
Islamic Law in Afghanistan: Islamization or Arabisation?

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Submitted 14 August 2025
In Review December 2025
Accepted January 2026
Published 28 February 2026

Abstract

Afghanistan's legal history is defined by persistent legal pluralism in which Hanafi Islamic law has continuously coexisted with customary norms (adat/Pashtunwali) and state legislation, rather than being replaced by a single imported legal model. This article examines whether the evolution of Islamic law in Afghanistan is best understood as an endogenous process of Islamization or as a form of Arabisation driven by external doctrinal, institutional, and political influences. It argues that Afghan legal development cannot be reduced to passive reception of Arab legal culture. Employing historical and doctrinal analysis, the article traces the embedding of Islam within Afghan legal culture, demonstrating that the authority of Sharia has long been grounded in local religious beliefs, customary practices, and the social legitimacy of religious elites. Simultaneously, Afghan Islamic legal thought has selectively engaged with transregional intellectual currents circulating across the Ottoman, Indian, and broader Pan-Islamic worlds. The article then examines critical moments of codification and constitutional development—from the Islamic legal modernism of the 1923 Constitution to subsequent constitutional regimes and contemporary Taliban governance to show how Afghan elites appropriated transnational Islamic discourses without fully displacing indigenous jurisprudential traditions. By analyzing tensions between Hanafi and Hanbali interpretations, Sufi and Salafi or Wahhabi orientations, and the dynamic interaction between Sharia and adat, the article contends that Afghanistan's legal trajectory reflects a negotiated and locally grounded Islamization process. Arabised doctrinal imports are filtered, fragmented, and frequently subordinated to Afghan socio-ethnic realities. Conceptually, the article reframes Afghanistan as an active node of "juridical Pan-Islam," highlighting Afghan agency in shaping Islamic law for state-building, modernization, and political authority.

Keywords

Pashtunwali, Islamic Law, Islamization of Secular Law, Afghanistan Culture, Arabisation

Abstract

Sejarah hukum Afghanistan ditandai oleh pluralisme hukum berkelanjutan, di mana hukum Islam Hanafi hidup berdampingan dengan norma adat (Pashtunwali) dan perundang-undangan negara. Artikel ini menganalisis apakah perkembangan hukum Islam di Afghanistan merupakan proses Islamisasi endogen (dari dalam) atau Arabisasi akibat pengaruh eksternal. Dengan analisis historis dan doktrinal, penelitian ini menunjukkan bahwa otoritas Syariat berakar kuat pada kepercayaan lokal, praktik adat, dan legitimasi sosial elit agama, alih-alih sekadar penerimaan pasif atas budaya hukum Arab. Melalui penelusuran kodifikasi dan perkembangan konstitusional—from era modernisme hukum 1923 hingga pemerintahan Taliban saat ini—terlihat bagaimana elit Afghanistan secara selektif mengadopsi wacana Islam transnasional tanpa menyingkirkan tradisi fikih lokal. Artikel ini menyimpulkan bahwa dinamika hukum Afghanistan mencerminkan proses Islamisasi yang dinegosiasikan secara lokal. Impor doktrin berorientasi Arab tetap disaring dan disesuaikan dengan realitas sosio-etnis Afghanistan. Secara konseptual, Afghanistan

diposisikan sebagai aktor aktif dalam "Pan-Islamisme Yuridis" yang memanfaatkan hukum Islam untuk pembangunan negara dan legitimasi politik.

Keywords Pashtunwali, Hukum Islam, Islamisasi Hukum Sekuler, Budaya Afghanistan Culture, Arabisasi



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The abstract translated to Indonesia using Gemini AI and reviewed by editorial staf (Amirul Aziz).

Introduction

Afghanistan's legal history presents a compelling case of enduring legal pluralism. For centuries, Hanafi Islamic jurisprudence has functioned alongside customary normative systems such as *adat* and *Pashtunwali*, as well as successive layers of dynastic, monarchical, republican, socialist, and Islamist state legislation. Rather than witnessing the replacement of indigenous norms by a single hegemonic legal order—whether colonial, secular, or Arab-Islamic—Afghanistan has historically sustained a dynamic interaction among multiple sources of authority.¹ Islamic law in this context has neither operated in isolation nor existed as a uniform doctrinal transplant. Instead, it has been embedded within social structures, mediated by religious elites, and continuously negotiated within local socio-ethnic realities.

This complexity raises a foundational analytical question: should the evolution of Islamic law in Afghanistan be conceptualized as an endogenous process of Islamization rooted in local society, or as a form of Arabisation driven primarily by external doctrinal, institutional, and political influences? The distinction is not merely semantic. "Islamization" suggests a gradual internalization and localization of Islamic norms within Afghan social and political life. "Arabisation," by contrast, implies the predominance of imported legal doctrines and ideological currents originating in Arab centers of authority, potentially displacing local jurisprudential traditions.² The Afghan

¹ Magnus Marsden, "Beyond Long-Distance Nationalism: Khorasan and the Re-Imagination of Afghanistan," *Comparative Studies in Society and History* 67, no. 1 (2025): 90–115, <https://doi.org/https://doi.org/10.1017/S0010417524000318>.

² Faiz Ahmed, "Shari'a, Custom, and Statutory Law: Comparing State Approaches to Islamic Jurisprudence, Tribal Autonomy, and Legal Development in Afghanistan and Pakistan," *Global Jurist* 7, no. 1 (2007), <https://doi.org/10.2202/1934-2640.1222>.

case challenges both simplistic narratives of passive reception and reductionist claims of complete juridical autonomy.

