



LEGAL WRITING

A Practical Guide for Afghan Legal Professionals and Law Students



Authored and edited by Rohullah Azizi

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Disclaimer:

Please note that the laws cited in this guide are primarily used as examples to illustrate the legal writing practices proposed herein. They may not necessarily represent the most current legislation or regulation. Therefore, readers are advised to conduct their research to confirm the current status of any laws or regulations referred to within this guide. The intention is not to provide definitive legal advice but to enhance understanding of legal writing concepts and practices, particularly within the context of Afghanistan.

Preface

Legal writing is a vital skill for any legal professional, as it is the primary means of communicating complex ideas and arguments clearly and persuasively. This guide aims to provide a comprehensive understanding of legal writing, with a particular focus on the context of Afghanistan, and offer practical guidance for enhancing your legal writing skills. Throughout this guide, you will find a range of strategies aimed at improving the clarity and professionalism of your writing, which will be valuable in various contexts, such as research assignments, law exams, and career preparation.

In this guide, we begin with an introduction to the preliminary concepts of legal writing, including its objectives, importance, and distinguishing characteristics. We then delve into the writing process, followed by exploring various strategies for better writing. These strategies encompass aspects such as maintaining a professional tone, using short sentences and paragraphs, avoiding wordiness and legalese, and using words carefully, among others.

Moreover, this guide emphasizes the ethical dimensions of legal writing, addressing plagiarism and providing guidance on how to avoid it. You will also be introduced to the purpose and practice of citation, along with a detailed overview of various citation forms and their components.

Our hope for this guide is to provide you with a strong foundation in legal writing, enabling you to cultivate your practical legal skills further and excel in your law career. Our aim is that, through this guide, you develop the confidence and competence necessary to navigate the complex world of legal writing and contribute effectively to your chosen field.

1. PRELIMINARY CONCEPTS

1.1. Objectives

The purpose of this guide is to provide an understanding of legal writing, both in general and specifically in Afghanistan, and to offer guidance on enhancing your legal writing skills. To this end, this Guide will concentrate on various strategies for writing professionally and clearly. The aim is to assist you in improving your overall writing skills for multiple purposes, ranging from research assignments and law exams to preparing for your career.

This Guide will also explore the ethical norms associated with legal writing, address the issue of plagiarism, and provide guidance on how to avoid it. Toward the end of this Guide, you will be introduced to some general citation rules.

1.2. Goals and Importance of Legal Writing

As part of their routine work, legal professionals produce different legal documents. In Afghanistan, like many other countries, initiating any type of lawsuit requires completing some paperwork. Before becoming a lawyer, law students write a lot to prepare for their legal career as defense lawyers, judges, prosecutors, researchers, or other professionals with expertise in law. All of these professionals often need time to communicate in writing or produce different types of legal documents.

Defense lawyers, for instance, are involved in writing from the time when they meet a client to the time they finish representing a client. In fact, some ethical rules for lawyers in Afghanistan require that lawyers should use written means such as written communication and agreement when doing their work.¹ Similarly, procedural laws require parties to submit their arguments and legal requests in writing to courts.² The type of writing related to a lawsuit could be referred to as **litigation drafting**. In addition to litigation drafting, lawyers write correspondences to their peers, clients, or opposite parties. Sometimes lawyers write to their clients, such as writing an advice letter, while other times, lawyers write on behalf of their clients to another person, such as writing a **demand letter**. Lawyers also produce different types of legal documents, such as **contracts** and **corporate documents**.

¹ See generally Advocates' Law, Official Gazette No. 934 (2007), and Afghan Independent Bar Association By-Laws (2005).

² See generally Criminal Procedure Code of Afghanistan, Official Gazette No. 1131 (May 5, 2014), Code of Civil Procedure, Official Gazette No. 722, (August 22, 1990), and Commercial Procedure Code of Afghanistan, Official Gazette No. 1, 2, 3, and 4 (1964).

