RETHINKING LEGAL EDUCATION IN AFGHANISTAN: THE LAW PROGRAM AT THE AMERICAN UNIVERSITY OF AFGHANISTAN

MEHDI J. HAKIMI* & ERIK G. JENSEN**

Despite significant international development assistance, Afghanistan continues to grapple with daunting rule of law challenges. Corruption remains a gnarly obstacle, with the justice sector especially mired in graft. A foundational problem contributing to the justice sector woes has been the deficient state of the legal education system. The outdated and bifurcated model of Afghan legal education has been largely unresponsive to the realities of the evolving Afghan legal system and the pressing needs of the wider justice sector. In the midst of the doom and gloom, however, a quiet, methodical, and radical approach to legal education has been unfolding at the American University of Afghanistan (AUAF) for the past decade.

This article examines AUAF's Bachelor of Arts and Laws (BA-LLB) program in detail and parses its evolution, including successes and challenges, in deviating from the traditional and flawed approach to legal education in Afghanistan. In setting the context, the article will first provide brief overviews of the Afghan legal education system and the recently established AUAF. The article will then take a deep dive into the various facets of the AUAF law program, including its early days, legal studies certificate program, BA-LLB program design, emphasis on legal pluralism, and innovative teaching materials. It will also explore other key aspects including the languages of instruction, faculty, program monitoring and evaluation, pedagogical approach, legal skills development, and students.

With only four cohorts of BA-LLB graduates, the program is still relatively nascent. A number of concrete measures are needed to consolidate the law program and increase its impact. These include expanding the curriculum and textbook development efforts, further emphasizing practical legal education, and increasing collaboration with other Afghan institutions. Rushing graduate programs, while reinforcement and consolidation beckon, would be premature.

In emerging as a successful and innovative model for legal education in Afghanistan, the program has benefitted from a substantial degree of institutional support at various levels to truly own, design, and implement its curricular and programmatic activities. Moreover, the program’s emphasis
on a gradual and incremental approach towards growth, grounded in the realities of an evolving context, has been crucial to its success.

In the quest to revamp the justice sector, the experience of the AUAF law program may shed light on long-term and cost-effective approaches towards improving legal education and, in turn, the rule of law in Afghanistan and other post-conflict countries.

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INTRODUCTION

Afghanistan, the scene of the United States’ longest war, continues to face daunting rule of law challenges.¹ Despite considerable international development assistance since 2001, Afghanistan remains among the most corrupt countries in the

* Executive Director, Rule of Law Program, Stanford Law School; Lecturer in Law, Stanford Law School.
** Professor of the Practice of Law, Stanford Law School; Director, Rule of Law Program, Stanford Law School; Senior Research Scholar, Center on Democracy, Development and the Rule of Law, Stanford University; Senior Advisor for Governance and Law, Asia Foundation.
world. In a country plagued by instability, corruption is deemed to present an existential, strategic threat to Afghanistan. According to the former commander of the International Security Assistance Force in Afghanistan, Ret. U.S. General John Allen, the Taliban are an annoyance compared to the magnitude of corruption in Afghanistan.

Graft is particularly rife in the Afghan justice sector. A key reason for the problems in the justice sector has been the poor state of the legal education system. Afghan legal education has long been characterized by a bifurcated model of training in the Faculty of Law and Political Science (FLPS) and the Faculty of Sharia (FS), largely unresponsive to the country’s pluralistic legal system. The dearth of legal textbooks critically analyzing the rapidly changing regulatory framework is further compounded by outdated and hierarchical pedagogical approaches emphasizing rote memorization and passivity. The result has been a supply of lawyers, prosecutors, and judges unprepared to navigate the formidable challenges facing the Afghan justice sector, debilitating corruption, and an elusive quest for the rule of law.

Against this backdrop, a quiet, methodical, and radical approach towards legal education has been unfolding at the American University of Afghanistan (AUAF). Launched in 2013, the Bachelor of Arts and Laws (BA-LLB) program at AUAF has graduated five cohorts and has emerged as an innovative center for legal education in the country. This article explores the AUAF law program in detail and parses the program’s evolution, including successes and challenges, in deviating from the traditional approach to legal education in Afghanistan and, thus, presenting an interesting alternative to the flawed model of legal education that pervades the country.

The article will set the context by providing an overview of the legal education system in Afghanistan including current practices and challenges. Next, it will briefly discuss AUAF, the immediate environment and locale from which the

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6 A close examination of the AUAF law program, and the broader Afghan legal education system, was possible through the authors’ engagement with AUAF since the institution’s early years. The authors remain deeply involved with the AUAF law program and the Afghan legal education scene through the Afghanistan Legal Education Project (ALEP) at Stanford Law School. Since the AUAF law program’s inception, the authors have benefitted from discussion of issues relating to Afghan legal education with deans, administrators, faculty, students, and other stakeholders from public, private, and nonprofit sectors in Afghanistan and globally. As such, firsthand observations and interviews with the relevant stakeholders and individuals in Afghanistan form a key part of the data in this article [hereinafter “Discussions”].
law program sprung. The article will then take a deep dive into the various facets of the AUAF law program including initiatives prior to the degree-granting program, BA-LLB program design, emphasis on legal pluralism, and innovative teaching materials. It will also explore other key aspects including the language(s) of instruction, faculty, program monitoring and evaluation, pedagogical approach, skills-based training, and students.

The article will also examine concrete measures to consolidate the program further and increase its impact. Two key priorities, at this juncture, are expanding the law program’s curriculum and textbook development efforts as well as further emphasizing practical legal education. In addition, the law program should increase collaboration with other institutions, particularly Afghan universities. Launching graduate programs would be appropriate once reinforcement and consolidation have taken place.

While still quite nascent and evolving, the AUAF law program has emerged as a successful and innovative model for legal education in Afghanistan. In doing so, the program has benefitted from a substantial degree of institutional support, at various levels, allowing it to truly own, design, and implement its curricular and programmatic activities. The law program’s emphasis on an incremental approach towards growth, grounded in the realities of an evolving context, has been crucial to its success.

As Afghanistan strives to revamp the justice sector and promote the rule of law, the encouraging experience of the AUAF law program may shed light on potential approaches towards improving Afghan legal education. The program’s lessons may also prove instructive for institutions considering similar reforms in other conflict-affected and developing countries.

In addition to the long-term impact of well-designed legal education initiatives on the rule of law, such interventions are highly cost-effective. With the annual cost of the AUAF law program roughly equaling the annual cost of one American soldier in the Afghan war, such innovative programs are worthy of consideration.7

I. OVERVIEW OF LEGAL EDUCATION IN AFGHANISTAN

In addition to rampant corruption, decades of conflict have ruined the necessary foundations to support a well-functioning justice sector. In particular, the legal education system remains in poor shape despite significant investments by the international community.8

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7 Measured by the State Department grants supporting the AUAF law program over the period 2010–2020. See, e.g., Larry Shaughnessy, One soldier, one year: $850,000 and rising, CNN (Feb. 28, 2012, 5:50 PM), http://security.blogs.cnn.com/2012/02/28/one-soldier-one-year-850000-and-rising/.

8 Various donors have supported initiatives to improve the rule of law and legal education in Afghanistan. See, e.g., Afghanistan Rule of Law Project (AROLP), UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT (USAID), https://www.usaid.gov/node/52021 (last visited Feb. 8, 2019) (citing “higher quality legal education” as a key objective); Afghanistan Judicial Reform Project, THE WORLD BANK, http://projects.worldbank.org/P107372/afghanistan-judicial-reform-project?lang=en (last visited Feb. 8, 2019); Afghanistan, INTERNATIONAL DEVELOPMENT LAW ORGANIZATION (IDLO), http://www.idlo.int/where-we-work/asia/afghanistan (last visited Feb. 8, 2019) (describing projects in the area of rule of law promotion); Afghanistan: Rule of Law, UNITED NATIONS DEVELOPMENT PROGRAM (UNDP),
While small strides have been made, the Afghan legal education system faces numerous challenges. A key hurdle stems from the country’s dual system of legal education. Universities train law students through two streams: Faculty of Law and Political Science (FLPS) and Faculty of Sharia (FS). (In this article, “Faculties” will be used to refer to both the FLPS and the FS). Students in the FLPS are immersed in state laws and codified rules with some exposure to Sharia principles. Conversely, the FS focuses mainly on Islamic law. Both undergraduate programs are designed to be completed in four years.9 Graduates of both schools are eligible to become lawyers, prosecutors, and judges. Moreover, to further complicate the legal education scene, graduates of official madrasas—religious schools outside the higher education system—can also enter the legal profession.10 This partition in Afghan legal education—and concomitantly diverse trainings, perspectives, and aptitudes developed in the FLPS and the FS—consequently impact the quality of graduates and their relative preparedness to enter the legal profession.11 Indeed, this bifurcation in legal education, and the competition and incongruences between the Faculties, have persisted for decades.12 Attempts to standardize legal education, including unifying the schools of law and Sharia or, at least, providing some common training for graduates of both schools, have failed.13 Harmonization of the legal curricula has been elusive due to persistently tense and acrimonious relations between the two Faculties.14 Furthermore, mechanisms to evaluate the quality of legal education offered by various institutions are practically absent. Coordination among relevant bodies, such as the Ministry of Higher Education, Afghanistan Independent Bar Association (AIBA), justice sector institutions, and universities, is also seriously lacking.15

In addition to the above hurdles, a World Bank assessment of the Afghan higher education system in 2007 highlighted that “curricula, teaching materials and pedagogical methods are grossly outmoded,” and there is “heavy reliance on
dictation as the principal way of imparting knowledge.” These issues still persist despite the rising number of Afghans pursuing post-secondary education. The Faculties are also plagued by these general deficiencies. Outdated textbooks, ineffective pedagogical approaches, emphasis on theoretical knowledge and rote memorization, absence of faculty evaluation and accountability, gender imbalance among faculty and students, and lack of donor coordination on legal education initiatives pose formidable challenges to Afghan legal education. Indeed, the highly theoretical approach to pedagogy and dearth of practical legal training have defined Afghan legal education for decades.

These problems are becoming more pronounced with the proliferation of private universities across Afghanistan. Following the lifting of restrictions in 2001, at least 130 private universities operate in the country. Quality control is a major challenge across both public and private universities.

A detailed analysis of these challenges is beyond the scope of this paper. However, in discussing the AUAF law program, comparisons, contrasts, and references will be made to the traditional and prevalent system of legal education. It is against this general backdrop that the law program at AUAF was established and has been growing.