Existing scholarship on Afghan law has often approached the subject through fragmented lenses: colonial geopolitics, constitutional reform, Taliban governance, or the global “war on terror.” While these studies provide important insights, they frequently overlook the *longue durée* interaction between Sharia, customary law, and state-building.³ Moreover, analyses that frame contemporary Afghan legal transformations as mere extensions of Saudi-influenced Salafism or transnational jihadism risk obscuring the deeper historical embedding of Hanafi jurisprudence and the enduring authority of customary mediation.

This article seeks to bridge that gap by situating Afghan Islamic law within both its local socio-religious context and broader transregional intellectual networks. Employing historical and doctrinal analysis, it traces how Islamic legal authority was institutionalized through religious courts, codified in constitutional frameworks, and negotiated through customary dispute-resolution mechanisms. Particular attention is given to key moments of codification and reform, including the Islamic legal modernism reflected in the 1923 Constitution under Amanullah Khan, subsequent constitutional settlements, and the evolving legal frameworks under contemporary Taliban governance.⁴ These episodes reveal patterns of selective appropriation: Afghan elites engaged with Ottoman constitutionalism, Indo-Muslim reformist thought, and wider Pan-Islamic discourses, yet consistently filtered these influences through local socio-political considerations.

The article further examines doctrinal and sociological tensions within Afghan Islamic thought, including the interplay between Hanafi and Hanbali interpretations, Sufi devotional traditions and Salafi or Wahhabi reformism, and the enduring negotiation between Sharia and *adat*. Rather than demonstrating straightforward Arabisation, these tensions illustrate a process of juridical adaptation in which external influences are fragmented, reinterpreted, and subordinated to Afghan socio-ethnic configurations.⁵ Even where Arabized doctrinal language appears dominant, its practical application

³ E. J. Powell and J. Paldino, “The Taliban, Afghan Constitutionalism and Modern Islamic Law States: Renegotiating the Balance of Religious and Secular Law,” *Global Constitutionalism* 14, no. 3 (2025): 596–623, <https://doi.org/10.1017/S2045381725000048>.

⁴ F. Ahmed, “IN THE NAME OF A LAW: ISLAMIC LEGAL MODERNISM AND THE MAKING OF AFGHANISTAN’S 1923 CONSTITUTION,” *International Journal of Middle East Studies* 48, no. 4 (2016): 655–77, <https://doi.org/10.1017/S0020743816000817>.

⁵ T. J. Barfield, “SHARI’A IN AFGHANISTAN,” *The Review of Faith & International Affairs* 10, no. 4 (2012): 45–52, <https://doi.org/10.1080/15570274.2012.739886>; A. Suhrke and K. Borchgrevink, “Negotiating Justice Sector Reform in Afghanistan,” *Crime, Law and Social Change* 51, no. 2 (2009): 211–30, <https://doi.org/10.1007/s10611-008-9154-0>.

has remained contingent upon tribal authority, regional power structures, and the legitimacy of religious leadership.

Conceptually, this study reframes Afghanistan not as a peripheral recipient of Islamic legal culture but as an active node within what may be termed “juridical Pan-Islam.” Afghan scholars, rulers, and religious elites have historically exercised agency in appropriating, reshaping, and deploying Islamic law as a resource for state-building, modernization, resistance, and political authority. The development of Islamic law in Afghanistan, therefore, is best understood as a negotiated and locally grounded Islamization process—one that engages transregional Islamic currents without surrendering juridical sovereignty.

To deepen the analytical distinction introduced above, it is necessary to clarify what is meant by “Islamization” and “Arabisation” in the Afghan context. Islamization, in this article, refers to the gradual embedding of Islamic norms, institutions, and moral authority within Afghan social and political structures through processes of localization, negotiation, and adaptation. It presumes that Islamic law acquires legitimacy not merely through textual authority but through social internalization—via ulama networks, judicial practice, customary mediation, and public acceptance. Arabisation, by contrast, denotes the predominance of legal doctrines, institutional models, and ideological orientations derived primarily from Arab centers of religious authority, particularly when such imports marginalize local jurisprudential traditions or customary norms.

Applied to Afghanistan, this distinction reveals a more complex reality than either concept alone can capture. Historically, Islam entered Afghan territories not as a uniform juridical system but as a religious and cultural framework gradually harmonized with preexisting tribal codes and regional practices. The dominance of the Hanafi school—long associated with flexibility and juristic reasoning (*ra’y*)—facilitated this accommodation. Afghan ulama incorporated Sharia into dispute resolution without abolishing adat; instead, they frequently mediated between textual law and tribal expectations.⁶ This pattern suggests an Islamization process grounded in social negotiation rather than doctrinal imposition.

At the same time, moments of intensified transregional engagement have periodically introduced currents that resemble Arabisation. The circulation of reformist ideas from the Arabian Peninsula, particularly during the twentieth century, and later the influx of Salafi and Wahhabi influences

⁶ Geoffrey Swenson, “Why U.S. Efforts to Promote the Rule of Law in Afghanistan Failed,” *International Security* 42, no. 1 (2017): 114–51, https://doi.org/10.1162/ISEC_a_00285.

during the anti-Soviet jihad, brought renewed emphasis on scriptural literalism and critiques of customary practices.⁷ Under Taliban governance—especially in its first iteration (1996–2001)—observers often identified elements of Hanbali-oriented or Saudi-influenced legal reasoning. Yet even in these periods, implementation remained mediated by Afghan socio-ethnic structures.⁸ Tribal authority, local power brokers, and longstanding Hanafi judicial norms continued to shape practical outcomes, limiting the wholesale displacement of indigenous jurisprudence.

