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From Custom to Modernisation: A Legal-Historical Study of Saudi Arabia's Legal Development

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Abstract:

Saudi Arabia's legal system has undergone radical reform, in which the decentralised tribal tradition (*ʿurf*) and Hanbali jurisprudence (*fiqh*) have been superseded by a new, modern, codified, and institutionally differentiated legal system. Whatever this change, the processes and reasoning that lead to it are not fully discussed in comparative Islamic law literature. This article presents the strategy of the Saudi state towards a conflict between Islamic normative legitimacy and the administrative demands of modern rule in three historical phases: pre-modern custom and fiqh, early state formation, and the codification of the modern one (2007-2024). The research critically examines primary legal texts and comparative legal scholarship in the Gulf and other jurisdictions with majority-Muslim components of their legal systems, adopting an interpretive, doctrinal-historical, and socio-legal viewpoint. The findings suggest that Saudi legal development exhibits a distinctive state-oriented reconfiguration of doctrines, in which statutory frameworks preserve classical fiqh principles without being overrun by them, yet are predicated on the need for rentier autonomy, the management of legitimacies, and economic integration. This amalgamation is much dissimilar to the modernisation of the law approaches in Egypt, the UAE and Malaysia. Further studies are needed to empirically analyse the implementation of codified statutes in practice by those trained in classical fiqh, and to assess the extent of doctrinal consistency in the newly specialised courts of Saudi Arabia.

Keywords: Saudi Arabia; sharia; codification; basic law.

Introduction

Legal development of Saudi Arabia is among the most complex in the modern Islamic world. Although the general conception is that the Kingdom is a so-called

Sharia state whose legal system has remained the same since the classical age, modern legal systems have developed over time through political unification, administrative modernisation, and socio-economic restructuring.[1] The evolution of the law in Saudi Arabia is not a linear process of westernisation, but a negotiated hybridisation of the transition from tribal *ʿurf* to the Hanbali and the transition from informal adjudication to written law.

The paper is organized based on one research question: How has the Saudi state been able to deal with the conflict between the ideals of legitimacy through Islamic normative standards and the administrative imperatives of modern governance in its law reform process, and which theoretical framework would best account for that process? This is made operational in three subordinate questions. First, in what way did the Kingdom transform its damned practice of fiqh, which was both decentralised and uncodified, into a hierarchical and codified system? Second, where do political economy and oil-rentier autonomy, state-building needs, and Vision 2030—the origin of when, how much, and how the legal reforms are couched—lie? Third, how has Sharia worked in a constitutional power-preservation role and been simultaneously re-interpreted through modern law-making processes, written laws, and administrative regulation? These questions place the research within the ongoing scholarly debates: the sociology of Islamic legal change, the politics of codification in Muslim-majority states, and state-making and state governance in the Gulf states.[2]

It is a three-dimensional study intended to respond to the above questions. The theological one deals with the strict reading of the main sources of law, such as texts of the Constitution, judicial law, and codified laws, compared to and judged by classical Hanbali texts, such as al-Mughnī by Ibn Qudāma and Kashshāf al-Qināʿ by al-Bahūtī, to establish the continuity and discontinuity of the doctrines. The historical part situates legal change within the political sociology of state formation in Saudi Arabia, using Weber's terms of legal rationalisation and bureaucratic power to understand the causes and timing of the institutional shifts. The comparative dimension puts Saudi reforms and similar developments in the UAE, Qatar, Bahrain, and other Muslim jurisdictions that are non-Gulf, that is, Indonesia and Malaysia, into perspective, with an elaboration on whether Saudi Arabia serves as an original paradigm or an indigenous adaptation to Islamic legal modernisation. The three dimensions together enable the paper to go beyond a narrative description and provide a structurally grounded explanation of Saudi legal change.

The differences between legal development and Saudi Arabia might best be characterised as processes of hybridisation, in which Sharia continues to hold the constitutional and symbolic centre, while modern legal institutions, administrative rationality, and codification continue to serve as mechanisms of governance, economic management, and procedural regularity.[3] The state has demonstrated the

[1] Abdullah F. Ansary, "An Overview of the Saudi Arabian Legal System," *GlobaLex | Foreign and International Law Research*, August 2020, https://www.nyulawglobal.org/globalex; Frank E. Vogel, *Islamic Law and Legal System: Studies of Saudi Arabia* (Leiden: Brill, 2000).

[2] Jill Crystal, *Oil and Politics in the Gulf: Rulers and Merchants in Kuwait and Qatar* (Cambridge University Press, 1995); Michael Herb, *All in the Family: Absolutism, Revolution, and Democracy in Middle Eastern Monarchies* (State University of New York Press, 2016).

[3] Abdullah Ali Alasmari and Hajed A. Alotaibi, "Modernizing Commercial Agency Regulations in Saudi Arabia: Legal Reforms and Comparative Insights," *F1000Research* 14 (January 2026): 912, https://doi.org/10.12688/f1000research.168970.4.

transformation of Islamic principles, adapting them into codified systems, institutional committees in charge of *ijtihād*, and specialised courts whose role is to interpret classical doctrines to suit present needs rather than supersede them. The introductory part of the paper includes the analysis of the pre-modern legal cultures, the history of the early Saudi state, modernisation, and the most prominent reforms of 2007-2024. Then it outlines the political situation, the legal identity and the socio-religious meaning of the legal hybridisation. The description is meant to contribute to the growing literature on the issue of transformation of Islamic law, state-building in the Gulf, and the politics of codification in Muslim-majority countries.