II. AMERICAN UNIVERSITY OF AFGHANISTAN

Established in 2004, the American University of Afghanistan (AUAF) is Afghanistan’s first nationally accredited, private, and not-for-profit university.  

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18 Azizi & Ericksen, supra note 11, at 3.

19 Weinbaum, supra note 12, at 43 (citing heavy reliance on theoretical instruction and lack of practical legal training as basic shortcomings of Afghan legal education).


23 AM. U. OF AFG., https://www.auaf.edu.af (last visited Feb. 8, 2019) [hereinafter AUAF]. Although AUAF was the first Afghan not-for-profit university, other not-for-profit post-secondary institutions have emerged such as Avicenna University in Kabul. AVICENNA U., http://avicenna.edu.af/ (last visited Feb. 8, 2019).
The university is chartered under the Afghan Constitution and Ministry of Higher Education of the Afghan government. AUAF’s mission is to provide “world class higher education that prepares leaders to meet the needs of Afghanistan and the region.” Opened in 2006 with an initial enrolment of fifty students, the institution has more than 1,700 full- and part-time students today.

AUAF currently offers four undergraduate programs (Law, Business Administration, Political Science and Public Administration, and Information Technology and Computer Science) and one graduate program (Master of Business Administration). In addition to degree granting programs, AUAF runs a number of “centers of excellence” including the Professional Development Institute, Business Innovation Hub, and the International Center for Afghan Women’s Economic Development.

The language of instruction at AUAF is English. The institution also provides all undergraduate students a general education in liberal arts; every undergraduate student completes sixty credits in general education in addition to the specific requirements for their major. The university is modeled on “American curriculum and standards.” International faculty and staff feature prominently within the institution alongside their Afghan counterparts.

AUAF offers a very different educational experience than other post-secondary institutions in the country. AUAF is home to a vibrant student body with many active clubs and associations ranging from the Islamic Club to Art, Debate, and Chess clubs. Female students make up a significant percentage of the overall student body. Forty-four percent of new students in spring 2017 were female. Moreover, more than fifty percent of law majors in the spring 2018 semester were female students. AUAF students regularly participate, and thrive, in various international competitions and programs. Graduates include many Fulbright

\[\text{References}\]

26 AUAF, supra note 23.
27 See id.
29 For example, see the Appendix, which outlines the degree requirements for the Bachelor of Arts and Laws (BA-LLB) program. The law degree requires the completion of 132 credits, including sixty credits in liberal arts education.
30 AUAF, supra note 23.
33 Registrar’s Office, AM. U. OF AFG. (Apr. 2018) (data on file with authors) [Hereafter Registrar’s Office]. The number of female law students has steadily grown over the years. While it may be difficult to pinpoint the reasons for this trend, female law students may find it particularly empowering to learn about their legal rights and protections, and to think critically about the law generally, in a very conservative and patriarchal society.
scholarship recipients, senior officials in the Afghan government, and prominent actors in the private and nonprofit sectors.

The university suffered a major blow in the summer of 2016. On August 8, 2016, two international faculty were kidnapped by the Taliban. On August 24, 2016, a terrorist attack on the institution left 16 people killed and 53 injured. The fall 2016 semester was held via distance learning and the university reopened on March 25, 2017 for the spring 2017 semester. Despite the unprecedented attack, AUAF welcomed 730 students at its campus for the spring 2017 semester, a higher figure than in fall 2016 prior to the attack.

III. THE AUAF LAW PROGRAM

This section critically examines the evolution of AUAF’s law program. In doing so, it will discuss the program’s Legal Studies Certificate initiative which preceded the launch of the Bachelor of Arts and Laws (BA-LLB) program in 2013. The section will then explore the program’s design and its attempt to reflect Afghanistan’s pluralistic legal system. It will also examine other key aspects of the law program including its teaching materials, language of instruction and incorporation of Dari and Pashto, faculty, program monitoring and evaluation, pedagogical approach, emphasis on skills training, and students. In exploring the various facets of the AUAF law program, the section will analyze this legal education initiative’s successes and challenges in deviating from the default model of Afghan legal education.

A. The Early Days and the Legal Studies Certificate Program

The work to build a law curriculum at AUAF began in 2007, six years before the BA-LLB program was officially launched. The first law class at

38 Felbab-Brown & Neumann, supra note 32.
39 Felbab-Brown & Neumann, supra note 32.
41 Felbab-Brown & Neumann, supra note 32.
Rethinking Legal Education in Afghanistan

AUAF—Introduction to the Laws of Afghanistan—was offered by the then Department of Social Science and Humanities in fall 2008. As demand for law courses grew, in partnership with the Afghanistan Legal Education Project (ALEP) at Stanford Law School, AUAF rolled out a Legal Studies Certificate Program that granted a certificate in legal studies to students who successfully completed the requirements. The Legal Studies Certificate Program required the completion of seven law courses.

The success of the Legal Studies Certificate Program attracted funding from the State Department's Bureau of International Narcotics and Law Enforcement Affairs (INL/State Department) in 2010. The program's innovative curricula, coupled with ALEP's close collaboration with faculty, staff, and students at AUAF to assure quality teaching, generated further interest in law courses.

The curriculum not only taught students about the law, it also emphasized critical thinking and analytical skills. By the end of the 2012 summer session, the Legal Studies Certificate Program had enrolled 900 students in aggregate in one or more of its courses designed by ALEP. Law classes were among the most popular offered at AUAF and were over-subscribed. At the May 2012 commencement, the first batch of AUAF students who had completed the legal studies curriculum received their certificates in legal studies. In total, forty-one students graduated from the Legal Studies Certificate Program.

B. The Bachelor of Arts and Laws (BA-LLB) Program Launch

The success of the Legal Studies Certificate Program led to rising demand for law classes and the possibility of earning more than a certificate in legal studies. Practicing law in Afghanistan requires a bachelor's degree. Moreover, the relatively nascent legal market was desperate for well-trained attorneys and legal professionals equipped with legal skills and deep appreciation for adherence to the highest standards of professional responsibility.

These pressures and opportunities prompted INL/State Department to support ALEP in establishing a full-fledged law department to run an integrated Bachelor of Arts and Laws (BA-LLB) program. The BA-LLB program was launched in January 2013. The program's launch followed a rigorous market analysis which included assessments of relevant local, regional, and international legal curricula and consultations with key stakeholders.

42 Discussions, supra note 6.
44 See Press Release, supra note 43.
45 See Registrar's Office, supra note 33.
Given the pervasive problems in Afghan legal education, there was a pressing need to develop a center of excellence in legal education at AUAF. The BA-LLB program was established with the aspiration to begin addressing many of the issues that plague legal education across Afghanistan including outdated textbooks, ineffective pedagogical approaches, and dearth of legal skills training. Moreover, the AUAF law program’s overarching design also set out to tackle another long-standing shortcoming of the traditional legal education system: the failure to properly reflect Afghanistan’s pluralistic legal system.

C. Program Design and Legal Pluralism

The integrated BA-LLB program requires 132 credits enabling students to complete the program in approximately four years. With sixty credits devoted to liberal arts education, students complete seventy-two credits in law courses. In addition to core law courses, students are also required to take legal electives. The BA-LLB degree plan is attached in the Appendix.

Unlike the Faculties elsewhere in Afghanistan, AUAF’s law program is designed to reflect the legal pluralism that is the hallmark of the Afghan legal system. The Afghan legal system is a vibrant mix of civil, Islamic, and customary legal traditions with slowly emerging influences from other traditions. However,

48 These stakeholders included the Ministry of Higher Education, Afghanistan Independent Bar Association, Supreme Court, Attorney General’s Office, Ministry of Justice, legal employers, local practitioners and experts, AUAF administration and board of trustees, faculty, and students. Discussions, supra note 6.

49 The BA-LLB program was initially designed as a 150-credit curriculum before being trimmed to 132 credits in fall 2014. The programs in the FLPS and the FS in Afghanistan are generally four years long. Moreover, a pragmatic reason for the change was pressures within AUAF: with other undergraduate programs requiring 120 credits, many otherwise prospective law students opted for another major to save one year (and considerable money). The law program is still approximately one semester (12 credits) longer than other undergraduate degrees at AUAF. Taking advantage of intensive winter and summer sessions, students can complete the BA-LLB program in four years. Mandatory courses removed from the initial 150-credit curriculum—such as Advanced Islamic Legal Reasoning, Legal Dari, and Property Law II—are still reflected in the program’s course catalogue and may be offered as electives. Moreover, adjustments have been made to introduce aspects of these areas in other courses. For instance, Legal Dari and Pashto are emphasized in Civil Procedure and Criminal Procedure, which are taught exclusively in the local languages. In addition, students are familiarized with key legal terms in Dari and Pashto in nearly all law courses. Tweaks and adjustments to the program design and curriculum are expected to continue as the program evolves.

50 Introduction to the Laws of Afghanistan (LGS 110) is part of the liberal arts education component for all AUAF undergraduate programs. As such, the required seventy-two credits in law are in addition to LGS 110.

51 The concept of legal pluralism entails considerable diversity and forms (e.g., categorizations based on realism, post-modernism, and post-pragmatism). WARWICK TIE, LEGAL PLURALISM: TOWARD A MULTICULTURAL CONCEPTION OF LAW 59 (Ashgate/Dartmouth 1999). For the purposes of this article, legal pluralism can be viewed as the presence and interaction of different legal traditions and institutions within a single political framework. See, e.g., BRYAN S. TURNER ET AL., LEGAL PLURALISM AND SHARI’ A LAW I (Bryan S. Turner et al. ed., Routledge 2014).

52 For a detailed discussion on the pluralistic nature of the Afghan legal system, see Choudhury, supra note 47, at 261–70.

53 While Afghanistan does not follow the common law tradition, recent legal developments have necessitated a closer understanding of this legal tradition even for Afghan audiences. These developments include an array of new laws and regulations drafted with significant input by lawyers from common law jurisdictions as well as Afghanistan’s increasing interaction with other legal systems globally.
the currently bifurcated legal education system fails to equip students with adequate training in all these different areas; rather, the Faculties tend to disproportionately focus on either state laws or Islamic law.

In reflecting the pluralistic legal system of Afghanistan, the Department of Law at AUAF has offered numerous courses. The curriculum approaches the study of law through the prism of legal pluralism and teaches students the interplay between the various legal traditions in any given area of the law. Courses examine legal issues from that pluralistic lens to see how civil, Islamic, and customary sources interact, overlap, and, at times, clash with one another. Moreover, other key courses, such as the mandatory Comparative Law class, also help students better understand the different legal traditions and how they play out in Afghanistan.