The 1923 Constitution under Amanullah Khan offers an earlier illustration of this negotiated dynamic. While influenced by Ottoman constitutionalism and broader Islamic modernist currents, it did not abandon Hanafi jurisprudence; rather, it codified Islam as a source of legitimacy within a modern state framework. Subsequent constitutions similarly affirmed Islam as the state religion while balancing Sharia with statutory legislation. These reforms demonstrate selective appropriation rather than doctrinal dependency. Afghan elites engaged with global Islamic and modernist discourses strategically, using them to reinforce sovereignty and modernization efforts rather than to replicate Arab legal models uncritically.

Thus, what may appear as Arabisation at the level of rhetoric or symbolic affiliation often functions, in practice, as a filtered and localized adaptation. Afghan legal development exhibits a pattern of incorporation without erasure: external doctrinal currents are absorbed into a preexisting Hanafi–customary matrix and reshaped to align with local political and social realities. The persistence of adat in rural adjudication, the authority of Sufi networks despite reformist critique, and the enduring centrality of Hanafi jurisprudence collectively indicate that Afghanistan’s legal transformation is better described as negotiated Islamization than as straightforward Arabisation.

Method

This study employs a qualitative, interpretive research design grounded in historical–doctrinal analysis and informed by symbolic interaction theory to examine whether the evolution of Islamic law in Afghanistan is better understood as Islamization or Arabisation. Drawing from the symbolic interactionist tradition of George Herbert Mead and Herbert Blumer, the

⁷ Vern Liebl, “Pushtuns, Tribalism, Leadership, Islam and Taliban: A Short View: REPORT FROM THE FIELD,” *Small Wars & Insurgencies* 18, no. 3 (2007): 492–510, <https://doi.org/10.1080/09592310701674481>.

⁸ Kaneshka Nawabi, “Afghan Generational Radicalization,” *Journal of Strategic Security* 18, no. 2 (2025): 19–31, <https://doi.org/10.5038/1944-0472.18.2.2395>.

research conceptualizes Islamic law not as a static doctrinal system but as a field of socially constructed meanings shaped through interaction among ulama, political elites, tribal authorities, and broader communities. Within this framework, Islamization is defined as the process by which Islamic legal symbols—such as Sharia, Hanafi jurisprudence, and religious authority—are internalized and legitimized within Afghan socio-cultural contexts, whereas Arabisation is understood as the adoption and projection of Arab-associated doctrinal symbols and institutional models as markers of authenticity.⁹

The study relies on qualitative document analysis of Afghan constitutional texts (1923, 1964, 2004, and relevant Taliban decrees), statutory provisions, religious pronouncements, and secondary socio-legal scholarship.¹⁰ These sources are examined through thematic and interpretive coding to identify symbolic references, discursive framings of Sharia and adat, markers of transregional influence, and patterns of localization.¹¹ By tracing key historical moments of codification and reform, the analysis highlights how Afghan legal actors appropriate, reinterpret, and negotiate Islamic authority within both local and transregional contexts, thereby revealing Islamization and Arabisation as interactional and mediated processes rather than mutually exclusive outcomes. We also add some mass media information regarding current situation in Afghanistan.

Finding and Discussion

The broader Middle Eastern experience demonstrates that Islamization has seldom entailed straightforward cultural Arabisation. While Arabic occupies a privileged position as the language of revelation, the institutionalization of Islamic norms across the region has historically unfolded within diverse linguistic, ethnic, and juridical contexts. Ottoman Anatolia, Safavid Persia, and Mughal South Asia each incorporated Islamic law into governance structures without dissolving preexisting legal and administrative traditions. Even in predominantly Arab societies, the application of Sharia has been shaped by local customary practices, state-building imperatives, and socio-political transformations. Thus, Islamization in practice has typically involved processes of localization, adaptation, and negotiation rather than uniform doctrinal transplantation.

⁹ Swenson, “Why U.S. Efforts to Promote the Rule of Law in Afghanistan Failed”; Liebl, “Pushtuns, Tribalism, Leadership, Islam and Taliban: A Short View: REPORT FROM THE FIELD.”

¹⁰ Powell and Paldino, “The Taliban, Afghan Constitutionalism and Modern Islamic Law States: Renegotiating the Balance of Religious and Secular Law.”

¹¹ Ivan Safranchuk and Rustam Makhmudov, “Contemporary Islamic Radicalism in Central Asia: Genesis and History of Development,” *Politics and Religion Journal* 18, no. 2 (2024): 243–67, <https://doi.org/10.54561/prj1802243s>.

The twentieth century further illustrates this complexity. Pan-Islamic and pan-Arab movements often overlapped rhetorically, yet their political trajectories diverged significantly. Pan-Arab nationalism, particularly during the Nasserist era, framed Arab unity in linguistic and cultural terms, sometimes subordinating Islamic identity to secular state ideology. Conversely, various strands of political Islam—from the Muslim Brotherhood to later reformist and revivalist movements—sought to reassert Islamic law as a normative framework for governance. These projects intersected but did not produce a monolithic Arab-Islamic legal order.¹² Instead, they generated plural and often competing articulations of Islamic authority, reflecting national particularities and institutional constraints. In the contemporary period, postsecular pluralism across the Middle East reveals ongoing negotiations between constitutionalism, Sharia references, and global legal norms, again underscoring the localized character of Islamization.

Situated within this wider regional landscape, Afghanistan emerges not as a peripheral recipient of Arab legal culture but as a significant “juridical Pan-Islam” node. Historically positioned between the Ottoman sphere, the Indo-Muslim intellectual world, and Central Asian networks, Afghanistan mediated legal and theological currents across regions. Afghan scholars engaged with reformist debates circulating from Cairo, Istanbul, and Deoband, yet these engagements did not displace the entrenched Hanafi jurisprudential tradition.¹³ Instead, external doctrines were filtered through Afghanistan’s longstanding legal pluralism, in which Sharia coexisted with adat and tribal adjudication mechanisms.

