl seeking to assert her entitlements may be effectively dismissed, as the court will not consider the claim unless the marriage is officially registered.

³⁴ Khulood Badr Ghsab Al-Zamanan, "Conditions of the Marriage Contract in Islamic Jurisprudence and the Choices of the Kuwaiti Personal Status Law—with Reference to Some Other Laws," *Journal of the Faculty of Sharia and Law in Tanta* 4, no. 32 (2017): 1440–517.

3. Qatari Law³⁵

Article (14) addresses the legal capacity to marry, stating that “marriage contracts are subject to sanity and maturity of both parties.” Thus, any marriage that fulfills its fundamental elements and validity conditions is considered valid. However, for the marriage to be officially registered with the relevant authorities, the girl must be at least sixteen years old, and the boy eighteen. If either party is younger, registration requires the guardian’s consent, judicial authorization, and the mutual consent of both parties.³⁶ Article (17) of the same law provides:

Males are not allowed to enter into marriage contracts before the age of eighteen (18). Females are not allowed to enter into marriage contracts before the age of sixteen (16). All marriages of males and females over the age of eighteen (18) and sixteen (16) respectively shall only be allowed after the approval of the guardian, verification of the consent from both parties to the contract and the permission of a competent judge.

Therefore, registration serves as a means of legal proof rather than a validity condition. If a mentally sound, pubescent boy marries before reaching eighteen, or a girl before reaching sixteen, the marriage is still valid and carries its legal effects.³⁷ Here, the Qatari legislator takes a less stringent stance on marriage proof than the Kuwaiti Law. The Kuwaiti law requires proof of marriage exclusively through an officially registered contract issued by the relevant authorities, permitting exceptions only in specifically stipulated cases. In contrast, the Qatari Law grants the judge discretionary authority to accept alternative forms of proof. Article (10) of the Family Law states that marriage shall be established by a formal contract in accordance with the law, as an exception, it may be proved by other evidence as may be decided by the judge. The Qatari Court of Cassation ruled that According to Article (10) of Family Law No. 22 of 2006, that marriage shall be established by a formal contract in accordance with the law, as an exception, it may be proved by other evidence as may be decided by the judge.

³⁵ The eligibility for marriage under Qatari legislation is determined by the Family Law No. 22 of 2006. (Qatari Family Law No. 22 of 2006, State of Qatar, Official Gazette, Issue No. 10, dated 10 October 2006. Available at: <https://www.almeezan.qa/LawView.aspx?LawID=2558>, last accessed 25/7/2025).

³⁶ Social and Economic Survey Research Institute, *Qatari Women Survey 2011: Marriage and Fertility Patterns* (Doha: Qatar University, 2013), 9, https://www.qu.edu.qa/SiteImages/static_file/qu/SESRI/2011_QWS_Marriage_Fertility_Arabic_FINAL%5B73%5D.pdf.

³⁷ In this regard, the Jordanian Court of Cassation (Criminal Judgments), in Appeal No. 541 of Judicial Year 1999, p. 1220, ruled: “Marriage in Islamic Sharia is concluded upon the mere conjunction of the offer (*ijab*) made by one contracting party with the acceptance (*qabul*) expressed by the other. Since the contract was witnessed by two individuals who signed it, and it was executed in three copies on three separate forms, the contract in this manner is validly and effectively concluded between the parties. Consequently, the complainant becomes lawful (*halāl*) to the defendant, and his intercourse with her constitutes the act of a husband with his wife. The public announcement, registration, and documentation of the marriage are not essential pillars for its conclusion but serve rather regulatory purposes, the documentation of contracts, and the safeguarding of interests. Therefore, the statement of the Criminal Court that the contract was fictitious, and its conclusion that the defendant’s acts amounted to the felony of rape by fraud, is untenable.” See Muhammad Abdul Hadi Abd Al-Sattar and Tareq Jum’ah Al-Sayyid Rashid, “Al-Wajiz Fī Sharḥ,” *Qatari Family Law*, no. 22 (2006).

Furthermore, Article (267) of the Civil and Commercial Procedure Law states that “testimony of parents against their children shall not be accepted. Furthermore, testimony of children against their parents shall not be accepted. Testimony of one spouse against the other shall also not be accepted even after the end of their marriage.” Article (269) adds that “testimony by hearing shall only be accepted in the following cases: 2- Kinship.”