Method

This research follows interpretive, doctrinal-historical, and socio-legal approach to observe the development of the Saudi law throughout the pre-modern customary era to the modern codified era. The main data sources will include official legal texts, such as the Basic Law of Governance (1992), the Law of the Judiciary (Royal Decree M/78, 2007), the Law of the Board of Grievances (Royal Decree M/79, 2007), the Law of Evidence (2022), the Personal Status Law (2022), the Civil Transactions Law (2023), and the Penal Law of Discretionary Sentences (2024), all of which have been directly acquired as official Saudi governmental publications and legal repositories. Secondary data sources include classical Hanbali jurisprudential texts, most notably Ibn Qudāma's al-Mughnī and al-Bahūtī's Kashshāf al-Qinā‘, as well as comparative legal scholarship drawn from peer-reviewed journals, academic monographs, and policy analyses covering Gulf, Egyptian, Malaysian, and Indonesian legal systems. These sources were located by systematic searches of legal databases, university library catalogues and academic repositories using keywords based on Islamic law, legal reform in Saudi, codification, and comparative Muslim jurisdictions. Three analytical dimensions were used to process data, namely: (1) a doctrinal analysis comparing the primary statutory texts with classical Hanbali principles to determine continuity and discontinuity of legal doctrine; (2) a historical-sociological analysis of placing legal change in the political economy of Saudi state formation, drawing on Weberian concepts of legal rationalisation and bureaucratic authority; and (3) a comparative legal analysis of positioning Saudi reforms in the context of the analogous developments in the UAE, Qatar, Bahrain, Malaysia, and Indonesia, in order to assess whether the Saudi model is an original paradigm or an adaptive variant of the legal modernisation of the Islamic legal tradition. The combination of these three dimensions facilitates the fact that the study is no longer in the realms of descriptive narration, but also in the realms of a structurally based explanation of Saudi legal hybridisation.

Result and Discussion

Pre-Modern Legal Traditions: Custom, Fiqh, and Social Order

A fragmented legal system was innate to the Arabian Peninsula and to Najd in particular, which was governed by *ʿurf* (tribal custom), fiqh (Islamic jurisprudence), and localised mediation and arbitration before the emergence of the modern Saudi state. The absence of a centralised political authority led to the imposition of the law

more like community norms, religious forces, and negotiated settlements rather than bureaucratic institutions and the writing of laws.[4]

The normative system of tribal custom was a detailed network that governed social behaviour, economic exchange, land tenure, grazing, intergroup honour wars, and intertribal contact. The process of *diya* (blood money), *ʿāqila* (collective responsibility), and *ṣulḥ* (reconciliation) was a source of law that had authoritative power within respective tribes.[5] These standards were transmitted orally, through the authority of *wujahā'* (influential elders) and through social pressures and negotiated agreements, rather than by financial force. Tribal *ʿurf* was not informal but an internally coherent legal order adapted to the socio-economic realities of desert life. It developed a system of dispute resolution that incorporated caution, a form of restitution, and the recovery of community harmony—values still evident in contemporary Saudi systems of dispute resolution.[6]

In addition to these traditional norms, Islamic law, primarily the Hanbali school, provided a comprehensive system of doctrine governing worship, family relations, contracts, torts, and criminal responsibility.[7] The Hanbali jurisprudence organised local legal practice with the help of primary source books: the multi-volume compilation of Ibn Qudāma's al-Mughnī (d. 1223) and the Kashshāf al-Qināʿ (d. 1641) by al-Bahūtī, which systematised the Hanbali position to enable its implementation. More importantly, although they played an important role, these texts were not statutory codes to which judges were strictly bound; rather, *qāḍīs* carried out extensive *ijtihād*, choosing among doctrinal positions and adjusting them to local conditions.[8] It is this structural aspect of scholarly discretion, rather than textual positivism, that has been frequently changed by the twentieth-century codification project, as it has handed individual interpretive jurisdiction over to collective, committee-based *ijtihād* institutionalised by royal decree. Hallaq refers to this shift as an extension of the broader process of "governmentalisation of the law," according to which contemporary states are privatising and bureaucratising a juristic power that had no association with political institutions hitherto.[9]

The two systems of *ʿurf* and fiqh interacted fluidly in practice, contrary to the presumption that fiqh replaced tribal custom. According to the legal maxim *al-ʿādah muḥakkamah* (custom is authoritative), jurists accepted the use of *ʿurf* as an authoritative secondary source of law, provided it did not conflict with specific Sharia principles.[10] This created a hybrid normative space where local administrative norms

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[4] Wael B. Hallaq, *Sharī'a: Theory, Practice, Transformations* (Cambridge: Cambridge University Press, 2009); Rudolph Peters, *Crime and Punishment in Islamic Law: Theory and Practice from the Sixteenth to the Twenty-First Century* (Cambridge: Cambridge University Press, 2005).

[5] Peters, *Crime and Punishment in Islamic Law*.

[6] Mai Yamani, *Cradle of Islam : The Hijaz and the Quest for an Arabian Identity*, with Internet Archive (London ; New York : I.B. Tauris, 2004), http://archive.org/details/cradleofislamhij0000yama.

[7] Ahmad Muchlis, Pujiyono Pujiyono, and Nabitatus Sa'adah, "Reconstructing The Legal Protection Of Indonesian Migrant Workers Facing The Death Penalty (Jinayat) In Saudi Arabia: National And International Legal Perspectives," *Syariah: Jurnal Hukum Dan Pemikiran* 25, no. 2 (October 2025): 230–56, https://doi.org/10.18592/sjhp.v25i1.18269.

[8] Vogel, *Islamic Law and Legal System*.

[9] Hallaq, *Sharī'a*.

[10] Vogel, *Islamic Law and Legal System*; Ramadhita Ramadhita, Sudirman Sudirman, and Miftahul Huda, "Axio-Awareness Principle in Javanese Marriage Prohibition as a Normative Framework for

governed honour, reconciliation, and land use; fiqh presided over family legislation, worship, and criminal responsibility; and both systems operated concurrently across business, property organisation, and practice standards. This ambivalent order would subsequently affect the incorporation of administrative regulations and state law into the Sharia-founded administration.[11]

Dispute settlement took various forms, such as the mediation of elders, *qasāma* (sworn oath), arbitration by jurists or religious authorities, and settlement by negotiation and slight sanctions imposed by the community. There were formal standards of evidentiary tests, but these were relaxed to suit social reality; a witness's credibility was based on reputation and communal trust rather than documentary evidence.[12] What was produced by this hybridisation of *ʿurf* and fiqh in the pre-modern period was a negotiation culture of justice, discretionary interpretation, a demand of moral legitimacy on the decision, and a minor place of codified law. Such legacies influenced the subsequent adoption of administrative regulation, judicial discretion and *siyāsa sharʿiyya* as ways of state-directed interpretation of Sharia by the Kingdom.