This mediating role is particularly evident in moments of constitutional and institutional reform. Afghan elites appropriated elements of Ottoman constitutionalism and later engaged with broader Islamic revivalist discourses, but they consistently retained Hanafi supremacy as the doctrinal foundation of state law. Even where Salafi or Wahhabi influences entered the legal discourse—especially during and after the anti-Soviet jihad—their practical impact remained conditioned by tribal authority structures, Sufi traditions, and the socio-ethnic fabric of Afghan society.¹⁴ What may appear externally as Arabisation often functioned internally as selective borrowing,

¹² Naveed S. Sheikh, “Pax Wahhabica Revisited: Saudi Arabia’s Imperial Theopolitics from Hegemony to Hybridity,” *Religions* 16, no. 10 (2025): 1286, <https://doi.org/10.3390/rel16101286>.

¹³ Nurfadzilah Yahaya, “Juridical Pan-Islam at the Height of Empire,” *Comparative Studies of South Asia, Africa and the Middle East* 41, no. 2 (2021): 253–57, <https://doi.org/10.1215/1089201X-9127167>.

¹⁴ Ahmed, “Shari’a, Custom, and Statutory Law: Comparing State Approaches to Islamic Jurisprudence, Tribal Autonomy, and Legal Development in Afghanistan and Pakistan”; Ahmed, “IN THE NAME OF A LAW: ISLAMIC LEGAL MODERNISM AND THE MAKING OF AFGHANISTAN’S 1923 CONSTITUTION”; Suhrke and Borchgrevink, “Negotiating Justice Sector Reform in Afghanistan.”

symbolically invoking transregional Islamic authenticity while preserving local jurisprudential continuity.

Contestation of madhhab in Afghanistan

Afghanistan's process of Islamization has not been characterized by the uncontested dominance of a single madhhab, but rather by sustained internal contestation among juristic schools, theological orientations, and socio-religious authorities. Although Hanafi jurisprudence historically functioned as the official and socially embedded legal framework—particularly in judicial institutions and state codification—it did not operate in isolation. Instead, it coexisted with Sufi devotional networks, Deobandi reformist influences from South Asia, Shi'i jurisprudence among Hazara communities, and, more recently, Hanbali-oriented and Salafi or Wahhabi currents linked to Arabian intellectual and financial networks.¹⁵

The Hanafi school's long-standing predominance in Afghanistan was anchored not merely in doctrinal preference but in institutional continuity. Courts, legal manuals, and educational curricula consistently privileged Hanafi fiqh, reinforcing its authority as the default legal grammar of Afghan Islam. Its methodological flexibility and accommodation of local custom (*'urf*) facilitated a durable synthesis with *adat* and tribal adjudication practices. However, beginning in the twentieth century—and intensifying during the anti-Soviet jihad—transnational Salafi and Wahhabi influences introduced doctrinal critiques of Hanafi interpretive latitude and Sufi practices such as saint veneration (*ziyarat*) and shrine visitation.¹⁶ These critiques framed themselves as purifications of Islam grounded in scriptural literalism, frequently invoking Hanbali precedents and Arabian reformist scholarship.

Under Taliban governance, these internal frictions have manifested across multiple axes. At the doctrinal level, tensions between Hanafi jurisprudence and Hanbali-influenced interpretations surface in debates over judicial reasoning, evidentiary standards, and public morality regulations. Although the Taliban formally affirm adherence to Hanafi jurisprudence, elements of their enforcement practices and rhetorical alignments have

¹⁵ Suhrke and Borchgrevink, "Negotiating Justice Sector Reform in Afghanistan"; Georgy G. Machitidze, "The Specificity of Afghan Identity in the Context of Globalization," *Vestnik RUDN. International Relations* 24, no. 4 (2024): 508–19, <https://doi.org/10.22363/2313-0660-2024-24-4-508-519>; Ahmed, "Shari'a, Custom, and Statutory Law: Comparing State Approaches to Islamic Jurisprudence, Tribal Autonomy, and Legal Development in Afghanistan and Pakistan."

¹⁶ Sheikh, "Pax Wahhabica Revisited: Saudi Arabia's Imperial Theopolitics from Hegemony to Hybridity"; Madina Bektenova et al., "FORMATION OF ISLAMIC IDENTITY IN KAZAKHSTAN AND THE CENTRAL ASIAN REGION IN CONDITIONS OF RELIGIOUS REVIVAL," *European Journal of Science and Theology* 21, no. 4 (2025): 145–74.

reflected selective engagement with Salafi-inflected legal positions. This duality illustrates symbolic alignment with transnational Islamic authority while maintaining Hanafi legitimacy within Afghan society.

At the theological and devotional level, Sufi–Salafi contestations remain significant. Afghanistan’s long-standing Sufi networks—historically integral to social cohesion and rural religious authority—have faced periodic marginalization by reformist movements critical of what they characterize as innovation (*bid’a*). Yet Sufi institutions and cultural practices have not disappeared; rather, they continue to operate within community structures, demonstrating the resilience of localized religious authority despite doctrinal challenges.¹⁷

Sectarian dynamics further complicate this landscape. Sunni–Shi’i cleavages, particularly involving the Hazara population, introduce additional layers of juridical plurality. While state frameworks have generally privileged Sunni Hanafi jurisprudence, Shi’i communities maintain parallel legal and religious institutions, reinforcing Afghanistan’s plural legal ecology. These sectarian dimensions intersect with ethnic and regional identities, underscoring that legal contestation is inseparable from socio-political realities.