The influence of the civil law tradition in Afghanistan is underscored by the Constitution, legal codes such as the Civil Code, the Penal Code, and the Commercial Code, and a burgeoning array of statutory laws and regulations that govern various aspects of rights, duties, and interactions. Various courses emphasize the civil law tradition, including Constitutional Law, Criminal Law, Commercial Law, Contracts, Civil Responsibility (Torts), Property, and Family Law.

In addition to civil law training, the AUAF law curriculum covers key core courses on Islamic law including Introduction to Islamic Law and Islamic Criminal Law. Legal electives such as Advanced Islamic Legal Reasoning, Islamic Finance and Commercial Law, and Comparative Islamic Law are also part of the program’s overall curriculum. Moreover, given the considerable influence of Islam on Afghan law generally, relevant Sharia principles are taught and emphasized in various classes including Inheritance Law, Family Law, and Property Law. The inclusion of key Islamic courses and principles in the law curriculum is designed to ensure that graduates have a solid understanding of this key source of Afghan law in addition to being well-versed in statutory laws.

Moreover, the AUAF law program introduces students to critical analyses of Afghan customary law and informal dispute resolution. This is an important area particularly given that the vast majority of Afghans opt for informal justice

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54 For example, in the Commercial Law course, while students understand the primacy of the civil law tradition (and the centrality of Afghanistan’s Civil Code and Commercial Code and other relevant statutes and regulations), they are also familiarized with the relevant Sharia provisions as well as the applicability of custom and tradition in certain aspects of Afghan commercial law. Moreover, where appropriate and particularly to introduce a comparative perspective, students are also introduced to the common law tradition.

55 Choudhury, supra note 47, at 282.

56 Article 3 of the Afghan Constitution stipulates that no law may contravene the tenets and provisions of Islam. Moreover, Article 130 of the Constitution mandates that, in the absence of statutory provisions about a case, courts shall apply the Hanafi jurisprudence. Article 131 of the Constitution provides for the application of Shia jurisprudence in cases involving personal matters of Shia Muslims in the absence of statutory clarification. CONST. OF THE ISLAMIC REP. OF AFG. Jan. 3, 2004, arts. 3, 130, 131.

57 In practice, however, due to resource constraints, the AUAF law program has failed to offer sufficient legal electives, including electives in advanced Islamic law.

mechanisms—shuras and jirgas—to resolve disputes.\(^{59}\) (The Afghan government is considering a law that will recognize decisions by customary fora in civil cases.\(^{60}\) Indeed, the course Informal Dispute Resolution and Traditional Justice is a core requirement. Such mandatory courses on Afghan customary law are absent in other Afghan universities.

Other key issues relating to the program's design, such as language(s) of instruction, pedagogical approach, and experiential learning, will be examined in the subsequent sections of this article. One of the key differentiating factors of the AUAF law program is its teaching materials. The next section explores this crucial dimension of the program.

D. Teaching Materials and Textbooks

As discussed earlier, one of the most foundational challenges facing legal education in Afghanistan is the dearth of up-to-date legal textbooks that critically analyze the rapidly evolving post-2004 legal landscape.\(^{61}\) Outdated textbooks and "chapters," along with textbooks from other countries, particularly Iran, permeate universities.\(^{62}\) High-quality legal research and publication by Afghan academics and legal experts are practically non-existent. Given the incredible pace of developments in the Afghan legal landscape since 2004, the teaching materials used in the vast majority of universities are not responsive to the realities of the Afghan legal system.\(^{63}\)

Noting this major shortcoming, ALEP set out to develop innovative legal curricula critically analyzing the post-2004 Afghan legal system. In close collaboration with Afghan legal experts, academics, and practitioners, ALEP has been producing original textbooks on Afghan law since 2007. ALEP has also

\(^{59}\) Shura and jigra are, respectively, Arabic and Pashtu terms signifying a council that makes decisions on a wide range of matters and disputes. See, e.g., MANAGEMENT SYSTEMS INTERNATIONAL, UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT (USAID), AFGHANISTAN RULE OF LAW PROJECT: FIELD STUDY OF INFORMAL AND CUSTOMARY JUSTICE IN AFGHANISTAN AND RECOMMENDATIONS ON IMPROVING ACCESS TO JUSTICE AND RELATIONS BETWEEN FORMAL COURTS AND INFORMAL BODIES, 53 (2005), http://pdf.usaid.gov/pdf_docs/PNADF590.pdf.

\(^{60}\) The Law of Conciliation in Civil Cases is currently in draft mode, and on file with the authors.

\(^{61}\) Afghanistan adopted a new constitution in 2004 ushering in vast legal reforms.

\(^{62}\) The main reading and instructional materials in many classes in the Faculties across Afghanistan are outdated "chapters" consisting of approximately 30–50 pages. Students are expected to memorize the instructors' "chapters" verbatim rather than developing a critical understanding of the law. Discussions, supra note 6; see also Rochrs, supra note 17.

\(^{63}\) In the relatively longstanding absence of quality legal textbooks in Dari or Farsi, the influence of Iranian law textbooks has been enduring. See, e.g., Weinbaum, supra note 12, at 43. Based on discussions with faculty and administration departments in various Afghan universities, Iranian legal textbooks are widely used in Afghan institutions. While such textbooks may be helpful for comparative purposes, their relatively extensive use as key teaching materials in Afghan law schools is problematic. Discussions, supra note 6.

\(^{64}\) Discussions, supra note 6.
translated a number of important Afghan laws into English such as the Civil Code and the Commercial Code. ALEP has published nine textbooks so far, and has six additional publications (including updated editions) in the pipeline. Following publication in English, ALEP textbooks are translated and published in Dari and Pashto. All published textbooks are available on ALEP’s website for free use and distribution. ALEP’s publications are being increasingly used by various institutions globally.

In addition to the ALEP textbooks, AUAF law students have an exclusive law library housed within AUAF’s general library. The law library has a steadily growing collection of publications on Afghan law as well other areas of law. The law library resources include recent and high-quality publications in English as well materials in Dari and Pashto. In addition to books, materials in the local languages include selected court decisions, as well as official publications by the Supreme Court and Ministry of Justice, among other institutions.

Published originally in English, the ALEP textbooks serve as the primary teaching materials in most AUAF law classes. The language of the ALEP textbooks reflects the language of instruction at AUAF—another important and unique attribute of the AUAF law program.

E. Language(s) of Instruction

The language of instruction at AUAF is English. As such, law classes also generally follow this model. The English language instruction in the law program is designed to partly address the shortage of well-trained Afghan legal professionals who can interact with international partners in various sectors. Moreover, English instruction helps address challenges associated with the dearth of high-quality textbooks and other learning resources in Dari and Pashto, as well as supports students’ aspirations to pursue graduate studies abroad. However, developing student proficiency in legal Dari and Pashto remains crucial given the realities of the context in which AUAF operates.


68 These include universities as well as other institutions in public, private, and nonprofit sectors. Discussions, supra note 6.

69 AUAF library’s resources include print and electronic materials and databases, study rooms, and computer labs. Library, AM. U. OF AFG., https://www.library.auaf.edu.af/ (last visited Feb. 8, 2019). The university is currently expanding the library which will feature a larger law section. Discussions, supra note 6.

70 Access to published court decisions is extremely difficult in Afghanistan due to lack of resources, security issues, and the courts’ discretion among other factors. The relatively rare court publications tend to be the result of donor-funded projects to encourage dissemination of court decisions. Moreover, organized court visits, as part of university legal education, are quite rare for various reasons including security concerns. As such, published court cases are very helpful in understanding how Afghan courts interpret and apply the law.

71 Discussions, supra note 6.
The important role played by international actors and foreign legal professionals in Afghanistan, and increasing integration within the global community, necessitate a growing class of competent Afghan lawyers who can effectively collaborate with international partners. At the moment, there is a serious shortage of well-trained Afghan legal professionals with strong English-language skills. Filling that void is one of the AUAF law program’s objectives.

Moreover, given the dearth of textbooks and other resources in Dari and Pashto, English proficiency can significantly expand the breadth and depth of resources available to students. Indeed, lack of English language skills is deemed to be one of the largest barriers to Afghan university students’ access to new and better textbooks and other up-to-date resources and learning materials. Moreover, strong command of the English language is necessary for students intending to pursue graduate studies abroad.

However, to ensure that law graduates can successfully navigate the Afghan legal system, the program has introduced instruction in Dari and Pashto over time. Most practice-oriented courses—such as Civil Procedure, Criminal Procedure, and Legislative Drafting—are taught exclusively in the local languages. The curriculum envisions specific courses on Legal Writing in Dari and Pashto. Certain other practice-oriented classes, such as Clinical Legal Education, adopt a hybrid approach. In all other courses, students are increasingly familiarized with the legal terminologies and concepts in Dari, Pashto, and Arabic.

72 The translation of ALEP textbooks into Dari and Pashto remains one of the relatively rare attempts to produce quality legal textbooks in the local languages. Discussions, supra note 6.

73 Roehrs, supra note 17.

74 Many AUAF law students are eager to pursue graduate legal studies abroad. Indeed, a number of AUAF law graduates have completed, and others are undertaking, L.L.M. programs in the west. See, e.g., AUAF Valedictorian Begins LL.M. Degree at Notre Dame, AFG. LEGAL EDUC. PROJECT (Nov. 10, 2017), https://law.stanford.edu/2017/11/10/auaf-valedictorian-begins-ll-m-degree-at-notre-dame/; see also From Afghanistan to the United States: A Legal Education Continued, AFG. LEGAL EDUC. PROJECT (Jun. 14, 2016), https://law.stanford.edu/2016/06/14/from-afghanistan-to-the-united-states-a-legal-education-continued/.

75 Interestingly, the instruction of these courses in the local languages was initially met with resistance from some AUAF students who had grown accustomed to instruction in English. Over time, student attitudes towards the incorporation of local languages have changed, particularly given the general legal market demands and the students’ and graduates’ interactions with the wider legal community. While AUAF law students are coveted by many prospective employers for their practical legal skills and English proficiency, command of legal Dari and Pashto and professional communication skills in the local languages remain highly important. Discussions, supra note 6.