Early Saudi State and the Institutionalisation of Law

The institutional legal development started with the consolidation of the Saudi state under King ʿAbd al-ʿAziz (1902–1932). The Kingdom became a centralised polis under Sharia, royal authority, bureaucracy, political unity, political alliances with religious leaders, and administrative establishments.[13] Founding the Kingdom was based on a political-religious agreement between the House of Saud and the scholars, the *ʿulamāʾ*. The religious scholars justified the dominance of political power by the doctrine of obedience and allegiance, and the ruler approved the institutionalisation of Sharia courts.[14] This alliance offered Sharia-compliant legitimacy, a reconciled religious explanation of state-building and a Hanbali system of religious appointment to the judiciary. Governance and religion were combined,

Anticipating Divorce Risk," *Justicia Islamica* 23, no. 1 (March 2026): 347–80, https://doi.org/10.21154/justicia.v23i1.13197; Zaimuariffudin Shukri Nordin et al., "Integrating Islamic Law and Customary Law: Codification and Religious Identity in the Malay Buyan Community of Kapuas Hulu," *Journal of Islamic Law* 6, no. 1 (February 2025): 89–111, https://doi.org/10.24260/jil.v6i1.3410; Edi Rosman et al., "Tulou As A Customary Criminal Sanction in Mentawai: Convergensi of Customary and Islamic Law for Social Reconciliation," *Samarah: Jurnal Hukum Keluarga Dan Hukum Islam* 9, no. 3 (September 2025): 1518–46, https://doi.org/10.22373/sjhk.v9.i3.30100.

[11] Alasmari and Alotaibi, "Modernizing Commercial Agency Regulations in Saudi Arabia."

[12] Vogel, *Islamic Law and Legal System*.

[13] David Commins, *The Wahhabi Mission and Saudi Arabia* (New York: Bloomsbury Publishing, 2009); A. Kadir Yildirim, *The Politics of Religious Party Change: Islamist and Catholic Parties in Comparative Perspective* (Cambridge: Cambridge University Press, 2023); Nabil Mouline, *The Clerics of Islam: Religious Authority and Political Power in Saudi Arabia*, trans. Ethan S. Rundell (New Haven: Yale University Press, 2014).

[14] Stéphane Lacroix, *Awakening Islam: The Politics of Religious Dissent in Contemporary Saudi Arabia* (USA: Harvard University Press, 2011); Muhammad Al-Atawneh, "Is Saudi Arabia a Theocracy? Religion and Governance in Contemporary Saudi Arabia," *Middle Eastern Studies* 45, no. 5 (September 2009): 721–37, https://doi.org/10.1080/00263200802586105.

so the Saudi state was different as contrasted to other Arab governments, which were on their way to secular nationalism or colonial legalisation.[15]

The administrative bodies and the judicial judges were established with the merging of land. Qāḍīs were instituted in major locations, local judicial and catalogue systems were established, royal ordinances were utilised to regularise judicial authority, and religious training was broadened to facilitate the judicial establishment.[16] These changes led to the gradual elimination of local judicial remedial decision-making by the central judiciary. This doctrine of *siyāsa sharʿiyya* served as an authorisation for rulers to make laws in the interests of the common good, so long as they did not exceed the boundaries of Sharia. It legitimised administrative rules, upholding the order, foreign policy decisions, and economic and commercial control. Modern scholarship underlines this doctrine as the passage between classical fiqh and the regulatory exigencies of the modern state.[17]

Economic governance became institutionalised (with the Ministry of Finance, 1930), administrative decision-making became formalised (the Council of Ministers, 1953), and judicial supervision was standardised (the Ministry of Justice, 1970).[18] This type of structure brought about bureaucracy, written codes of conduct and governmental rationality, which became the backbone of the reforms of the twenty-first century. In response to a growing number of administrative regulations, Saudi Arabia established a two-level system of law: Sharia courts, which used uncodified Hanbali fiqh, and bureaucratic and commercial legislation issued by the royal authority. This dualism did not compromise Islamic legitimacy, but was a pragmatic form of state-making within an Islamic context.[19]

Modernisation in the 20th Century: Oil, Administration, and Early Regulatory Development

The history of modern law in Saudi Arabia is a revolutionary account because the Kingdom changed from a haphazard, custom-based legal system to a modern, bureaucratised, and increasingly controlled system. Modernisation was not an overnight process, as it involved restructuring economic structures and, most importantly, political unity, as well as the changing social needs and oil affluence that had never been witnessed before. But it was not at the expense of Sharia. Instead, it rearranged the ideals of fiqh within the context of the growing institutions of the state, which is typical of the doctrine of *siyāsa sharʿiyya* as an adaptive kind of law reform.[20] The oil discovery in 1938 marked an entirely different turn in the economy,

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[15] Alexandre Caeiro, "The Appeal of Religious Law: Jurisdictional Politics and Modern State Formation in the Gulf Sheikhdoms, ca. 1950–2000," *Law and History Review* 43, no. 4 (November 2025): 877–901, https://doi.org/10.1017/S0738248025101144.

[16] Abdullah F. Ansary, "An Overview of the Saudi Arabian Legal System."

[17] Alasmari and Alotaibi, "Modernizing Commercial Agency Regulations in Saudi Arabia."

[18] Abdullah F. Ansary, "An Overview of the Saudi Arabian Legal System."

[19] Vogel, *Islamic Law and Legal System*.