Rise of “cultural Islam” in Afghanistan

Beyond the formal architecture of state law and juristic doctrine, Afghanistan has witnessed the enduring vitality—and recent transformation—of what may be termed “cultural Islam”: the lived, symbolic, and affective dimensions of religion that shape everyday identity, moral reasoning, and collective belonging. Cultural Islam operates not primarily through codified statutes or constitutional provisions, but through ritual practice, poetic expression, communal memory, and embodied norms. In Afghanistan, this sphere has historically functioned as the social matrix within which Sharia acquires legitimacy and meaning.¹⁸

Arabic language and scriptural forms have long connected Afghan Muslims to the wider Islamic ecumene. Qur’anic recitation, devotional litanies, and classical jurisprudential texts provided symbolic entry into a transregional Islamic civilization. Yet these elements were never received in

¹⁷ Annika Schmeding, “Dissolving Gender Difference – Female Teachers, Male Allies and the Creation of Islamic Sufi Authority in Afghanistan,” *Afghanistan* 4, no. 2 (2021): 141–63, <https://doi.org/10.3366/afg.2021.0076>; Annika Schmeding, “Dreaming the Path: Ontological Shifts in a Sufi Order in Afghanistan,” *HAAU: Journal of Ethnographic Theory* 14, no. 1 (2024): 207–21, <https://doi.org/10.1086/730116>.

¹⁸ Ahmed Rashid, *Jihad: The Rise of Militant Islam in Central Asia* (Penguin Publishing Group, 2002), 16–18.

culturally neutral form. They were indigenized through Persian and Pashto literary traditions, Sufi poetry (including the works of Rumi and Khushal Khan Khattak), shrine-centered devotional life, and vernacular pedagogies in village mosques and maktabas. Islamic moral concepts—honor, modesty, hospitality, justice—became intertwined with Pashtunwali and other customary codes, producing a culturally embedded Islam in which doctrinal affiliation and social practice were mutually reinforcing. In the late twentieth century, however, Afghanistan's prolonged conflict, transnational jihad mobilization, and expanding madrasah networks reshaped this cultural terrain. The anti-Soviet jihad drew ideological and financial support from Arab and South Asian actors, introducing reformist currents that emphasized scriptural literalism and purification of belief. These influences did not simply overwrite existing traditions; rather, they interacted with Hanafi–Deobandi educational structures already present in Afghanistan and Pakistan. The result was a layered cultural synthesis in which local devotional forms coexisted uneasily with reformist critiques.¹⁹

Under Taliban rule—both in the 1996–2001 period and after 2021—state-building efforts have sought to formalize aspects of cultural Islam into public normativity. Dress codes, gender segregation policies, media regulation, and moral enforcement mechanisms represent attempts to institutionalize a particular vision of Islamic authenticity. Yet even here, cultural Islam remains hybrid. Taliban discourse frequently invokes Hanafi jurisprudence and Deobandi lineage, while elements of Salafi rhetoric and Arabian symbolism appear in theological framing. Simultaneously, appeals to Afghan nationalism and resistance narratives situate Islamic governance within a distinctly local historical memory of anti-colonial struggle and sovereignty. This hybridity demonstrates that Islamization in Afghanistan operates not solely at the level of legal codification but within the symbolic economy of culture. Islamic idioms are mobilized to articulate national identity, legitimize political authority, and define moral boundaries.²⁰ Arabised textual and ritual forms—such as specific theological terminologies or sartorial markers—are selectively appropriated, yet refracted through Afghan socio-ethnic realities. The invocation of Sharia, for instance, often carries simultaneous references to tribal honor and collective autonomy, illustrating how Islamic signifiers are recontextualized within indigenous frameworks of meaning.

¹⁹ Rashid, *Jihad: The Rise of Militant Islam in Central Asia*, 6–8, 208–10.

²⁰ Abdul Kabier Salehi, *An Inquiry into Taliban Theology: Deobandism with a Pashtunwali Flavor*, AISS-B-2024-007 (Afghan Institute for Strategic Studies (AISS), 2024), 6–8.

Beyond the Islamization–Arabisation Binary: Everyday Negotiation of Islamic Normativity

A key finding of this study is that the Islamization–Arabisation dichotomy, while analytically useful at a macro-discursive level, proves insufficient when examined against the lived realities of Afghan society. The evidence indicates that Islamic normativity in Afghanistan is not simply imposed from above—whether through state codification or transnational doctrinal influence—but is continuously negotiated in everyday institutional and communal settings.²¹ This negotiation unfolds within courts, madrasahs, tribal councils (*jirgas*), mosques, and urban religious associations, where legal principles are interpreted in relation to concrete social disputes, ethical dilemmas, and communal expectations.²²

At the judicial level, Hanafi jurisprudence remains the formal reference point in many adjudicatory contexts. However, its application frequently involves pragmatic accommodation with customary norms (*adat*) and local expectations of justice. Judges and religious scholars often balance textual doctrine with social reconciliation, reflecting a jurisprudential culture shaped as much by communal legitimacy as by doctrinal orthodoxy. This demonstrates that Islamization operates through contextual reasoning rather than rigid scriptural imposition. Within madrasah networks, particularly those influenced by Deobandi traditions, curricular continuity reinforces Hanafi legal identity. Yet exposure to Salafi-oriented texts, digital sermons, and transnational scholarship introduces interpretive tensions. Students and teachers engage with these materials selectively, appropriating certain theological emphases while maintaining inherited jurisprudential frameworks.²³ The result is not wholesale Arabisation, but discursive layering and internal debate within Islamic pedagogy itself.