Similarly, prosecutors considered representatives of society in criminal cases initiate criminal lawsuits against suspects and accused persons. Judges should also write different legal decisions to comply with many rules and regulations. Also, in the last few years, because of legislative reform efforts in Afghanistan, some law-trained writers have played an essential role in **legislation writing**. These writers do not necessarily practice law. However, they use the skills they have learned in law school to pursue a career in writing that solely focuses on legal writing. In addition to legislative writing, they may also be involved in **scholarly writing**, also known as academic writing. They may write law textbooks, research papers, and articles for publication. These and many other career opportunities show how legal writing will help law students in their future careers in Afghanistan. They also indicate the direct relationship between legal writing, the legal profession, legal education, and the rule of law.

For the reasons explained above, an essential aspect of being a lawyer is being able to communicate in writing. Lawyers have to write a lot in a typical day at work. Like many other practical legal skills, writing also requires persistent practice. It is a skill not easily achieved because of many reasons. As a person producing certain legal documents, you need to be concise and clear. You also need to explain highly technical concepts and constantly do it by writing in plain language. So, legal writing requires complying with many rules, keeping in mind all the restraints, and balancing different, often opposite demands.

1.3. Why is Legal Writing Different?

Distinguished by its unique purpose, reader, and writer, legal writing is designed to convey legal arguments and analyses primarily to an audience comprising judges, lawyers, and legal scholars. The writers, usually trained legal professionals, utilize their expertise and adhere to conventions to ensure precision and clarity. Central to this form of writing is the court, often the subject of analysis due to its role in interpreting laws and resolving disputes, and sometimes the recipient of persuasive legal arguments. This integration of purpose, reader, writer, and the institution of the court underscores the distinct nature of legal writing.³

The exact purpose of legal writing depends on what you are writing, to whom you are writing, and why. In order to be specific on the purpose of writing, it is essential to know your reader. Knowing your readers and their expectations will determine the purpose of your writing. At this stage, you may be asked to write to your professor or a hypothetical client. Later, when you start working as a lawyer, you will be asked to write to real

³ See generally Mary Barnard Ray, *The Basics of Legal Writing* (rev. 1st ed. 2008).

clients, courts, other administrative agencies, or colleagues. In addition to writing for litigation purposes, you may be asked to write some general drafting, including legislative and scholarly writing. Your job may be to analyze a legal issue and **predict** the outcome of the issue at hand. This requires that you objectively read the relevant law and explain to your client in writing how a judge will decide about that issue. Other times your role is to **persuade** someone, mostly a judge, on how the case should be decided.⁴ As you can see here, the purpose of your writing is changed due to changes in your reader and their expectations.

Additionally, whether you write predicatively or to persuade someone, your task might be to produce a specific type of writing. The document you write could have different names, formats, and objectives.

The second difference between legal and non-legal writings is because of your reader. Can you see any differences between law-trained readers and readers who do not have any training in law? One significant difference is in the level of attention law-trained readers will pay when reading your writing. They generally want a roadmap that clearly describes the structure of your writing. Law-trained readers will "not read law out of intellectual curiosity but because they have a problem to solve."⁵ Rather, they will be critical and skeptical readers who will evaluate the strength and accuracy of your analysis. They will judge your analysis by looking into the organization of your writing. If there is any problem with the outline and organization of your analysis, your reader will become more skeptical of your analysis and proper application of the law. When you are writing to your law professors for a class assignment or an exam, again, you will have law-trained readers who have good knowledge of the law in their area of expertise. Your law professors will critically assess what you have learned and how well you can present your analysis in writing.⁶ So before actually writing, make sure that you know about your readers and their expectations and that you use the most effective method of writing.

Finally, legal writing is different from other types of writing because of you: the writer. Lawyers and law students have special education in law. Like what you learn in this guide, lawyers have unique skills in analyzing and synthesizing an issue more than anyone else. They tend to dig deep within concepts and use sophisticated arguments and counterarguments. They are part of a profession that requires thinking critically, analyzing deeply, and using highly technical terms. Good lawyers will understand the legal problem, conduct thorough research of the problem and applicable laws, write

⁴⁴ Linda H. Edwards, *Legal Writing and Analysis 2* (2d, ed., Wolters Kluwer 2007).