76 Due to resource constraints, these courses are not yet offered. However, the assignments and deliverables in Civil Procedure, Criminal Procedure, and Legislative Drafting are generally submitted in Dari and Pashto. (Given AUAF students’ diverse backgrounds, some students actually struggle to write properly in the local languages, which requires reasonable accommodations. Their difficulties further highlight the importance of addressing students’ language proficiency needs.) Id. Similar conundrums in balancing local language proficiency needs and institutional policies establishing English as the main language of instruction can also be seen in other contexts. For instance, the American University of Iraq, Sulaimani (AUIS) is facing a similar challenge as it tries to expand its Law Minor Program and offer a full-fledged Law Major Program. (The authors have been collaborating with AUIS in navigating this crucial phase of expanding their law program. (Email on file with authors.)). The American University of Cairo offers graduate—but not undergraduate—law programs in English. See Graduate Degree Programs, AM. U. OF CAIRO, http://catalog.auccgypt.edu/content.php?catoid=27&navoid=1339. The American University of Beirut, on the other hand, offers a Minor in Law Program, but no Law Major Program. See Academic Programs, Department of Political Studies and Public Administration, AM. U. OF BEIRUT, https://website.aub.edu.lb/fas/pspa/programs/Pages/Programs.aspx. Institutional policies on foreign language(s) of instruction pose particular challenges for professional legal programs globally.
since the AUAF law department has relied significantly on Afghan faculty in recent years.

Striking the right balance between instruction in English and the local languages is an ongoing challenge. As data slowly accumulates, including feedback from graduates working in the legal sector, adjustments will need to be made to ensure that the law program remains responsive to the needs of the students and the legal market. Regular offerings of practice-oriented courses—such as Legal Methods and Clinical Legal Education—exclusively in Dari and Pashto are needed to improve that balance. That will require recruiting and supervising talented Afghan faculty.

F. Faculty

As with any other academic institution, the faculty and staff are indispensable to the program’s success. In line with the program’s goals, two overarching considerations have emphasized developing a cadre of capable Afghan faculty and maintaining a rigorous monitoring and evaluation framework.

1. Balance between locals and internationals

The balance between the national and international faculty has changed since the early days of the law program in 2007. In the initial years, more international faculty were involved, mainly owing to AUAF’s English language requirements and the dearth of qualified Afghan law faculty. Other reasons included a relatively more stable security environment, and a desire to introduce modern pedagogical approaches and practical legal curricula not previously taught in Afghanistan. Over time, as the pool of Afghan academic talent has expanded, the AUAF law faculty’s composition has changed accordingly. Indeed, the composition of the law faculty—in focusing on Afghan academics and local experts—diverges from other departments at AUAF, where international faculty feature more prominently.

As the program’s primary focus is on Afghan law, the faculty are predominantly Afghan. Indeed, in the 2017–18 academic year, all eight full-time and part-time faculty members were Afghan nationals. Moreover, other considerations, such as sustainability, necessitate a focus on recruiting talented Afghan faculty.

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77 Given the strong influence of Islamic law on the Afghan legal system, many laws and legal principles include Arabic legal terms.
78 In 2016–17, seven of the eight law professors were Afghans. There was one U.S. faculty member who taught legal research and writing as an adjunct.
79 The volatile security situation poses difficulties in recruiting and retaining international faculty. Indeed, the university as a whole suffers from this problem, though the issue is less pronounced in the law department due to the reliance on Afghan human capital. The Afghan-centric model of the law department may be a useful, cost-effective, and sustainable approach for other departments as the number of well-trained prospective Afghan faculty rises. Moreover, the inevitable comparisons and differential treatment of national and international employees on a range of issues can create unnecessary tension in settings where team cohesion and esprit de corps are indispensable. Discussions, supra note 6.
While the main focus is on national faculty, there remains an important role for qualified international instructors, particularly in offering specialized expertise on international law, comparative law, and practical legal curricula. Moreover, international faculty serve an important function given the AUAF law program’s niche market: employers seeking legal professionals proficient in English and equipped with practical legal skills. The different perspectives offered by the international faculty are helpful not only to the students, but also generally in fostering a diverse and more robust program. Based on the AUAF law program’s experience, strategically-recruited qualified international faculty complement the core Afghan faculty while ensuring the continual growth and refinement of the overall program. As the law program expands and considers offering advanced legal studies, the need for international faculty may increase as well.

While international faculty bring valuable perspectives and skillsets to the table, there are also important considerations that must be kept in mind. International faculty trained mainly in one legal tradition, such as common law, must remain diligent and aware of the pluralistic nature of the Afghan legal system. They need not be experts on legal pluralism or the intricacies of Afghan law, but at a minimum, they must recognize the likelihood that an overreliance on, say, the common law tradition, may (dis)color teaching and learning in a different context. Moreover, given the conservative nature of Afghan society, cross-cultural sensitivity is crucial. Assumptions that may be valid in a different context but ignore the nuances of Afghan tradition can be detrimental to the learning experience. Moreover, appreciation of the academic backgrounds of Afghan students, for many of whom English is the second or third language, is also important; it would be a mistake, for instance, to assign a volume of reading or homework to an AUAF law student that would be “normal” for a J.D. student in the United States. It is crucial to constantly check assumptions and adopt a humble and prudent approach.

2. Monitoring and evaluation

Regular assessments of the law program’s performance are crucial in promoting quality legal education. Given AUAF’s objectives, performance in the classroom and progress on programmatic goals are key considerations in the monitoring and evaluation framework.

80 Instances of foreigners working in Afghanistan making wrong assumptions regarding Afghan law are not rare by any means. On one occasion, for instance, a U.S. guest lecturer at AUAF spent substantial time discussing certain aspects of Afghan contract law. Unfortunately, the guest lecturer made various assumptions, based on U.S. contract law principles, that did not apply to domestic Afghan law. Id.

81 This is particularly sensitive given the “American” brand and connotations of AUAF as an academic institution from a local perspective. Afghans unfamiliar with the institution may wrongly assume that the institution propagates “western” values at the expense of Afghan or Islamic values.

82 For a general discussion of teaching evaluation at universities, see, e.g., Task Force on Teaching Evaluation Final Report, U. OF CAL., BERKELEY 1, 1 (2009), http://academic-senate.berkeley.edu/sites/default/files/teachingevaluationreport-sept09.pdf.

83 AUAF’s emphasis on a student-oriented teaching philosophy and embracing different pedagogical approaches has made it difficult for many otherwise promising prospective faculty with significant expertise to join or continue with the AUAF law department. Discussions, supra note 6.
In addition to AUAF’s internal evaluations, ALEP also conducts rigorous assessments of the law department. ALEP’s monitoring and evaluation of the AUAF law program has been evolving, but a key staple has been regular site visits. These site visits are excellent opportunities to conduct in-class evaluations and meet with various stakeholders including students, administration, faculty, and staff to hear views and share feedback. More recently, faculty evaluations have also entailed assessments of the faculty’s teaching materials, such as course-readers, syllabi, assignments, and sample student work.

Workshops and meetings are also conducted to evaluate progress, curricular and programmatic needs, and to plan ahead. In addition to regular site visits to Kabul, ALEP regularly communicates with the law department through other means to support the program.

Given the small faculty and staff team in the law department, such close monitoring and oversight of the program has been crucial in moving the program forward despite difficulties along the way. As with any other compact and relatively nascent organization, team cohesion and unrelenting pursuit of institutional objectives are critical to sustained growth.

G. Pedagogy

The AUAF law program markedly deviates from the rigid lecture-based pedagogy and rote-memorization assessments that typify the teaching methods in the Faculties across Afghanistan. The AUAF program strives towards a student-oriented approach with an emphasis on critical thinking and legal skills development.

An important preliminary objective is creating a student-oriented environment within the class unlike the hierarchical atmosphere that dominates classrooms in other institutions. Throughout their primary and secondary education, Afghan students are generally trained to be passive and highly deferential to instructors, such that asking questions is often unwelcome. As such, the faculty are also encouraged and supported by AUAF and ALEP in undertaking professional development activities to enhance teaching and research capabilities.

The internal AUAF process entails informal peer-evaluations, student evaluations, and comprehensive annual assessments.

The external evaluation is also part of ALEP’s monitoring and evaluation responsibilities under its federal grant.

Discussions, supra note 6.

Regular communications, e.g., via Skype, email, and phone, are necessary to address various ongoing curricular and programmatic matters.

For several years, the AUAF Law Program has been employing one staff member and teaching assistants on an ad hoc basis to assist with various operational and administrative program tasks. ALEP Quarterly Reports (on file with authors).

Such hierarchical and lecture-based teaching methodologies are not exclusive to Afghanistan. Indeed, they are seen in various developing and post-conflict countries. See, e.g., Haider A. Hamoudi, Toward a Rule of Law Society in Iraq: Introducing Clinical Legal Education into Iraqi Law Schools, 23 BERKELEY J. INT’L LAW. 112, 118 (2005) (explaining the dominance of such top-down and rigid lecture-based teaching models in Iraq).

The emphasis on the student-centered approach has been baffling to some legal educators unfamiliar with the AUAF legal pedagogy. In a discussion with faculty from certain Kabul-based law schools, the authors were told that “good” professors are feared, such that no student would dare ask them questions in class. Being questioned, according to some faculty, was deemed a challenge or even
a key objective—particularly in introductory classes where students are still in the early phases of being exposed to a new pedagogical approach—is to continuously encourage the students to ask questions and stimulate class discussions.91

In stimulating student engagement with the materials, discussion questions and other learning aids in ALEP textbooks provide a good starting point for lively class discussions—a common feature of AUAF law classes. The Socratic Method is also employed in certain classes, with an Afghan twist: the faculty randomly call upon students to probe a particular topic, but the initial exchange tends to quickly transform into a lively *shura* or *jirga* session with a free-flowing discussion of ideas and perspectives.92 Given the broader educational and historical context, the experience can be quite incredible, with students civilly advocating diametrically opposed positions. The low faculty-student ratio in AUAF law classes is also conducive to such dynamic interactions and regular class discussion.93

The general approach to assessment of student learning in the Faculties consists of midterm and final examinations essentially testing rote memorization.94 By contrast, the assessment methods employed in AUAF law classes are varied and depend on the level, type, and specific learning objectives of each course.95 For example, in upper-level courses, advanced research and writing skills are emphasized and, as such, major research papers are common. Moreover, practical courses have their own specific evaluation criteria. Generally speaking, unlike typical Afghan law schools, the AUAF law program utilizes various assessment tools, including class participation and discussion, individual and group assignments, research papers, presentations, role-plays and simulations, quizzes, and midterm and final exams.97 Moreover, self-reflection exercises are particularly used in courses emphasizing experiential learning, such as the business law clinic.98