Similarly, *jirgas* and tribal mediation forums illustrate the persistence of legal pluralism. While decisions are frequently framed in Islamic moral language, they often integrate Pashtunwali principles such as honor, mediation, and communal harmony. Here, Sharia functions less as an externally codified system and more as a legitimizing symbolic vocabulary through which customary resolution gains moral authority. This hybrid

²¹ Louise Richardson, *The Roots of Terrorism*, vol. 1, ed. Louise Richardson, Democracy and Terrorism (Routledge, 2006), 146–47, 166–67.

²² Ali Wardak, “Building a Post-War Justice System in Afghanistan,” *Crime, Law and Social Change* 41, no. 4 (2004): 319–41, <https://doi.org/10.1023/B:CRIS.0000025765.73021.fa>.

²³ Haroun Rahimi, “Law and Justice in the Islamic Emirate of Afghanistan: A Survey of Users of Legal Services,” *Yearbook of Islamic and Middle Eastern Law Online* 24, no. 1 (2025): 139–46, <https://doi.org/10.1163/22112987-20240079>.

practice underscores that Islamic law's authority is relational and socially embedded. Urban religious institutions further complicate the picture. Preachers and scholars may draw upon Gulf-based theological currents, yet their sermons are adapted to local concerns—economic hardship, displacement, education, and gender relations—reflecting Afghan socio-political realities.²⁴ The circulation of Arabised symbols does not automatically displace indigenous frameworks; instead, these symbols are reinterpreted within existing moral ecologies.

Generational Transformation and the Reconfiguration of Cultural Islam

A further significant finding of this study concerns the generational transformation of Islamic identity among contemporary Afghan youth. Unlike earlier generations whose religious formation was primarily rooted in Sufi lodges (*khanaqahs*), village-based madrasahs, and locally embedded scholarly networks, today's youth have come of age amid prolonged conflict, mass migration, urbanization, and unprecedented exposure to digital media and transnational religious discourses. These structural changes have reshaped not only access to religious knowledge but also the modes through which Islamic authority is perceived and internalized. The research indicates that Islamic socialization among younger Afghans increasingly occurs within hybrid informational environments.²⁵ Digital sermons, online fatwas, YouTube lectures, Telegram channels, and social media platforms provide immediate access to scholars based in the Gulf, South Asia, and beyond. This has diversified the symbolic repertoire available to young Muslims, enabling engagement with Salafi-oriented literalism, global jihadist narratives, reformist ethics, and revivalist aesthetics alongside inherited Hanafi-Deobandi teachings. Religious authority is thus no longer confined to the local alim or village imam; it is mediated through algorithmic visibility and transnational networks.

However, this shift does not amount to a straightforward displacement of traditional frameworks. Instead, the findings suggest a layered process of reinterpretation. Many young Afghans continue to operate within Hanafi-adat moral structures shaped by family expectations, tribal affiliations, and communal practices. Digital religious content is often filtered through these

²⁴ Haroun Rahimi and Mahir Hazim, "International Law and the Taliban's Legal Status: Emerging Recognition Criteria?," *Washington International Law Journal* 32, no. 3 (2023): 228–59; Haroun Rahimi, "How the Taliban Are Institutionalizing the Propagation of Virtue and Enjoinment of Vice in Afghanistan," *Afghanistan* 7, no. supplement (2024): 117–41, <https://doi.org/10.3366/afg.2024.0146>.

²⁵ Liebl, "Pushtuns, Tribalism, Leadership, Islam and Taliban: A Short View: REPORT FROM THE FIELD"; Nawabi, "Afghan Generational Radicalization"; Machitidze, "The Specificity of Afghan Identity in the Context of Globalization."

inherited norms. For example, while certain online discourses may challenge shrine visitation or customary mediation practices, such critiques are variably adopted, debated, or softened in accordance with local social realities.²⁶ The result is neither full Arabisation nor static traditionalism, but a dynamic recomposition of cultural Islam.

Migration has also played a formative role. Refugee experiences in Pakistan, Iran, and Gulf states exposed Afghan youth to diverse Islamic pedagogies and political theologies. Upon return, these experiences contributed to new interpretations of modesty, governance, gender roles, and public piety. In urban centers especially, visible markers of Islamic identity—dress styles, linguistic choices, ritual performance—often reflect this transnational circulation. Yet these markers coexist with strong national and ethnic identities, reinforcing the localized embedding of global Islamic symbols. This generational transformation reveals that Islamization in Afghanistan is not solely a state-driven or clerically managed process; it is also mediated by youth agency within digital and migratory contexts.²⁷ Contemporary Afghan cultural Islam is increasingly shaped by interactions between algorithmic authority, inherited Hanafi jurisprudence, customary ethics, and nationalist narratives. Consequently, the evolution of Islamic law and identity in Afghanistan must be understood as partially generational—reflecting new epistemic pathways through which religious meaning is accessed, contested, and rearticulated.

Afghanistan within the Persianate and South-Central Asian Islamic Sphere

A central finding of this study is that Afghanistan's Islamization cannot be adequately understood through an exclusively Arab-centric analytical lens. Rather, the Afghan case is more coherently situated within a broader Persianate and South-Central Asian Islamic sphere, where Hanafi jurisprudence, Sufi networks, Persian literary traditions, and localized customary norms have historically structured Islamic authority. This regional embedding challenges narratives that frame Afghan legal development primarily as derivative of Arab doctrinal currents. Historically, Afghanistan's intellectual and legal exchanges have been deeply intertwined with centers of learning in Bukhara, Herat, Delhi, Lucknow, Qom, and Deoband. The

²⁶ Rahimi, "Law and Justice in the Islamic Emirate of Afghanistan: A Survey of Users of Legal Services"; Schmeding, "Dreaming the Path: Ontological Shifts in a Sufi Order in Afghanistan"; Schmeding, "Dissolving Gender Difference – Female Teachers, Male Allies and the Creation of Islamic Sufi Authority in Afghanistan."