In summary, these provisions indicate that the legislator has allowed the judge, in certain cases at their discretion, to rely on witness testimony to establish a marriage. The law does not bar relatives from testifying for or against one another, except in previously stated cases, which are spouse to one another, descendant to ascendant, and vice versa. The judge has full discretion to weigh the credibility of witness testimony, and no higher authority may override their assessment unless it clearly deviates from the evidence’s intended meaning. The judge may choose to rely on part of the testimony and disregard the rest.

In the case at hand, the appealed judgment upheld the ruling that affirmed the marital relationship between the appellant and the respondent and recognized the child's paternity, based on the respondent’s witnesses. Their testimony supported the ruling's conclusion, and the fact that some witnesses were relatives of the respondent does not invalidate it, as they were not ascendants or descendants. The fact that the testimony was hearsay does not make it inadmissible, since hearsay is accepted in matters of paternity. Thus, the objection to the ruling is essentially a disagreement with the trial court’s authority to assess evidence, an issue that cannot be raised before the Court of Cassation, and is therefore inadmissible. In this context, formality is merely a means of proof, not a condition for marriage contract validity. Article 9 of the Qatari Family Law defines marriage as “a legitimate contract between a man and woman on the basis of sustainability, and its aim is cohabitation and securing chastity.³⁸ It is therefore a consensual contract, not a formal one. The requirement for official registration exists for administrative, organizational, and protective purposes. Accordingly, under Qatari law, the legal capacity to contract marriage is based solely on puberty and cognitive competence, while the ages of eighteen for males and sixteen for females apply only to the official registration of the marriage, i.e., a procedural formality, not a fundamental element of the marriage contract itself.

4. Saudi Legislation³⁹

To begin with, and before delving into the issue of legal age of marriage under the Saudi legal system, it is important to clarify that the marriage contract across Gulf legal systems is a consensual contract, not a formal one. In other words, it is

³⁸ Al-Sattar and Tareq Jum’ah Al-Sayyid Rashid, “Al-Wajiz Fī Sharḥ.”

³⁹ Saudi Personal Status Law, Royal Decree No. (M/73) of 19/9/1443 AH (April 22, 2022), Official Gazette, no. 4968 (26/9/1443 AH / April 28, 2022). Al-Sattar and Tareq Jum’ah Al-Sayyid Rashid, “Al-Wajiz Fī Sharḥ.”

concluded through mutual offer and acceptance, and formal registration is not a fundamental element of the contract, which is the general rule, not an exception.

What some legal systems, such as those of Qatar, Kuwait, and Saudi Arabia that will be discussed shortly, have introduced regarding mandatory registration of the marriage contract and the requirement that the parties seeking registration meet certain eligibility criteria is merely an administrative procedure. It does not change the essential nature of the marriage contract from consensual to a formal one. Article (9) of the Saudi Personal Status addresses marriage eligibility, stating:

The marriage contract of a person under the age of 18 may not be registered. However, the court may authorize the marriage of a person under such age if the person has reached the age of puberty and the marriage is in his or her interest. The Regulations of this Law shall set forth relevant rules and procedures.

At first glance, the text suggests that a person under eighteen lacks legal capacity to marry unless they obtain prior approval from the court, which must be convinced of the marriage's benefit. However, this interpretation is not entirely accurate. A subsequent clause clarifies that any interested party may request that the marriage be registered. Thus, if a person who has reached puberty and is mentally competent marries below the age of eighteen without prior court approval, the marriage is still valid if its fundamental elements and legal conditions are met. In such cases, registration can later be requested and processed by the competent authority. This is confirmed by Article (8\2), which provides that: "A party with interest may request the establishment of an unregistered marriage contract."

5. Bahraini Legislation⁴⁰

The Bahraini legislator did not explicitly address the legal age of marriage for boys, whereas for girls, it stipulated that a girl may not be married before the age of sixteen without court approval. Article (20) of the Family Law No. 19 of 2017 states:

A girl under the age of sixteen years old (Georgian calendar) may not be married off except with the permission of the Sharia court after verifying the appropriateness of the marriage.