[20] Hazim H. Alnemari, "God's Law, King's Court: Ḥudūd Jurisprudence under Saudi Monarchical Decrees," *Journal of Islamic Law* 6, no. 1 (June 2025), http://www.drewsummercollege.com/current/article/view/alnemari; Elad Giladi, "Saudi Arabia's Gendered-Judicial Reform and the New Personal Status Law: Profound Change or Gender Washing?," *Islamic Law and Society* 32, no. 4 (September 2025): 450–80, https://doi.org/10.1163/15685195-bja10070; Mustofa Mustofa et al., "STRENGTHENING

law, and even the institution. Agreements with international oil companies included contractual provisions to be implemented alongside their administration and regulations, which were yet to be provided under the traditional judicial system.[21] To meet these requirements, the government began creating ministries and authorities to oversee foreign investment, labour, tax, and business. The oil revenues also allowed the state to finance the development of non-tax-based centralised institutions, which is common with rentier states.[22] This economic autonomy helped the Saudi government expand the administrative state rapidly without losing political control or religious legitimacy. Therefore, the legal system was created to address administrative needs rather than on a popular basis, and hence the rapid institutionalisation and growth of regulations.

The creation of a dual legal order occurred in the middle of the century in areas such as labour, commerce, and foreign investment, among others.[23] *Marāsīm* (decrees of the King) and *niẓāmāt* (rules) flourished, with partial Egyptian, Ottoman, and French legal-drafting traditions, while preserving Sharia predominance. The duality was by no chance. The Sharia courts were the jurisdictional authorities in family law, inheritance, criminal matters, and personal disputes, and they were to prove moral authority and societal credibility.[24] In the meantime, new industrial, economic and bureaucratic worlds of rule were presided over by administrative institutions and demanded technical accuracy and predictability. This distinction was not an antagonism but a conspiracy: Saudi Arabia will be able to modernise without losing religious identity.

The Council of Ministers, formed in 1953, greatly expanded the state's legislative capacity, planning ministerial tasks and offering general guidelines upon which the existing administration was structured.[25] The state was also establishing a regulatory framework that allowed mass development via the Council and new ministries. It was an international process, and this growth was among developing and post-colonial countries, where the modernisation of the economy demanded the rationalisation of the law. In Saudi Arabia, the pegging of the control measure was against *siyāsa sharʿiyya* and the existence of Sharia as the constitution. The other major institutional reform of the time was *Dīwān al-Maẓālim* (the Board of Grievances), an annual office for complaints that became an administrative-judicial specialisation. It was required to review the government, conduct legal proceedings on state contract cases, and keep those in authority in check.[26] The Board interpreted

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HALAL TOURISM GOVERNANCE IN PEKALONGAN: A Maqasid-Based Collaborative Governance Framework within Siyasah Dusturiyah," *Al-Risalah: Forum Kajian Hukum Dan Sosial Kemasyarakatan* 26, no. 1 (March 2026): 38–58, https://doi.org/10.30631/alrisalah.v26i1.2046; Badruzzaman Nawawi and Roswati Nurdin, "Neo-Siyasah: Reconstructing Constitutional Sovereignty in the Age of Artificial Intelligence," *Jurnal Al-Dustur* 8, no. 2 (December 2025): 195–217, https://doi.org/10.30863/aldustur.v8i2.10529.

[21] Commins, *The Wahhabi Mission and Saudi Arabia*.

[22] Hazem Beblawi, "The Rentier State in the Arab World," in *The Rentier State*, ed. Hazem Beblawi and Luicani Giacomo (London: Routledge, 1987).

[23] Ansary, "Overview of the Saudi Arabian Legal System," 2020.

[24] Caeiro, "The Appeal of Religious Law," 2025.

[25] Abdullah F. Ansary, "An Overview of the Saudi Arabian Legal System."

[26] Dominik Krell, "Saudi Arabia," in *Elgar Encyclopedia of Comparative Law* (Edward Elgar Publishing Limited, 2023), 375–80, https://www.elgaronline.com/display/book/9781839105609/b-9781839105609.saudi.arabia.xml.

administrative rules from fiqh in opposition to the Sharia courts, thereby establishing a discernible area of Saudi public law. Its jurisprudence introduced such ideals into bureaucratic management as procedural fairness, state liability, and contract administration, without which a bureaucracy could not be managed, and investors remained wary of it.

The need for legal standardisation was increased by the economic boom of the 60s and the 70s. The state reacted by issuing concerted labour statutes, enhancing the enforcement at firms, ameliorating the payment of commercial papers, and homogenising administrative operations. However, judicial discretion was still practised by the Sharia courts as much as possible through the application of the Hanbali fiqh treatises instead of the statutory codes.[27] This retained religious legitimacy but generated unease about discrepancies, especially in contractual situations, prompting increased demands to codify and reform procedures. This long and gradual development was the result of the Basic Law of Governance (1992). It was not a replacement of Sharia by a written constitution. Still, a constitution identity charter established Sharia as the supreme source of law (Art. 1) and made the King the executive and legislative body, the independent judicial branch without wrongdoing based on Sharia, and codified general rights of the citizens and the responsibility of the state. The Basic Law, according to scholars, is termed ornamental constitutionalism, a formalisation of the political structures that guarantee the sustainability of ancient authority. Nonetheless, it provided institutional clarity that predetermined the wave of judicial reforms in 2007 and the codification wave in 2022–2024.

The Contemporary Legal System (2007–2024 Reforms and Codification)

The 2007-2024 period can be considered the most important when it comes to the modernisation of the legal domain in Saudi Arabia. Although more fundamental stages of development introduced administrative apparatus and regulations in the industrial field, this is a complete reorganisation of judicial power, procedure, and the law. The reforms are also synonymous with more expansive approaches to economic competitiveness at the state level, modernisation of institutions, and consolidation of political power. They are discernible as a rationalised transition to a hybrid legal system comprising classical Sharia law, modernised regulatory frameworks and the provisions of international law.[28] The Law of Judiciary (Royal Decree M/78) and the parallel Law of the Board of Grievances (M/79) of 2007 represent a Sharia judicial restructuring, the first parallel to administrative reform in Egypt[29] and Morocco,[30] although in its current form. In 2007, the jurisdiction of

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[27] Vogel, *Islamic Law and Legal System*.