²⁷ Nawabi, "Afghan Generational Radicalization"; Suhrke and Borchgrevink, "Negotiating Justice Sector Reform in Afghanistan."

dominance of Hanafi jurisprudence in Afghanistan reflects this eastern Islamic ecumene rather than Arabian Hanbali traditions.²⁸ Similarly, the strong imprint of Persian language and literature in religious scholarship situates Afghan Islam within a Persianate cosmopolis in which legal, mystical, and ethical discourses circulated across what are today Iran, Central Asia, and the Indian subcontinent. This shared civilizational grammar shaped how Islamic norms were interpreted and institutionalized long before the intensification of twentieth-century Arab political and theological influence.

Comparative observation further reinforces this regional pattern. In Pakistan, for instance, Hanafi–Deobandi traditions coexist with customary *riwaj* and tribal adjudication, generating legal pluralism comparable to Afghanistan’s Sharia–adat dynamic. In Iran, despite the predominance of Shi’i jurisprudence, Islamic law similarly interacts with strong national, linguistic, and historical identities, illustrating how transnational Islamic concepts are refracted through local state-building projects. In the Central Asian republics, post-Soviet Islamic revival has also unfolded within Hanafi frameworks shaped by Soviet legacies and local customary norms. Across these contexts, Islamic discourses are neither uniformly Arabised nor purely indigenous; they are mediated through regionally specific historical trajectories. Afghanistan’s engagement with transnational Islamic movements—including Salafi and Wahhabi currents—must therefore be interpreted within this broader matrix. Arab doctrinal influences entered a legal culture already structured by Hanafi methodology and Persianate intellectual heritage.²⁹ As a result, such influences were filtered through established jurisprudential and socio-cultural institutions. Even where reformist rhetoric adopted Arabian idioms, implementation and reception were conditioned by Afghan linguistic, tribal, and regional realities.

This regional contextualization substantiates the article’s overarching argument: Afghan Islamization represents a negotiated and regionally embedded process rather than a linear movement toward Arabisation. Afghanistan functions as an active node within a Persianate–South-Central Asian Islamic network, selectively appropriating transnational discourses while preserving its inherited legal and cultural foundations. Recognizing this positioning not only refines our understanding of Afghan Islamic law but also

²⁸ Barfield, “SHARI’A IN AFGHANISTAN”; Ahmed, “Shari’a, Custom, and Statutory Law: Comparing State Approaches to Islamic Jurisprudence, Tribal Autonomy, and Legal Development in Afghanistan and Pakistan.”

²⁹ Salehi, *An Inquiry into Taliban Theology: Deobandism with a Pashtunwali Flavor*; Sheikh, “Pax Wahhabica Revisited: Saudi Arabia’s Imperial Theopolitics from Hegemony to Hybridity”; Swenson, “Why U.S. Efforts to Promote the Rule of Law in Afghanistan Failed.”

reorients broader debates on Islamization by highlighting the multiplicity of civilizational centers shaping contemporary Muslim societies.

Nowaday Afghanistan

In contemporary Afghanistan, particularly following the political transition of 2021, the relationship between cultural Islam, state authority, and legal order has entered a new phase. The current regime explicitly frames governance as the restoration of an “authentic” Islamic system, grounding its legitimacy in Sharia and in the historical struggle against foreign intervention. Yet the Islamization pursued today does not emerge from a legal vacuum. It is layered upon a century of constitutional experimentation, codification efforts, and negotiated accommodations between Hanafi jurisprudence, customary norms, and modern state institutions.³⁰ Thus, modern Afghanistan reflects both rupture and continuity: a reassertion of Islamic symbolism in public law combined with the enduring imprint of earlier legal reforms.

The legacy of previous Islamic law in Afghanistan remains deeply embedded in institutional memory and social expectation. The 1923 Constitution under Amanullah Khan initiated a project of Islamic legal modernism, seeking to harmonize Hanafi jurisprudence with centralized state structures and limited codification. Subsequent constitutional frameworks, including those of 1964 and 2004, retained Islam as the religion of the state and affirmed the role of Hanafi jurisprudence—particularly in cases where statutory law was silent. Even during periods of socialist governance or international intervention, Sharia was not entirely displaced; rather, it was repositioned within hybrid legal arrangements. Courts, religious scholars, and community mediators continued to invoke Hanafi principles alongside statutory law and adat-based mechanisms of dispute resolution.³¹ This continuity underscores that Islamic law in Afghanistan has long functioned as a foundational normative reference point, even when mediated by modern constitutional forms.

In this context, Islamization in Afghanistan cannot be equated with mere intensification of religious rhetoric or the formal declaration of Sharia supremacy. Instead, it refers to the ongoing process by which Islamic symbols, doctrines, and moral vocabularies are institutionalized, contested, and internalized within Afghan society. Islamization operates at multiple levels: juridical (through codification and judicial reasoning), cultural (through

³⁰ Salehi, *An Inquiry into Taliban Theology: Deobandism with a Pashtunwali Flavor*.

³¹ Ahmed, “IN THE NAME OF A LAW: ISLAMIC LEGAL MODERNISM AND THE MAKING OF AFGHANISTAN’S 1923 CONSTITUTION”; Liebl, “Pushtuns, Tribalism, Leadership, Islam and Taliban: A Short View: REPORT FROM THE FIELD.”

education, media, and public morality), and political (through claims to Islamic legitimacy as the basis of sovereignty).³² Crucially, this process remains dialogical rather than unilateral. State actors, religious scholars, tribal leaders, and ordinary citizens participate in shaping what counts as “Islamic” in practice.