However, the Bahraini legislation faces the same criticism directed at the Saudi, Qatari, Kuwaiti, and Emirati laws. Article (18) states: "The marriage shall be officially notarized. A non-notarized marriage may be proven by one of Sharia methods of proof." This means that if the legislator allows marriage to be registered, then any interested party may request such registration. The validity of the marriage contract is not affected by the absence of prior court approval. In our view, the conclusion to be drawn from all these legislations is that setting a specific legal age of marriage has little impact, for two reasons:

⁴⁰ Kingdom of Bahrain, Bahraini Family Law No. (19) of 2017, Official Gazette, no. 3383, July 3, 2017, <https://www.lloc.gov.bh/Legislation/HTM/K1917> (accessed August 1, 2025).

First, marriage contracts are governed by Islamic Sharia, which defines their fundamental elements, validity conditions, and legal consequences. Among these, court approval for the boy or girl is not required, only the approval of the girl's guardian is necessary, as the hadith "there is no marriage without a guardian."⁴¹ The guardian may not act without the girl's consent, as explained in another hadith "a previously-married woman should not be married until she is consulted, and a virgin should not be married until her consult is sought, and her consent is her silence."⁴²

Based on the above, there is nothing preventing governments from introducing legislation aimed at protecting the interests of boys and girls and preventing exploitation or misconduct by guardians. Countries are free to implement precautionary measures, provided these are accompanied by guarantees to ensure their effective enforcement, which leads us to the second critique of Gulf legislations. Second, most of these legislations fail to impose any real penalties on those who violate the prescribed age of marriage. As a result, practical experience and field statistics reveal that underage marriages, both of boys and girls, continue to take place in spite of the law.

Among these legislations, only Kuwaiti law refuses to recognize unregistered marriages involving individuals under the legal age for purposes other than establishing lineage. This, in our view, causes particular harm to women as it mishandles the role of registration by treating it as the sole means of proof. As a result, a married woman whose union was not officially registered may be denied her rights to alimony, dowry, delayed dower, and more. Courts may even refuse to hear her case altogether, whether related to alimony, domestic violence, abandonment, inheritance, or other matters. And if registration is not a fundamental element of a marriage contract, nor a validity condition, then the contract remains consensual, not formal. Therefore, evidence of it should be accepted in accordance with its circumstances, fundamental elements, and validity conditions.

Conclusion

This study has examined the legal age of marriage for women under the Omani law, through a comparative analysis with other Gulf legislations and international recommendations, while also grounding the discussion in Islamic jurisprudential principles. The study aimed to assess the extent to which the Omani legislation aligns with Islamic Sharia on one hand, and with international standards concerning women's rights on the other, highlighting both legislative and practical challenges associated with the issue.

The Omani law sets the minimum age of marriage at eighteen, a determination not driven by compliance with the CEDAW Convention, but rather rooted in well-established jurisprudence, such as those of Ibn Abbas and Abu

⁴¹ Ibn Qudāmah Al-Maqdisī, *Al-Mughnī Fī Fiqh al-Imām Aḥmad Ibn Ḥanbal*. Edited by 'Abd Allāh Ibn 'Abd al-Muḥsin al-Turkī. 3rd Ed. . (Dār 'Ālam al-Kutub, 1997).

⁴² Muḥammad ibn Ismā'īl Al-Bukhārī, *Ṣaḥīḥ Al-Bukhārī* (n.d.).

Hanifa, and consistent with the objectives of Sharia in ensuring consent and preventing the harms associated with underage marriage. Provisions of the Omani Personal Status Law, particularly Articles (7) and (10), emphasize the necessity of reaching the age of legal capacity, while also allowing for judicial exceptions where a legitimate interest is present. This reflects a legislatively sound flexibility governed by Sharia principles. Judicial practice in the Sultanate of Oman demonstrates a commitment to recognizing women's legal capacity and requiring full consent, without compromising on religious foundations. This is affirmed by Supreme Court rulings in cases concerning capacity to contract marriage.

A comparison with other Gulf legislations reveals disparities in regulating the legal age of marriage. Some countries impose age thresholds solely for registration purposes rather than as a condition of contract validity, which can lead to negative consequences, especially when in the lack of official registration. It was observed that some Gulf laws lack effective deterrent provisions against violations of the prescribed age of marriage, thereby weakening legal protections for underage girls and threatening women's rights.

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