[28] Muhammad Hizbullah, Haidir Haidir, and Yeny Nasril, "Islamic Legal Politics in Post-Reformation Indonesia: Sharia Legislation, Decentralization, and Democratic Dynamics," *Al-Qadha : Jurnal Hukum Islam Dan Perundang-Undangan* 12, no. 2 (2025): 641–59, https://doi.org/10.32505/qadha.v12i2.12837.

[29] Rudolph Peters, "The Significance of Nineteenth-Century Pre-Colonial Legal Reform in Egypt: The Codification of Criminal and Land Law," in *Shariʿa, Justice and Legal Order* (Brill, 2020), 128–55, https://doi.org/10.1163/9789004420625_008.

[30] Arif Jum'atul Ihsan et al., "Historical Evolution and Contemporary Implementation of Islamic Justice in Egypt: From Classical Courts to Modern Legal Pluralism," *Kawanua International Journal of Multicultural Studies* 6, no. 1 (June 2025): 124–39, https://doi.org/10.30984/kijms.v6i1.1759.

judges was not clearly defined and broad; the quality of procedures varied across cases, and the Supreme Judicial Council had much in common with appeals. The reform established a distinct Judicial hierarchy of Courts of First Instance, Courts of Appeal and the Supreme Court. It also included specialised, discrete-jurisdiction Courts, physically separated judges, and specialised rules of procedure favouring professionalisation. This was after investors, litigants and international observers raised issues regarding judicial predictability and efficiency.[31]

The creation of commercial, labour, enforcement, personal status, and criminal courts was a step towards the differentiation of the judicial structure of the unitary Sharia system. Specialisation applies to the consensus of doctrine and minimisation of interpretive variations[32] despite Sharia being the normative background. In commercial courts, the use of codified rules of commercial transactions (2023), rather than fiqh analogies, is being practised. The enforcement courts under statutory time frames are digitised enforcers. In a less geographically distinct way than earlier, personal status courts, where codified methods regulate divorce, custody, and inheritance, manifest themselves. The Supreme Court replaced the Supreme Interpreting Authorities of the Supreme Judicial Council with standardisation of Sharia interpretation throughout the system, harmonisation of statutes through the courts, and final judicial check in line with Article 44 of the Basic Law.

The codification wave, which began in 2022, has marked a paradigm shift in Saudi legal practice. The rejection of codification was also a historical issue due to apprehension of restricting judicial *ijtihad* and the fixation of fiqh. Here, codification is perceived as an organising form of collective *ijtihad*, organised by a group of jurists and technicians.[33] The state sought to curb uncertainty in the decision-making process, enhance fairness, align the code of rules with international standards, and ensure that the codified code of rules is Sharia-based.[34] In 2022, the Law of Evidence reinstated the use of evidence in Saudi courts, harmonising the provisions on the burden of proof, electronic and computer evidence, witness eligibility, and expert testimony. The law aligns with current admissibility trends in other Muslim jurisdictions, including the UAE and Malaysia, and also has some basis in the classical teachings of *bayyina* and *shahada*.[35] The Personal Status Law (2022) formalises the marriage contracts, marriage guardianship, divorce mechanisms, custody frameworks and maintenance. The codification enhances the level of transparency and reduces the regional disparities, attributed to the historical issue of inequality of results in family courts.[36]

Along with the rules of liability and tort, the rights to property and to unjust enrichment, the basic principles of private law are set out in the Civil Transactions Law (2023). It translates classical maxims like *al-ghurm bi-l-ghunm* and *al-yaqin la*

[31] Vogel, *Islamic Law and Legal System*.
[32] Elad Giladi, "Saudi Arabia's Gendered-Judicial Reform and the New Personal Status Law: Profound Change or Gender Washing?," *Islamic Law and Society* 32, no. 4 (September 2025): 450–80, https://doi.org/10.1163/15685195-bja10070.
[33] Alasmari and Alotaibi, "Modernizing Commercial Agency Regulations in Saudi Arabia."
[34] Itok Dwi Kurniawan and Souad Ezzerouali, "Revisiting the Principle of Legal Certainty: A Contemporary Analysis through the Lens of Legal Positivism," *Nusantara: Journal of Law Studies* 3, no. 02 (December 2024): 137–46, https://doi.org/10.5281/zenodo.17385496.
[35] Peters, "The Significance of Nineteenth-Century Pre-Colonial Legal Reform in Egypt."
[36] Yamani, *Cradle of Islam*; Giladi, "Saudi Arabia's Gendered-Judicial Reform and the New Personal Status Law," September 2025.

yazul bi al-shak into contemporary legal terms.[37] Contrary to the Egyptian system of civil codes, which many of its provisions in Egypt emulate the French civil law school tradition and show little or no reference to the Islamic tradition, the Saudi system is structured around classical fiqh maxims as its grammar of the art, with the modern categories of contract (offer, acceptance, defect of consent, unjust enrichment) overriding them, rather than replacing them. This also compares to the UAE, which has co-extensive common-law courts in free zones, a jurisdictional separation which Saudi Arabia has actively sought to evade. The Saudi model is more in line with the Malaysian Dual Sharia-civil system, with the only difference being that the Civil Transactions Law applies across the Kingdom of Saudi Arabia. The major empirically under-researched issue is whether codified civil principles can be uniformly enforced by judges with traditional training in fiqh, or whether there will be gaps in the doctrine that codification should have removed.[38]