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91 Id.
92 See USAID, supra note 59.
93 The maximum size of most AUAF law classes is thirty students. Upper-level courses tend to have approximately fifteen to twenty students. Experiential learning classes, such as clinical legal education, cap the size at ten students. See ALEP Quarterly Reports, supra note 88. By contrast, the faculty-student ratio is considerably higher elsewhere, particularly in public universities. Many public universities' first year law classes have over one hundred students, making it even more challenging to engage students in lively class discussions. (Indeed, substantial time is spent on formalities such as taking attendance, which leaves little time to cover that day's lecture.) However, some other private universities have lower faculty-student ratios but still adopt a rigid, top-down, and passive lecture-based teaching methodology. Discussions, supra note 6.
94 See, e.g., Rosenbaum, supra note 8, at 9.
95 It is crucial that student learning objectives be kept in mind when assessing student learning and performance. See, e.g., Ruth Jones, Assessment and Legal Education: What Is Assessment, and What Does It Have to Do with the Challenges Facing Legal Education?, 45 McGEORGE L. REV. 85, 95 (2013).
96 Role-plays and simulated exercises are particularly common in mandatory courses emphasizing practical legal skills, such as Legal Methods, Civil Procedure, and Criminal Procedure. In these courses, a substantial portion of student evaluation rests on exercises such as conducting client interviewing and counseling, negotiation, mediation, and moots or mock trials. Discussions, supra note 6.
97 Rather than merely test rote-memorization skills, AUAF law exams tend to emphasize application questions and exercises designed to evaluate student understanding of the concepts through, for example, hypothetical cases and legal drafting exercises. Id.
98 Per AUAF policy, academic ethics and integrity are strictly enforced on all deliverables, with violations resulting in severe penalties, including expulsion. Plagiarism and academic dishonesty are
Feedback on student performance is provided by the faculty to ensure student progress throughout the course. Moreover, in collaboration with ALEP, the law department is planning to implement entry-tests and exit-tests to track and monitor student learning progress over the course of their legal education at AUAF.99

While these different aspects of program design and teaching methodology might be common in western legal education, such an approach to pedagogy is rare in Afghanistan. In fact, the emphasis on the student-oriented model and promotion of critical thinking in all classes has been taxing at times even for the AUAF law faculty.100 The pedagogical approach, however, has been crucial to the program’s success. Another aspect of the program’s pedagogy and overall design relates to legal skills development. The next section explores this facet of the AUAF law program.

H. Legal Skills Development

While developing strong critical thinking and analytical skills is a major focus in every class, the AUAF law program further emphasizes legal skills development. Such focus on practical legal education is conspicuously absent in other Afghan universities.101 Experiential learning is an important part of legal education, and the AUAF law program promotes legal skills development through various initiatives.102 Three key initiatives are specific skills-based courses, clinical legal education, and moot court competitions.103

rife in Afghanistan. Academic ethics are taught and emphasized at the outset of an AUAF student’s education as part of the institution’s University Success Course, which is the very first class AUAF students take. See ALEP Quarterly Reports, supra note 88.

99 Discussions, supra note 6.

100 For instance, some AUAF law faculty have commented over the years on the AUAF model’s “ambitious” and “draining” approach. The Afghan faculty are intimately familiar with the passive and less “time-consuming” teaching methodology in other law schools, where student learning and quality of education are not necessarily prioritized. Adjusting to a wholly new paradigm is seldom an easy process. Id.

101 According to a recent study conducted at six major Afghan public universities, the legal writing skills of students in the Faculties were rated at 5–10 percent. Claire Anderson, Better Legal Education Key to Strengthening Rule of Law in Afghanistan, THE ASIA FOUNDATION (Feb. 22, 2017), https://asiafoundation.org/2017/02/22/better-legal-education-key-strengthening-rule-law-afghanistan/. The only (pseudo-)systematic and strategic tool designed to promote practical legal skills in other law schools is the “monograph.” The monograph is essentially a thesis or major research paper, which is a requirement for graduating from the Faculties. Given the general absence of practical legal education, monograph submissions are, perhaps unsurprisingly, replete with various issues including plagiarism. Indeed, monograph sales are booming across the country. Other initiatives to promote practice-based legal trainings—such as clinical legal education programs organized by International Legal Foundation-Afghanistan (ILF-A) and The Asia Foundation—are rare, dependent on donor initiative and funding, and highly susceptible to traditional and hierarchical pedagogical approaches which hamper their effectiveness and experiential learning value. Discussions, supra note 6. Moreover, the clinical programs in other institutions operate in silos, divorced from the Faculties’ overall curriculum, rendering them even less effective. See, e.g., Rosenbaum, supra note 8, at 3 (underscoring the importance of harmonizing and structuring the curriculum so that clinical programs complement aspects of the overall legal education such as skills-based interactive education, innovative and responsive pedagogy, and moot exercises and competitions).

102 The importance of experiential learning in legal education is emphasized in ABA requirements for law school accreditation and various studies and publications. See, e.g., AMERICAN BAR ASSOCIATION, ABA STANDARDS AND RULES OF PROCEDURE FOR APPROVAL OF LAW SCHOOLS 2014–2015, 16–17 (2014),
A number of AUAF courses are specifically designed to promote legal skills development. Two core courses on Legal Methods teach students crucial skills including legal reasoning and analysis, legal research, legal writing, client counseling, and oral advocacy. A mandatory course on Legal Ethics and Professional Responsibility is also offered regularly. In addition, other core courses on Civil Procedure and Criminal Procedure emphasize practical aspects and entail simulated exercises such as role plays and mock trials. Moreover, the program has offered a number of other courses on practical legal skills including Negotiations, Legislative Drafting, Alternative Dispute Resolutions, and Traditional Justice. Additional practical courses envisioned in the curriculum include Legal Writing in Dari and Pashto, Advanced Islamic Legal Reasoning, and Commercial Drafting.104

Secondly, given the importance of clinical legal education,103 the law program has offered a credit-earning clinical course focused on commercial law.106 Under close supervision of faculty and practitioners, clinic students have worked on a range of actual business law issues with various Afghan businesses and organizations.107 The business law clinic was the first program of its kind providing pro bono legal services and trainings to organizations in Afghanistan.108 A major benefit of the clinic is the opportunity it provides for students to work under close supervision of faculty.109 In addition, students benefit from the integration of the


103 Other initiatives bridging the gap between theory and practice have included internships and externships, guest lectures by expert practitioners, and field visits to legal institutions.

104 Discussions, supra note 6. See also the Appendix. The AUAF law course catalog is on file with the authors.

105 Given the dearth of professional pro bono legal services in Afghanistan, such clinical programs can go a long way in addressing pressing societal needs. Such value of clinical legal education is also reflected in other developing countries. See, e.g., Hamoudi, supra note 89, at 133.

106 The road towards making clinical legal education a credit-based class was bumpy even at AUAF. We faced unexpectedly fierce opposition in the process. Among other things, we had to provide considerable explanation to the provost’s office on why the size of the proposed clinical education class was less than AUAF’s general minimum threshold of twelve enrollees. In addition, there were more understandable concerns about security. The security concern was addressed by housing the clinic on AUAF premises: in addition to holding classes to prepare for, and debrief, client interactions and deliverables, the office of the Business Innovation Hub (the clinic’s partner which was also situated on AUAF campus) served as the primary location for meeting with clients. However, students undertook research and held meetings outside AUAF relatively regularly in a low-profile manner as well. The security issue was also a key reason why proposed clinics on family law and criminal law were immediately shut down by the administration; commercial law was deemed to be a less sensitive (and more neutral) area for such an initiative. Criminal law were immediately shut down by the administration; commercial law was deemed to be a less sensitive (and more neutral) area for such an initiative. Given the reliance of professional pro bono legal services in Afghanistan, such clinical programs can go a long way in addressing pressing societal needs. Such value of clinical legal education is also reflected in other developing countries. See, e.g., Hamoudi, supra note 89, at 133.

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108 Several of the business clinic’s students have since been recruited by prominent commercial law firms in Kabul as interns and employees. See ALEP Quarterly Reports, supra note 88.

109 It is crucial that clinical work be undertaken with close supervision by faculty and practitioners to help students gain meaningful real legal experience. Rosenbaum, supra note 8, at 5.
clinical program within a broader curriculum that emphasizes experiential learning and legal skills development. To ensure effectiveness and enhance student learning, clinical programs must be designed holistically within an accommodating curriculum. Students in the business law clinic were generally fourth-year students who had taken the prerequisites including both practical courses in Legal Methods as well as mandatory substantive law courses such as Contracts and Commercial Law.

Despite significant resources invested in legal aid initiatives in Afghanistan, institutionalizing clinical programs within the Faculties' curriculum has received inadequate attention. The limited donor-backed clinical projects have largely been a failure due to poorly designed clinical programs, misplaced priorities, broader curricular issues within the Faculties, and lack of a coherent approach at the national level. Moreover, operating live clinics can be tricky, especially in highly conservative conflict-affected countries like Afghanistan where individuals associated with the justice sector could be viewed with suspicion. However, there is a tremendous need, and opportunity, to develop the capacities of law schools through carefully designed and supervised clinical programs.

A third key initiative for legal skills development is AUAF's moot court program, which offers students excellent opportunities to polish their legal skills while participating in competitions at the local, regional, and international levels. Indeed, the AUAF moot court teams have had tremendous success in major regional and international competitions. For instance, in the 2016 Willem C. Vis International Commercial Arbitration Moot, the AUAF Vis team reached the semi-finals of the Regional Middle East Vis competition and earned the Best Oralist.


award. The 2016 team then went on to reach the semi-finals of the Pan-Asian Division in the international competition in Hong Kong.\textsuperscript{117} The 2017 Vis team also secured second place in the Regional Middle East Vis competition.\textsuperscript{118} The AUAF law students have also competed in the International Criminal Court Moot Court Competition in The Hague, the Nuremberg Moot Court Competition, and regional moots.\textsuperscript{119}

The AUAF law program’s success in regional and international competitions—unprecedented for Afghan universities—lies in the program’s student-centered approach and overall curriculum design. First, unlike other Afghan institutions, moot court competitions are credit-eligible courses at AUAF, rather than an “extra burden” on top of students’ regular course loads.\textsuperscript{120} Second, the moot court competitions are complemented by other relevant courses that help students develop a strong foundation in substantive legal knowledge and skills in research, writing, and oral advocacy. For instance, students in the Vis moot competition tend to have already taken key courses such as International Commercial Law and Legal Methods. Finally, the moot court teams are closely mentored and taught by faculty with expertise in the relevant fields. Nevertheless, AUAF’s moot court experiences have entailed difficulties as well, including occasional resistance within the institution, campus closures due to security issues, general lack of access to research resources, power outages, and internet inaccessibility.