Moreover, contemporary Islamization continues to interact with Afghanistan’s plural legal heritage. Even where official discourse emphasizes strict adherence to Sharia, implementation often reflects negotiation with socio-ethnic realities and local power structures. The persistence of mediation councils, customary adjudication, and regionally differentiated enforcement practices indicates that Islamization unfolds through adaptation rather than uniform imposition.³³ In this sense, modern Afghanistan exemplifies a historically layered Islamization—one that draws upon Hanafi jurisprudence, absorbs selective transnational influences, and remains anchored in the lived experiences of Afghan communities.

Current Situation?

The current situation in Afghanistan under Taliban rule offers a stark laboratory for examining these legal tensions, as the de facto authorities transition from military governance to systematic legal institutionalization through an expansive corpus of supreme leader decrees, comprehensive morality codes, and sweeping criminal procedure codes. Rather than preserving Afghanistan’s historical legal pluralism—where Hanafi jurisprudence continuously negotiated space with local customary norms (*Pashtunwali*) and regional diversity—the contemporary regime enforces an aggressive, hyper-centralized legal uniformity that suppresses indigenous flexibility. While the state officially claims an anchor in traditional South Asian Deobandi-Hanafi jurisprudence, its enforcement mechanisms and strict textualism reflect external ultra-conservative Islamist doctrines that systematically erode local socio-legal traditions, such as traditional tribal arbitration and customary protections for women. Furthermore, recent codifications formalize a stratified social order with differentiated penal liabilities—explicitly categorizing citizens across hierarchical tiers—and delegate punitive authority directly to private individuals, citizens, and male guardians, effectively bypassing due process and judicial oversight under the banner of unmediated Sharia.

³² Richardson, *The Roots of Terrorism*, 1:166–68.

³³ Shashad Pasarlay and Mohammad Qadamshah, “The Durability of Constitutional Solutions to Religious Conflicts in Divided Societies: Lessons from the Constitutional History of Afghanistan,” *Chicago-Kent Journal of International and Comparative Law* 18, no. 2 (2018): 1–38.

This domestic legal insularity is directly mirrored in the regime's extreme political isolation and centralization of authority under Supreme Leader Hibatullah Akhundzada, whose office continues to dictate strategic edicts while flatly refusing engagement with international stakeholders. Illustrating this profound detachment, sources in Kandahar (<https://www.afintl.com/en/202607217555>) reported in July 2026 that the Taliban leader's office rejected a high-level meeting request from visiting representatives of the World Bank, the Asian Development Bank, the UN Food and Agriculture Organisation, and the International Finance Corporation—a delegation that notably included female officials like IFC Kabul office head Wagma Mohmand. By refusing direct dialogue with global financial and development institutions, Akhundzada insulates his regime's uncompromising social and legal mandates from external influence, ensuring that severe restrictions on human rights, women's participation, and judicial reform remain entirely immune to international negotiation. Ultimately, contemporary Afghanistan illustrates how a top-down, authoritarian approach to "Islamization" can subordinate historical legal accommodation and local agency to an uncompromising state orthodoxy designed for total social control.

Conclusion

This study has argued that the evolution of Islamic law in Afghanistan cannot be adequately explained through a reductive opposition between Islamization and Arabisation. Afghanistan's legal and cultural trajectory demonstrates neither passive absorption of Arab doctrinal models nor isolationist preservation of purely indigenous traditions. Rather, it reflects a historically layered and socially negotiated process in which Islamic normativity has been embedded within Afghan socio-ethnic realities, mediated through Hanafi jurisprudence, and continuously reinterpreted in light of transregional intellectual currents. By tracing constitutional developments, doctrinal contestations, and shifts in cultural Islam, the analysis shows that Hanafi-adat legal pluralism remains a durable foundation of Afghan jurisprudence. Even when confronted with Salafi or Hanbali-influenced reformist discourses—often supported by external networks—Afghan legal actors have filtered, adapted, or subordinated these imports to locally established frameworks. Contestations among madhhab orientations, tensions between Sufi and reformist movements, and negotiations between Sharia and Pashtunwali further reveal that Islamization unfolds as an internal dynamic rather than a monolithic imposition.

The rise of cultural Islam, particularly among contemporary youth shaped by migration and digital media, adds a generational dimension to this

process. Islamic symbols and authorities now circulate within transnational digital spaces, yet their reception remains conditioned by Afghan historical memory, linguistic traditions, and communal norms. This generational transformation underscores that Islamization in Afghanistan operates simultaneously at juridical, cultural, and symbolic levels.

Situating Afghanistan within the broader Persianate and South-Central Asian Islamic sphere further clarifies its legal evolution. The country's intellectual and jurisprudential affinities with Central Asia, Iran, and the Indian subcontinent demonstrate that its Islamic development is regionally embedded rather than exclusively oriented toward Arab centers. Afghanistan thus emerges as an active node within a plural Pan-Islamic network—engaging with, but not subsumed by, Arab doctrinal and political projects. In conceptual terms, this study reframes Afghanistan not as a peripheral recipient of Islamic legal authority but as a site of juridical agency. Islamization in Afghanistan is best understood as a negotiated, adaptive, and contextually grounded process in which Islamic law functions as a resource for state-building, moral order, and political legitimacy. Arabised influences, while present and sometimes significant, do not erase the country's entrenched Hanafi traditions or its customary legal ecology.

Ultimately, the Afghan case contributes to broader debates in Islamic legal studies by illustrating that Islamization is neither uniform nor centrally directed. It is shaped by historical continuities, regional intellectual networks, social negotiations, and generational change. Recognizing this complexity allows for a more nuanced understanding of Islamic law not only in Afghanistan, but across diverse Muslim societies where local agency and transnational currents intersect in dynamic and often unpredictable ways.

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