The Penal Law of Discretionary Sentences (2024) inserts categories of defined offences, ranges of sentencing and aggravating and mitigating factors with procedures into the area of *taʿzīr*, where considerable discretion over judicial rulings has long been the norm.[39] This further promotes the rule of law without abandoning the moralistic nature of classical fiqh. Codification combined with this involves a structural transformation to *ijtihad* on a collective or committee basis, by individual judges; from unwritten fiqh to statutory rules; from regional variety to national uniformity; and from a reactive to a proactive legislative policy. This modification will accord Saudi Arabia state-law paradigms across the globe without compromising Islamic doctrinal coherence.[40] Legal reform is part of Vision 2030's framework as the key to economic diversification, investor confidence, and state legitimacy.[41] Amendments to commercial law ensure that contracts are not interrupted, that Saudi law complies with WTO guidelines, and that business laws are more transparent.[42] The submission of cases, remote hearings, enforcement, and the authentication of contracts are all facilitated through the Ministry of Justice's digital platforms, namely the Najiz portal. Perception of procedural fairness has been observed to be associated with greater compliance and trust.[43] Secularisation is not an Islamic practice exercised in Saudi Arabia. Instead, the state advocates a two-legitimacy paradigm: Islamic legitimacy through teaching Sharia, and economic legitimacy through

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[37] Vogel, *Islamic Law and Legal System*; Alasmari and Alotaibi, "Modernizing Commercial Agency Regulations in Saudi Arabia."

[38] Souad Ezzerouali, Mohamed Cheikh Banane, and Brahim Hamdaoui, "Sharia in Moroccan Law: A Perpetual Source and Guiding Reference," *Legality : Jurnal Ilmiah Hukum* 33, no. 1 (2025): 44–68, https://doi.org/10.22219/ljih.v33i1.36744.

[39] Peters, *Crime and Punishment in Islamic Law*.

[40] Hallaq, *Sharī'a*.

[41] Kingdom of Saudi Arabia, "Saudi Vision 2030," Saudi Vision 2030, 2026, https://www.vision2030.gov.sa/ar/home.

[42] Triyana Yohanes et al., "The WTO Non-Discrimination Principle and Its Impact on Developing Indonesia's Investment," *Legality : Jurnal Ilmiah Hukum* 33, no. 2 (September 2025): 513–34, https://doi.org/10.22219/ljih.v33i2.41046.

[43] Francis D. Boateng, Daniel K. Pryce, and Hajed Alotaibi, "Procedural Justice, Obligation to Obey and Cooperation with Police in a Sample of Saudi Arabian Citizens," *Policing: An International Journal* 48, no. 5 (August 2025): 1135–51, https://doi.org/10.1108/PIJPSM-03-2025-0058; Larry Diamond, *The Spirit of Democracy*, with Internet Archive (Times Books, 2008), http://archive.org/details/spiritofdemocrac00diam.

accepting international rules of control. This hybrid conforms to the proposals of hypotheses of Islamic modernity promoted by Islamic legal schools.[44] The modern Saudi model is not comparable to its systemic neighbours: the UAE is a mix of codified free zones and common-law courts; Qatar separates civil and commercial courts; and Bahrain is an early adopter of civil law. Saudi Arabia, in contrast, is aggressively codifying in a classical Hanbali system of interpretation. The modernisation of Saudi law is one of the most ambitious and, at the same time, the most doctrinally complex in the Muslim world.

Legal Culture and Identity: Between Tradition and Modernity

Saudi Arabia has an ancient memory of adjudication by reference to Sharia, tribal custom, and social norms, and a relatively recent memory of bureaucratic rationalisation, codification, and institutionalisation of law on a state basis. The traditional perspective on law in Saudi history was not regarded as a formal system of regulation; instead, it was deemed a moral-religious doctrine established on the Quran, Sunnah, and Hanbali law.[45] *Qāḍīs* (judges) were charged with settling disputes using classical fiqh texts, and their authority depended on their religious credibility, expertise in fiqh, and the will of their community rather than on codified law.[46] The moral legitimacy, as opposed to procedural formality, scholarly power over bureaucratic rank, and case-by-case justice by way of *ijtihad* rather than legal codification characterised the legal culture formed in this environment. Therefore, to date, the perception of legal arguments by most citizens, even when influenced subconsciously, still lies somewhere on a Sharia spectrum of moralistic, not in a no-moral, love-of-pure-positivistic-language.[47]

Formal courts dominate traditional dispute resolution methods, although they still exert some influence. Informal reconciliation committees, the social negotiation and *wujahā'* (tribal leaders) are utilised mostly in rural districts.[48] *Ṣulḥ* (settlement) is usually a better choice than litigation because it preserves the honour and virtues of social bonds contained in tribal and Islamic society.[49] These informal rules are used with modern law in a pluralistic legal culture where individuals are free to select formal or informal law as they please in a situation.[50] The late twentieth century witnessed a shift in legal attitudes as a result of urbanisation, mass schooling, labour markets, and global commercialisation. There was a rise in citizens' interactions with ministries, banks, corporations, and courts, driven by documentation and regulatory processes, which created a culture shifting away from moral authority towards textual authority, where major expectations shifted towards legal clarity, written rules, and predictable processes.[51] Growth in legal training, in both male and female law schools, also contributed to the emergence of a new type of legal professional

[44] Khaled Abou El Fadl, *Reasoning with God: Reclaiming Shari'ah in the Modern Age* (Bloomsbury Academic, 2014); Sami Zubaida, *Law and Power in the Islamic World* (Bloomsbury Academic, 2005).
[45] Hallaq, *Sharī'a*.
[46] Vogel, *Islamic Law and Legal System*.
[47] Yamani, *Cradle of Islam*.
[48] Peters, *Crime and Punishment in Islamic Law*.
[49] John R. Bowen, *Islam, Law, and Equality in Indonesia: An Anthropology of Public Reasoning* (Cambridge University Press, 2003).
[50] Zubaida, *Law and Power in the Islamic World*.
[51] Abdullah F. Ansary, "An Overview of the Saudi Arabian Legal System."

who understood statutory interpretation, administrative regulation, and foreign law.[52] The emerging profession is contrasted with the more old-fashioned judge- and fiqh-based ethos. Still, both are now beginning to intertwine, with codified laws that take more into account in line with fiqh maxims.