These different initiatives, and the resulting skills developed by law students, have caught the eyes of other stakeholders as well. The AUAF law students’ relatively higher levels of practical legal skills are recognized by the market: top law firms and other institutions in various sectors actively recruit AUAF law graduates.\textsuperscript{121} The next section examines the law student body at AUAF.

I. Students

Like the wider AUAF student body, the law students have diverse backgrounds. Unlike some universities in Afghanistan where the student body, and even the faculty, tend to be monolithic in terms of ethnicity and overall background, AUAF students come from across Afghanistan, resulting in a rich and diverse

\textsuperscript{117} AUAF Vis Moot Team Makes History, AFG. LEGAL EDUC. PROJECT (Mar. 17, 2016), https://law.stanford.edu/2016/03/17/2016-auaf-vis-moot-team-makes-history/.

\textsuperscript{118} AUAF Law Students Secure Second Place in Middle-East Moot Court Competition, AFG. LEGAL EDUC. PROJECT (Feb. 16, 2017), https://law.stanford.edu/2017/02/16/auaf-law-students-secure-second-place-in-middle-east-moot-court-competition/.


\textsuperscript{120} As with the business law clinic, it took an inefficiently long time to persuade the AUAF administration, particularly the provost’s office, to allow students in moot court competitions to earn credits. Once again, among other things, we had to provide substantial explanation on why the size of the proposed class of mooties in a particular competition did not meet AUAF’s typical minimum enrolment threshold of twelve students. Moreover, doubts about the academic and educational value of moot court competitions also needed to be addressed.

\textsuperscript{121} See ALEP Quarterly Reports, supra note 88.
community. In addition, many AUAF students hold part-time and full-time jobs.

As of the spring 2018 semester at AUAF, there are approximately 60 students majoring in law. This makes the law program the second most popular undergraduate program. Law is the most popular minor at AUAF; 97 students have graduated with a Minor in Law.

As referenced earlier, female students make up a substantial percentage of the overall student body at AUAF. In the spring 2018 semester, female law students comprised more than half of all law majors. This figure is remarkable given the tremendous challenges facing girls and women pursuing education in Afghanistan. Female law students excel in academic, extracurricular, and professional endeavors. They include the first female president of AUAF’s student body, the recipient of the U.S. State Department’s Global Emerging Young Leaders Award, and the executive director of a leading organization promoting women’s empowerment in Afghanistan.

The law program’s student-oriented approach has resulted in the development of a dynamic law student body. The Law Students’ Association (LSA) is one of AUAF’s most active student organizations. It interacts and collaborates with various organizations involved in the justice sector in Afghanistan. The student organization also serves as a crucial forum for communication between the law department and the students.

122 This is, in key part, due to the institution’s active recruitment in various provinces and the availability of scholarships and financial aid. Moreover, the relatively higher quality and prestige of the institution draw talented students from across the country. See Discussions, supra note 6.

123 There are several reasons for this, including AUAF’s relatively higher tuition fees despite the availability of scholarships and financial aid. Moreover, the quality and cachet of the institution attract many professionals with relatively established careers. This is also one of the reasons why undergraduate and graduate classes are often held in the afternoon and evenings. (Non-degree granting programs—such as professional certificate programs and English language classes—are usually offered in the morning.) However, this has resulted in other issues including difficulties for female students for whom traveling in the evening is problematic for security and cultural reasons. Moreover, the diverse backgrounds and capabilities of the students in a given class can make the job of teaching and keeping all students intellectually stimulated difficult. Older students with more experience may find some topics and discussions very basic whereas some younger students may find certain class discussions and materials hard to follow and overly complex. Striking a balance between the different learning needs of students—within the bounds and objectives of a particular course—can be challenging at times. See Discussions, supra note 6.

124 See Registrar’s Office, supra note 33.

125 The law program is the youngest undergraduate program and requires twelve credits (nearly a full semester) more than other undergraduate programs to complete. See supra note 49.

126 See Registrar’s Office, supra note 33.


131 For instance, in collaboration with International Legal Foundation-Afghanistan (ILF-A), LSA has organized mock trials at AUAF to simulate how Afghan judges, prosecutors, and defense attorneys handle various cases. LSA has also held debating competitions, and events featuring prominent speakers in the justice sector.
To date, the BA-LLB program has produced five graduating classes. While the career paths of AUAF law graduates differ, with a number of graduates pursuing LLM studies abroad, many have started making an impact at major organizations in different sectors in Afghanistan. Law graduates and students have taken positions such as deputy spokesperson for the Office of the President of Afghanistan, legal advisors and training specialists at various ministries, executive directors of leading nonprofits, program managers in international organizations, and lawyers and consultants at major law firms in the country.\textsuperscript{132}

\textbf{IV. MOVING FORWARD}

Despite significant hurdles along the way, the AUAF law program has made tremendous progress over the past decade. While still evolving, the program’s approach toward legal education in Afghanistan has been innovative, and even radical, given the current state of affairs in the country. However, the degree-granting program is still in the early stages and it is crucial that the program focus on consolidation and reinforcement before taking on overly ambitious projects.

As with any other program, continued growth requires regular and comprehensive assessments of strengths and weaknesses and making necessary adjustments while closely monitoring the evolving, and at times unpredictable, Afghan context. There are a number of important opportunities to consolidate and manageably expand the law program, thereby enhancing its impact on the Afghan legal education system and ultimately on rule of law in the country.

Specifically, these opportunities include expanding the AUAF law curriculum, continuing the development of original teaching materials, further emphasizing legal skills training, and collaborating with other institutions in reforming legal education in the country. Until the program is properly reinforced with the necessary measures, initiating full-fledged graduate legal programs would be premature.

\textit{A. Expanding Curriculum and Textbook Development}

The AUAF law program would benefit from offering more courses and expanding its curriculum. As it stands, AUAF’s BA-LLB degree requires fewer core law courses than other Afghan law schools.\textsuperscript{133} A key reason for this is that the BA portion of AUAF’s joint BA-LLB degree requires sixty credits in liberal arts education, leaving only seventy-two credits for law courses.\textsuperscript{134} A reassessment of the balance between credits for general liberal arts education vis-à-vis credits devoted to legal education is in order. Given that law is a professional degree and subject to a variety of requirements beyond the confines of AUAF, it would be wise to recalculate AUAF’s default sixty-credit liberal arts education requirement in the case of the BA-LLB program.

\textsuperscript{132} See ALEP Quarterly Reports, \textit{supra} note 88.
\textsuperscript{133} The legal curricula of key public and private universities are on file with the authors.
\textsuperscript{134} The initial 150-credit design of AUAF’s BA-LLB degree was meant to address this coverage gap.
Moreover, the seventy-two credits in legal education are divided into fifty-seven credits in core courses and fifteen credits in electives. However, fulfilling the fifteen-credit legal elective requirement has been an ongoing challenge primarily due to resource constraints. Furthermore, a number of relatively introductory and crucial courses have yet to be offered by the law program. In addition, there are only two courses taught on specific Islamic law topics: Islamic Law and Islamic Criminal Law.

The dearth of high-quality legal textbooks continues to pose a significant challenge to Afghan legal education. This is precisely why ALEP textbooks have been met with growing enthusiasm in the country and globally; they serve as rare resources that provide critical analyses of the country’s post-2004 legal system. The pace of regulatory reforms requires development of innovative and updated textbooks to reflect the evolving legal landscape. For instance, a new Penal Code has recently come into force and would be an important topic for critical analysis. Moreover, there are still many important areas of law that have not been critically analyzed through legal textbooks, such as human rights law, administrative law, natural resource law, labor law, national security law, and tax law.

These realities call for the consolidation of the AUAF law program and strategic expansion of the curriculum. Moreover, there is an opportunity for the program to continue leading the development of innovative legal textbooks and thereby helping other institutions as well.

B. Expanding Practical Legal Education

Legal skills development is crucial to preparing students to embark on successful legal careers. This is arguably even more pressing in Afghanistan due to the considerable lack of foundational legal skills training in post-secondary institutions. The AUAF law program has undertaken a number of initiatives to enrich students’ legal education in this regard. There are, however, other opportunities to further promote this essential goal.

Based on the experience of the law program at AUAF, to optimize learning and enhance legal skills, students need ample opportunities to apply theory to concrete, practical problems. In addition to the substantive law textbooks, students would benefit from supplementary exercise books. Supplementary books would include instructional tools and exercises to strengthen students’ critical thinking and analytical skills while helping them understand how substantive legal theories could be applied in practice. Ideally, each new textbook could be accompanied with a supplementary exercise book.

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135 AUAF’s BA-LLB degree plan is provided in the Appendix.
136 In lieu of legal electives, students with impending graduation who had completed all other coursework were allowed to take advanced non-law courses in related disciplines such as political science as substitutes. Law-related internships have also been approved as legal electives due to the lack of sufficient course offerings in advanced areas as electives. Discussions, supra note 6.
137 Examples include labor law, financial and banking law, tax law, natural resource law, and national security law. Some of these areas are briefly covered in other courses but have yet to be taught as standalone courses at AUAF.
The law program can further build the students' research and writing skills. To supplement existing practical courses, the program can introduce a course on advanced legal research and writing. This course, based on a thorough needs-assessment, could be mandatory for upper-level students. Introducing a major research paper requirement—in conjunction with rigorous courses on legal research and writing—will further promote development of legal skills. The law program can also further encourage research and scholarship across Afghanistan by launching a law publication initiative. Although a law journal publication based on western standards would be overly ambitious at this stage, there are still ways to foster a culture of research and critical scholarship through publishing high quality legal analyses. Collaboration with other organizations in developing such initiatives should also be considered.

Other important opportunities that the law program can pursue in further promoting practical legal skills development include expanding law clinics and moot court programs. Building on the successful experience of the business law clinic, the law program can develop other law clinics by partnering with organizations in Kabul such as ILF-A and The Asia Foundation. Moot court programs have also proven to be effective in helping students develop practical skills while increasing the law program's profile beyond Afghanistan. In addition to participating in regional and international moot court competitions, the AUAF law program can spearhead moot court programs at the local and national levels. Leveraging its successful regional and international experiences, the law program can organize national moot court competitions that will also benefit other universities that lack the experience of systematically supporting their students in such competitions.

C. Collaborating with Other Institutions

While the AUAF law program is still a work in progress, it has a lot to offer to, and learn from, other institutions. Purposeful collaboration can further

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139 The absence of a "research culture" and enthusiasm for research and innovation among professors are key problems generally in Afghan higher education. See, e.g., Rockrs, supra note 17.