The e-filing programme, electronic courtrooms, the Najiz portal, and the Ministry of Justice's publication of judgments have revolutionised the interaction of Saudis with the law. The litigation procedure has become more transparent and open. Procedural fairness, which includes voice and transparency, has been demonstrated to be an extremely powerful driver of citizen trust and compliance with the rules and regulations.[53] This evidence reveals that the efficiency of the administration has influenced modern legal culture, alongside classical Sharia legitimacy. Most importantly, the implementation of rules did not nullify Sharia; instead, Sharia was incorporated into the existing laws. The maxims of the fiqh are direct maxims built in the Civil Transactions Law (2023): *al-ghurm bi-l-ghunm* (liability goes with gain), *al-ʿāda muḥakkamah* (custom is authoritative), and *lā đarar wa-l-la ḍirār* (no injury, nor causing injury). This combination reinforces the perception that the state's codification project cannot be seen as an alternative to tradition but rather as the remaking of Sharia within the context of a new code of law.[54]

The practice of legal diversification has existed in personnel. Women have become lawyers, legal consultants, and researchers of the judiciary, and this would not have been believed a few decades back.[55] Such a growing engagement reflects a more inclusive education system, labour policy reform, and shifting gender roles due to Vision 2030. It has broadened the epistemic community that shapes an individual's methods of legal interpretation, as well as expanded involvement in legal institutions. Despite all these trends, Sharia is the constitutional and symbolic creator of the Saudi legal identity (Basic Law, Art. 1). The values that citizens put pressure on the law include justice (*ʿadl*) and fairness (*inṣāf*) and trust (*amāna*), which signifies that the main emphasis of legal legitimacy lies in moral insight.[56] The new reforms are not to secularise law, but to modernise government and recapitulate Islamic authenticity. Codification, restructuring of the judiciary and rationalisation of the administration are understood to be means to the Sharia ends (*maqāṣid*), rather than substitutes for it.[57]

Political Context and Analysis

A mere doctrinal or institutional account cannot explain Saudi legal development; a political economy is required. Three structural factors have influenced legal reform: rentier autonomy, management of legitimacy, and economic integration, each of which is explained in the following: first, due to the lack of

[52] Giladi, "Saudi Arabia's Gendered-Judicial Reform," 2025.
[53] Boateng, Pryce, and Alotaibi, "Procedural Justice, Obligation to Obey and Cooperation with Police in a Sample of Saudi Arabian Citizens."
[54] Alasmari and Alotaibi, "Modernizing Commercial Agency Regulations in Saudi Arabia."
[55] Giladi, "Saudi Arabia's Gendered-Judicial Reform and the New Personal Status Law," September 2025.
[56] Hallaq, *Sharī'a*.
[57] Gunawan Tjokro et al., "The Role of Interfaith Law and Policy in Managing Human Resources: Addressing Religious Diversity in the Workplace," *Contemporary Issues on Interfaith Law and Society* 4, no. 1 (June 2025): 1–44, https://doi.org/10.15294/ciils.v4i1.22479.

revenue collection through taxation and the reliance on hydrocarbon extraction, the Araf has not felt the pressure of the social contract for reforming its legal frameworks, as observed in pluralist polities.[58] It has been a top-down, executive-led change that reflects state capacity and elite-driven agenda-setting rather than civic demand-based reform. This feature sets Saudi Arabia apart amid reform trends in Indonesia or Turkey.[59] Second, since the *ʿulamāʾ*-ruled family compact is stable, codification needs to be understood in the context of *siyāsa sharʿiyya* and *maqāṣid al-Sharīʿa* to sustain clerical support, thereby restricting the pace and degree of reform even when an executive will exist.[60] Third, the foreign direct investment goals of the Vision 2030 establish external incentives to align commercial law with WTO and UNCITRAL norms,[61] a conflict between principles of Islamic contract and international commercial norms, which is addressed partially but not wholly by the Civil Transactions Law (2023). Modernisation of Saudi Arabia in this regard is representative of more liberalising states in general, where legal reform is both an effect and a reinforcement of change in society and political authority.[62]

The historical collaboration of the ruling dynasty and religious establishment preconditioned the formation of the Saudi state and its basis on Sharia. This religious support could take the form of enticements such as *ṭāʿa* (obedience) and *bayʿa* (allegiance), and the rulers were bound to enforce Hanbali orthodoxy.[63] The Hanbali-dominated courts of early times were, in a de facto way, a means of creating a semblance of state authority among newly united regions. Therefore, legal centralisation was no longer another form of symbolic nation-building, in the sense that it was as much administrative as symbolic, to ensure that a tribal space was transformed into a single political space. The finding of oil was a political and economic turning point in Saudi Arabia. The state's reliance on oil revenues, as in other rentier states, diminished the need for direct taxation and thus allowed it to exercise a high level of executive power without facing severe political challenges.[64] Legal development had two consequences on this kind of economy. It funded the development of institutional capacity, including ministries, courts, and agencies that administer regulations.[65] It facilitated top-down legal reform that was not pegged on the reality of having to negotiate politically, but made codification, reorganisation of the administration, and digital transformation feasible with little opposition.[66] Therefore, contemporary legal modernisation is not merely a practical matter that offers commercial certainty and investment security, but is also politically possible because of rentier independence.

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[58] Beblawi, "The Rentier State in the Arab World"; Jill Crystal, *Oil and Politics in the Gulf: Rulers and Merchants in Kuwait and Qatar* (Cambridge University Press, 1995).
[59] Bowen, *Islam, Law, and Equality in Indonesia*.
[60] Mouline, *The Clerics of Islam*.
[61] Triyana Yohanes et al., "The WTO Non-Discrimination Principle and Its Impact on Developing Indonesia's Investment," *Legality : Jurnal Ilmiah Hukum* 33, no. 2 (September 2025): 513–34, https://doi.org/10.22219/ljih.v33i2.41046.
[62] Dale F. Eickelman and James P. Piscatori, *Muslim Politics* (Princeton University Press, 2004).
[63] Commins, *The Wahhabi Mission and Saudi Arabia*.
[64] Crystal, *Oil and Politics in the Gulf* (Cambridge University Press, 1995).
[65] Abdullah F. Ansary, "An Overview of the Saudi Arabian Legal System."
[66] F. Gregory Gause, *Saudi-Yemeni Relations: Domestic Structures and Foreign Influence* (Columbia University Press, 1990).

The use of political power codified in the Basic Law of Governance in 1992 did not displace Sharia (Article 1). It is neither a Western constitution nor a constitutional identity charter that structures the relationship among the ruler, judicial organs, and regulatory bodies.[67] The fact that the King is the supreme authority uniting political leadership with overall judicial and legislative authority defines the institutional logic of legal change.[68] The 2007 judicial reforms, the creation of the Supreme Court, and the modern codification follow a top-down paradigm of *ijtihād* by mass, state-selected committees. The creation of modernised law serves various political purposes. Legal reform promotes legitimacy by articulating a promise of justice and the rule of law through judicial independence, the enshrinement of rights, and procedural transparency.[69] The changes in personal status and commercial law are founded in social issues, keeping to the international norms, contributing to the reputational image at the national and international level. Vision 2030 considers legal reform a condition for diversifying the economy, attracting foreign direct investment, and developing a competitive market, in which the enforcement of contracts, commercial and business certainty, and judicial efficiency are priorities for attracting investment.[70] Special courts and codification are as much economic provisions of governance as of law. This innovative regulatory system also enables coherence in the state's administrative performance, reducing judicial divergence and the elevation of bureaucracy, thereby augmenting state strength without sacrificing Muslim legitimacy, since it relies on Sharia logic.[71] The *ʿulamā'* still tend to exercise a legitimising role, but the state organs have assumed the lead in matters of economic control, codification, and reorganisation of the judiciary.[72] Religious leaders offer doctrinal confirmation of changes in accordance with *siyāsa sharʿiyya*, providing a doctrinal foundation for change rather than blocking it.

Conclusion

The development of Saudi law demonstrates and finalises the thesis of hybridisation as the subject of this paper. Though there are rhetorical alternatives to this narrative whereby Islamic legal modernisation is seen as an inevitable move towards secularisation or where it cannot occur without a disruption in doctrine, the Saudi experience illustrates a third possibility: It is through the agency of the state that the doctrines are reconfigured, with the classical principles of fiqh remaining in both figural and institutional form. It is visibly more doctrinally ambitious than the free-zone bifurcation used by the UAE, the Malaysian dual-system, or the Egyptian model of civil-law commitments. This theorist-informed, primary source-based account of this process over the entire scope of the Saudi legal tradition, between pre-

[67] Saud H. Alharthi and Hajed A. Alotaibi, "Harmonising Legal and Sharia Principles in Foreign Investment: The Regulatory Framework of Subsidiaries in Saudi Arabia," *Legality : Jurnal Ilmiah Hukum* 34, no. 1 (March 2026): 162–82, https://doi.org/10.22219/ljih.v34i1.42145.
[68] Zubaida, *Law and Power in the Islamic World*.
[69] Larry Diamond, *The Spirit of Democracy*.
[70] Yohanes et al., "The WTO Non-Discrimination Principle and Its Impact on Developing Indonesia's Investment," September 2025.
[71] Richard A. Posner, *The Problematics of Moral and Legal Theory* (Harvard University Press, 2009).
[72] Stéphane Lacroix, *Awakening Islam: The Politics of Religious Dissent in Contemporary Saudi Arabia* (Harvard University Press, 2011).

modern *ʿurf* and the 2024 Penal Law, was the primary contribution of the paper to fill a gap in the comparative literature of Islamic law that has long understood Saudi Arabia as a dormant case or an exceptional form of religious politics, instead of a complicated baseline of legal modernisation.

This paper has demonstrated that *ʿurf* and fiqh gave a more normative appearance to the social order. It is clear that early Saudi rulers institutionalised fiqh-based courts and gradually incorporated administrative systems into the courts. Thus, in the process, it created a dual system of adjudication and state regulation by fiqh. Judicial reforms of 1992 (Basic Law) and 2007 resulted in a new institutional framework providing specialisation, hierarchy and procedural uniformity, and more recent codifications reflect a trend of collective *ijtihad* and the codification of fiqh principles in convenient statutory form. All these reforms in law have a strong foundation in political objectives, legitimacy, economic diversification, and the interdependence of law and government. These findings lead to several lines of future research. To investigate empirically whether judicial interpretations of new codified laws of derivation and interaction of statutory texts on fiqh rules are required, judicial reasoning studies are necessary, which are substantial for the systematic training of the judiciary, as established in the classical tradition. Studies of legal reforms in the Gulf should examine the reforms in Saudi Arabia, the UAE, Qatar, Bahrain, Oman, and Kuwait as a whole to identify regional trends and deviations. Sociological influence of codification is worth studying: is codified law better than judges being able to discern the common law, particularly in family law and contract law? Research on regulatory governance should involve investigations into the delegated legislative authority of ministries and regulatory authorities in a constitutional regime that follows Sharia law. Lastly, the point where Islamic law, artificial intelligence, and the digital judiciary meet, that is, the suitability of algorithmic tools, of digital courts, and of data-enforcement, as well as the aims of Sharia (maqāṣid al-Sharīʿa) and Saudi legal identity, remains underexplored but is potentially highly contentious area of future research.

Conflict of Interest Statement

The authors declare that they have no known competing financial interests or personal relationships that could have appeared to influence the work reported in this paper.

Declaration of the use of AI

The authors affirm that they did not use any AI-assisted technologies in preparing this article.

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