140 As discussed earlier, perhaps the only (semi-)systematic and strategic tool designed to promote practical legal skills in other law schools is the "monograph." The monograph is essentially a mandatory thesis or major research paper in the Faculties. Given the absence of practical legal skills courses, monograph submissions are often replete with various issues, including plagiarism. Expecting students to develop a high-quality advanced research paper must also be accompanied by strategies that help students develop foundational practical legal skills in the first place. See supra note 101.

141 At this juncture, preliminary efforts are underway to launch a law publication at AUAF. See Discussions, supra note 6.

142 The Max Planck Foundation recently launched the Journal of Afghan Legal Studies (JALS) in Kabul. As the only Afghan law periodical registered with the ISSN organization, JALS aims to publish high quality articles in Dari, Pashto, and English. Fourth Afghan Legal Studies Conference held in Kabul, MAX PLANCK FOUND. (Dec. 20, 2017), http://www.mpfr.de/news/details/id/572/.

143 Rigorously supervised national moot court competitions that are unaffiliated with the international competitions are also conspicuously absent in Afghanistan. The national moot court competition can present an opportunity to indirectly influence the curriculum of other universities by highlighting the importance of practical legal skills development. See also Rosenbaum, supra note 8, at 11 (advocating for moot court competitions as a way to promote legal education in Afghanistan).

144 The law program can contribute to a range of different actors involved in legal education and training including the Afghanistan Independent Bar Association (AIBA), Attorney General's Office
enrich the AUAF law program while positioning it as an emerging center of legal excellence in Afghanistan. Cooperation to enhance the capacities of other institutions in various sectors will be an important step in promoting legal education and the rule of law in the country. Increased collaboration with regional and global institutions will also be important as AUAF strives to grow and enrich its law program.

Engaging with other institutions through AUAF’s existing initiatives, such as clinical and moot court programs, is beneficial to all parties involved. Strategic initiatives to increase collaboration include regular outreach to other institutions to further disseminate ALEP’s legal textbooks and share lessons learned on various curricular and programmatic issues. Given the pace of regulatory reforms, the law program can organize conferences and symposia bringing key actors from various sectors to discuss pressing legal issues. Regular academic legal symposia initiated by Afghan institutions are rare.

To further promote practical legal education in other institutions, the law program may consider holding workshops to train instructors of other universities in practical legal skills. Such workshops would also benefit institutions and stakeholders in other sectors including the government, bar association, attorney general’s office, and the judiciary. Moreover, guest-lecturing by AUAF faculty and auditing AUAF law classes by non-AUAF faculty would be helpful in promoting the law program’s innovative approach beyond the confines of AUAF.

D. Graduate Programs?

One of the key factors underlying the law program’s success has been the incremental and patient approach towards building a quality program. Given the generally substandard legal education at the undergraduate level in Afghanistan, it is not a surprise that there are no rigorous LLM programs in the country.

Despite the dearth of high-quality LLM programs, the fragility of the overall environment impels a cautious approach towards major expansions. While strides have been made, the undergraduate program needs to be further reinforced before considering a graduate program. The consolidation project must encompass a slew of issues such as recruitment and human resource management, as well as programmatic and curricular priorities, some of which were discussed earlier.

At this juncture, the AUAF law program can promote legal education more effectively by focusing on advancing legal education beyond its walls through some

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145 We have regularly heard from administrators, deans, faculty, and students from other Afghan universities, as well as other stakeholders in the justice sector more broadly, about the need to increase collaboration amongst institutions on legal education. See Discussions, supra note 6; see also Rosenbaum, supra note 8, at 19 (echoing a similar call to develop an association of legal educators to promote innovative pedagogical approaches and practical legal education).

146 See Rosenbaum, supra note 8, at 18 (highlighting the need to enhance inter-university coordination and relationships in Afghanistan to improve the country’s clinical education).

147 The only serious attempt at holding academic legal conferences and symposia in Afghanistan has been Max Planck Foundation’s recently established annual Afghan Legal Studies Conference. See supra note 142.
of the strategic initiatives outlined above rather than by investing its limited resources in rushing a full-fledged graduate program.

Indeed, prior to launching a master’s program, it may be prudent to develop a graduate certificate program in legal studies, much like the legal studies certificate program that preceded the launch of the BA-LLB program. The graduate certificate program will be helpful in assessing the viability of a rigorous LLM program. It will also promote efforts to advance legal education in the country without sacrificing quality. One thing is clear, however: hastily launching a graduate law program may prove underproductive and undermine the foundation of the AUAF law program.148

V. DEMYSTIFYING PROGRESS

Many factors have contributed to the evolution and success of AUAF’s recent degree-granting law program. That is not to say the program is anywhere near perfect; challenges were discussed throughout this article, and the last section presented a series of concrete initiatives to further consolidate the program and increase its contribution to legal education reform in Afghanistan. Given the overall poor state of legal education in Afghanistan, however, the AUAF law program has in many ways been a refreshing model of an emerging and dynamic center of legal education. As such, lessons from the development of AUAF’s law program may be useful and informative for other institutions in Afghanistan, and elsewhere globally, that strive to improve legal education and the rule of law. At a higher level, these factors include a substantial degree of institutional support and an incremental approach towards growth.

A. Institutional Support

The AUAF law program benefited from a substantial degree of institutional support at various levels as it developed its curriculum and programmatic activities. A clean slate and institutional backing make it easier to truly own, design, and implement a particular program.149 Embedded within that institutional support was the partnership with ALEP and a healthy interaction with the donor that helped the program grow.150

148 Top-down approaches to rule of law reforms, which often lack sufficient stakeholder consultations and understanding of the immediate circumstances and overall context, are doomed to fail. See, e.g., Sarah Han, Guest blog: Working in Aid: donor rule, funding flows, and awkward ‘no’s’, AFG. ANALYSTS NETWORK (Apr. 18, 2012), https://www.afghanistan-analysts.org/guest-blog-working-in-aid-donor-rule-funding-flows-and-awkward-nos/ (lamenting donors’ lack of interest in genuinely understanding the practicalities and feasibilities of proposed projects often conjured up by individuals without sufficient understanding of the realities in Afghanistan).

149 A crippling challenge, often seen in legal education projects, is the passivity of universities and a top-down approach by donors that stifle the institution’s sense of ownership and responsibility for the project’s success. See Discussions, supra note 6.

150 To ensure project success, it is crucial that donors and implementers, at various levels, understand their respective roles in the process. Unfortunately, many donor-backed projects lack the necessary balance between rigorous oversight and accountability on one hand, and appropriate deference to implementers and local experts in operational matters on the other. See, e.g., Jon Eddy, Rule of Law in Afghanistan: The Intrusion of Reality, 17 J. INT’L COOPERATION STUD. 1, 1 (2009) (noting that donors’ insistence on certain courses of action without sufficiently considering the Afghan
While building a law program from scratch is a daunting task, it can be a blessing in disguise in a context such as Afghanistan. Designing a new law program unrestrained by internal bureaucracy and tradition may even be necessary if you plan to radically deviate from the dominant model of legal education. Indeed, it would be very difficult to institute major changes within an already established law program in a relatively short timeframe in Afghanistan given its inherent difficulties and internal resistance to change.\(^\text{151}\)

The rising number of private universities in Afghanistan presents an opportunity to experiment with new approaches to legal education. In doing so, relatively nascent institutions will likely face less difficulty due to a lower degree of internal opposition from an old guard suspicious of unfamiliar methodologies and curriculum.

The corollary is not that there is no hope for more established institutions such as public universities, but the reality is that, absent institutional support and strong leadership, meaningful reform will remain elusive. However, there are signs that things may be slowly changing at public universities as well. A number of major public universities are offering courses on practical skills such as legal writing and clinical education.\(^\text{152}\) Given the general lack of experiential learning opportunities in public universities, these courses have been very well received by students, creating more demand for their continuation and expansion.\(^\text{153}\) Moreover, these new practical courses are expected to be part of the core curriculum in these participating public universities.\(^\text{154}\)

Indeed, the potential bifurcation in Kabul University’s Faculty of Law and Political Science (FLPS)—splitting the FLPS into the Faculty of Law and the Faculty of Political Science and Public Administration—could result in an opportunity to revise the curriculum. With this proposed partition in the FLPS, law students will no longer have to take mandatory courses in political science and public administration. The curriculum will thus have space for new core courses, a space that the institution seems keen to fill, at least partially, with classes currently offered on legal skills training. Given Kabul University’s influence on higher education in the country, it would not be surprising to see similar developments in

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\(^\text{151}\) For instance, reforms to legal curricula may be particularly intimidating to senior faculty who may try to block such efforts. See, e.g., Eddy, supra note 150, at 17.

\(^\text{152}\) As part of a project spearheaded by The Asia Foundation, the Faculties at six major public universities (Kabul, Herat, Balkh, Kandahar, Nangarhar, and Al-Beruni) are offering courses on legal writing and clinical legal education to students. See Anderson, supra note 101.

\(^\text{153}\) Based on discussion with members of the Legal Aid for Legal Education (LALE) project implemented by The Asia Foundation in Afghan universities. See Discussions, supra note 6.

\(^\text{154}\) According to The Asia Foundation, a number of these major public universities, including Kabul University, have agreed to integrate courses on legal writing into the core curriculum of the Faculties. (Email on file with authors.)

\(^\text{155}\) Discussions with the vice-dean of the law department and other faculty at Kabul University. The bifurcation is expected to take effect within the next two years. (Email on file with authors.)
other institutions.156 However, to ensure that such reforms are implemented properly and sustainable, the administration and academic leadership must be genuinely engaged in various aspects of these programs.157

B. Incrementalism

Another overarching takeaway from the AUAF law program’s experience has been the emphasis on a gradual approach towards growth based on the realities on the ground. While still quite nascent, the BA-LLB program is the result of over 10 years of tinkering, calculated risks, and adjustments. The 2013 launch of the degree-granting undergraduate program, and the establishment of the law department, were preceded by years of experimentation with the Legal Studies Certificate Program. The Legal Studies Certificate Program, in turn, was developed after rising demand for more law classes, the first of which was Introduction to the Laws of Afghanistan.

The process has been generally iterative and one of continuously calibrated adjustments based on the evolving conditions of AUAF, a young institution itself. While there have been major, and relatively abrupt, changes at times—such as revamping the initial BA-LLB curriculum from 150 credits to 132 credits—many aspects of the program have been developed at a more measured pace. Examples of these gradual adaptations include transitioning towards a predominantly national academic cadre, increased instruction in the local languages throughout the program,158 integrating experiential learning initiatives such as the business law clinic and moot court competitions, writing more carefully tailored textbooks for the immediate audience at AUAF, and supervising an eager and dynamic law student body. While a breath of fresh air on the Afghan legal education scene, the AUAF law program is still very much a work in (incremental) progress—as it should be given the importance of objective assessments and innovation as well as the dangers of complacency.

Central to the successful implementation of incremental changes to the law program has been a deep appreciation of the context in which the program operates.

156 Kabul University continues to benefit from its historical reputation and prestige. The institution’s influence extends to the Ministry of Higher Education (MOHE). For instance, MOHE’s Department of Private Higher Education, as well as the Department of Accreditation and Quality Assurance, outsource the responsibility of assessing and approving the curricula of private and public universities to Kabul University. See Ibrahimi, supra note 21, at 13; see also Swenson & Sugerman, supra note 9, at 139 (noting perceptions that Kabul University is privileged above regional public universities). Kabul University’s senior administration remains highly influential and politically powerful. For instance, the current chancellor, Hamidullah Farooqi, serves as the Advisor-Minister for Higher Education to the President of Afghanistan. Biography of Prof. Hamidullah Farooqi, KABUL U., http://ku.edu.af/en/page/754/ku-chancellor/3161 (last visited Feb. 8, 2019). The current Afghan president, Ashraf Ghani, also served as the chancellor of Kabul University previously. Biography, OFFICE OF THE PRESIDENT OF AFGHANISTAN, https://president.gov.af/en/page/8262/8263 (last visited Feb. 8, 2019).

157 Institutional support and engagement for such changes are even more crucial in established and older institutions with an old guard that may be more interested in maintaining the status quo. See also Rosenbaum, supra note 8, at 13 (emphasizing the importance of the administration’s serious involvement and support at all levels in reforming the law program).

158 Striking the right balance between English and local languages is an ongoing challenge requiring careful adjustments. AUAF law students still generally lag behind students from other universities on their familiarity and command of legal Dari and Pashto.
Institutions that may consider adopting aspects of the AUAF law program’s model should carefully assess their own environment and systems. Many of the AUAF law program’s initiatives were effective due to their compatibility with the peculiarities of the wider AUAF context. These peculiarities included mandatory immersion in general liberal arts education, a focus on English as the language of instruction, English curriculum and textbooks, availability of international faculty and staff, a lack of a rigid pedagogy across the university, collaboration with major global institutions, relatively well-designed systems to run the institution generally, and access to unrivalled resources relative to other Afghan institutions.

These institutional features made the AUAF law program’s approach and growth feasible. Indeed, AUAF’s general environment provided the foundational pillars that enabled the law program to flourish in the first place. Developing an identical model elsewhere in Afghanistan—in the absence of these contextual factors—is nigh on impossible, even if senior administration and academic leadership are all on board. This does not mean that other institutions cannot gain or learn from the AUAF experience. Clearly, there are many aspects of the program that would be very useful in other organizations. However, it is crucial that other institutions take stock of their current systems, resources, and ways of doing things and proceed at a well-informed, carefully-calibrated, and gradual pace.159

While it would be unwise to adopt the AUAF law program’s model in its entirety in a short time, there may be some aspects of the program—such as textbooks, pedagogy, and orientation towards experiential learning—that could be gradually incorporated into other universities’ programs. However, it is crucial that other institutions avoid isomorphic mimicry; instead, proposed reforms must be carefully tailored to complement and build upon the existing foundations in those particular institutions. The path and pace of progress may differ depending on the institution and context.160 Slowly, but surely, other programs will be in a position to implement further reforms in measured doses. Small tweaks that slowly and constructively disrupt the status quo—without overwhelming the crew and encouraging mutinies—are more likely to be sustainable. However, dramatic and wholesale changes—without having the necessary foundations in place—are likely doomed to fail.161 A failure that can discourage subsequent attempts to innovate and reform.

159 Such tendency to appropriate wholesale models from other Afghan institutions must be replaced with a prudent approach towards adapting and tailoring models that fit the needs of the school. See Rosenbaum, supra note 8, at 14.

160 For instance, some institutions may struggle to send teams to compete in international moot court competitions right away due to language barriers or funding constraints. However, in the interim, these institutions could focus on developing mooting skills in other ways such as by holding internal moots within the university, inter-university competitions, or province-wide moots. Another very effective and foundational way to develop similar skills would be through the offering of practical courses that emphasize research, writing, and advocacy skills. See also Rosenbaum, supra note 8, at 21 (emphasizing that progress may not be uniform, and that activities may not be identical in various institutions striving to develop a clinical educational program).

161 Attempting to produce a carbon-copy of the AUAF law program model, without the necessary homework and consideration of the particular institution’s context, can lead to frustration and failure. See e.g., Lant Pritchett, Michael Woolcock & Matt Andrews, Looking Like a State: Techniques of Persistent Failure in State Capability for Implementation, 49 J. OF DEV. STUD. 1, at 2, 11 (2013) (highlighting the problem of camouflaging the appearance of successful organizations without having the necessary functionality).
CONCLUSION

Afghanistan is, in many ways, an unpredictable place. 162 However, despite significant hurdles that plague Afghan legal education, and the wider country, there may be reasons for cautious optimism. While legal education in Afghanistan has remained stagnant for a very long time, there are signs of growing appetite for necessary reforms.

There seems to be a growing interest in incorporating clinical education into Afghan legal curricula. 163 In addition, a number of influential public universities, including Kabul University, have started offering practical courses such as legal writing and clinical education. 164 This is especially encouraging since public universities are often the most reluctant to change due to their historically entrenched ways.

The expanding class of a new generation of Afghan legal academics—particularly those with masters and doctoral degrees from abroad 165 who have been immersed in different pedagogical approaches—is another positive development. 166 While the proliferation of private universities raises quality concerns, competition for students and the expectations of an increasingly sophisticated legal market could serve as important filters as well.

The AUAF law program's success—despite the rigidity of the Afghan legal education system—is another reason for optimism. The program's growing reputation, increased usage of ALEP textbooks by other institutions, and greater interest of other universities and organizations to collaborate with the AUAF law program are all positive indications.

Legal education reform initiatives, such as the AUAF law program, can have profoundly positive and long-term impact on the justice sector and the rule of law in the country by empowering future generations of Afghan legal professionals. Moreover, such programs tend to be very cost-effective. For instance, the cost of the AUAF law program over the period 2010-2020, measured by the INL/State Department grants supporting the program in this period, will be approximately equivalent to the cost of deploying ten to twelve soldiers to Afghanistan. 167 While

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162 Many variables—such as security and funding—can steer developments in various directions.

163 See Discussions, supra note 6; see also Rosenbaum, supra note 8, at 10 (noting increased familiarity and supportiveness for clinical legal education among law deans).

164 See Anderson, supra note 101.


166 See Rosenbaum, supra note 8, at 2 (emphasizing that there is now a critical mass of Afghan law professors trained in new pedagogical approaches and that an increasing number of deans and administrators are keen on developing clinical education and innovative teaching methodologies).

167 See Shaughnessy, supra note 7.
still a drop in the proverbial Afghan sea, such innovative legal education reforms deserve reflection.

APPENDIX

AUAF BA-LLB Degree Plan

BACHELOR OF ARTS AND LAWS (132 total credits)

B.A.-LL.B.

AUAF degree requirements:
1) Sixty credits of General Education courses including UNV 100 University Success
2) Last 30 credits done in residence
3) Overall GPA 2.0 or higher for all coursework

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<tr>
<th>Student Name:</th>
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<tbody>
<tr>
<td>General Ed Requirements (60)</td>
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<tr>
<td>Composition (9)</td>
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<tr>
<td>ENG 110 Academic Writing I (3)</td>
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<tr>
<td>ENG 115 Academic Writing II (3)</td>
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<td>ENG 125, ENG 215, ENG 220, or ENG 271 (3)</td>
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<tr>
<td>Afghanistan Studies (3)</td>
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<td>LGS 110/200 Intro to Laws of Afgh. (3)</td>
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<td>Humanities (6)</td>
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<tr>
<td>Literature, Western/World Civ., History, Art</td>
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<tr>
<td>Choose from: ENG 130/150/210/211/230/240, HIS 101/105/303/306/310/330, all HUM courses</td>
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<tr>
<td>Mathematics (6)</td>
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<tr>
<td>Physical Sciences with Labs (8)</td>
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<tr>
<td>Choose 2 courses with labs from:</td>
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<tr>
<td>BIO 130/131, CHE 125/126, CHE 127/128, PHY 120/121, PHY 135/136, PHY 235/236</td>
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<tr>
<td>Information Technology (3)</td>
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<td>ITC 101 Introduction to Computers (3)</td>
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<td>Social and Behavioral Sciences (6)</td>
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<tr>
<td>Anthropology AMT, Political Science POL, Administration PAG, Sociology SOC</td>
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<tr>
<td>POL 110 Intro to Political Science (3)</td>
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<tr>
<td>University Success (1)</td>
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<td>UNV 100 University Success (1)</td>
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**General Education Electives (18)**

A minimum of 150 semester hours are required to graduate. Choose any 100-level or higher course that is not used for another requirement. 300- and 400-level LGS electives are strongly encouraged.

- ECO 200 Economics (3)
- (3)
- (3)
- (3)

*ID: ___________ Email: ____________________

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<tr>
<td>LGS 160 Legal Methods I (3)</td>
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<td>LGS 260 Legal Methods II (3)</td>
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<tr>
<td>LGS 150/250 Introduction to Islamic Law (3)</td>
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<td>LGS 212 Law of Obligations I: Contracts (3)</td>
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<td>LGS 220 Constitutional Law (3)</td>
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<td>LGS 230 Criminal Law (3)</td>
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<td>LGS 240 Public International Law (3)</td>
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<td>LGS 270 Comparative Law (3)</td>
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<td>LGS 280 Property Law I (3)</td>
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<td>LGS 310/210 Commercial Law (3)</td>
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<td>LGS 312 Law of Obligations II: Civil Resp. (3)</td>
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<td>LGS 325 Administrative Law (3)</td>
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<td>LGS 330 Islamic Criminal Law (3)</td>
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<td>LGS 351 Family Law (3)</td>
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<td>LGS 352 Inheritance Law (3)</td>
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**Practical Skills Courses (9)**

- LGS 360 Pol. & Prac. of Informal Dis. Res. (3)
- LGS 362 Civil Procedure* (3)
- LGS 363 Criminal Procedure* (3)

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*These courses may have Dari language requirements. Accommodations may be made for students who are unable to read and write Dari at an advanced level or who do not intend to practice law in Afghanistan.

✓ = course completed (indicate semester, ex: FA12)