⁵ *Id.*, 146.

⁶ *Id.*, 145 – 148.

clearly and to the point, use citations appropriately, and revise their work several times to improve the quality of their writing.

That said, many rules regarding writing better apply to legal writing as well. If you experience writing in another area, that should also help with your legal writing. Having the knowledge and skill of writing well should make you a good legal writer. Knowing the rules of legal writing, in particular, and applying them in your writing will make you a better legal writer. It is practicing and constantly improving in this skill is what makes you an excellent legal writer.

1.4.Types of Legal Writing⁷

As previously discussed, legal writing encompasses a wide variety of forms, from crafting a brief email to a client to composing an extensive memorandum for a judge. The two primary categories of legal writing are **predictive** and **persuasive** legal writing.

Predictive writing anticipates how a legal decision-maker will apply the law to a specific set of facts. This writing style offers an objective legal analysis that enables readers to understand the potential legal consequences of past or future actions. The audience for predictive writing can include anyone seeking legal advice, such as a client or another attorney. When lawyers engage in predictive writing, they serve as counselors. For example, consider a client who wishes to construct a factory on her property within a residential neighborhood. She seeks to determine whether any legal claims might arise from neighbors who oppose the factory. In response, you write a letter identifying potential causes of action and predicting how a court might rule on those claims.

Conversely, persuasive writing aims to convince a legal decision-maker to adopt a specific course of action. The target audience for persuasive legal writing is typically a legal decision-maker, such as a judge. Persuasive writing presents a subjective argument favoring a contested position, with the lawyer acting as an advocate.

Both forms of legal writing share several similarities. For example, the fundamentals of effective writing apply to each. Lawyers meticulously organize their writing to ensure readers can easily comprehend their arguments. This organization occurs at multiple levels: large-scale or memo-wide organization, small-scale or issue-specific organization, and paragraph-level organization. While this guide does not cover other

⁷ This part is based on Afghanistan Legal Education Project, *LGS 160: Legal Methods I, Section 4.2: Types of Legal Writing and Writing Process* (Stanford Law School), 1- 3.

forms of writing, such as corporate or contract writing, the skills you acquire will prove useful and applicable to nearly all legal writing scenarios.

2. THE PROCESS OF WRITING⁸

In writing strategically, there are things to do before starting writing, there are rules to obey during writing, and also some tips exist to consider after finishing your writing.

The *prewriting stage* requires careful thoughts on knowing the purpose of your writing and your audience. Like in the preliminary stages of your research, you need to be aware of any rules and restraints regarding what you write. Your research and initial thoughts should give you a direction for the document you will write. Thus, the goal of this stage is to find the relevant facts and law and clarify the legal question to be answered by the piece of writing. Once you know what you are writing, why, and to whom you are writing, it is best to prepare an outline for the document you write.

Also, at this stage of your writing, make sure that you are aware of all the rules surrounding your writing. Understand the number of words or pages you have to write. Also, familiarize yourself with the form of the document you are writing. Considering these issues at the beginning will help you save time and effort.

Once you have a clear idea about the assignment, audience, purpose, rules, and restraints of writing, the next step is to brainstorm ways to answer the question presented by the writing assignment. What are the arguments that either side might offer? How can the forms of legal reasoning be used to express these arguments? Ask other questions that will help you generate ideas. Be creative. Some writers use different techniques, such as preparing a list of ideas or a visual picture of ideas related to each other, known as clustering. Do not self-censor. No idea is too far-fetched at this stage. Also, discussing the issue with your team will help you generate ideas if you are writing as part of a team. Once you think, write, or discuss an issue, you will know what to focus on and where to start.

The ideas that emerged in the brainstorming should be organized into an outline. This is the stage you prepare a tentative plan for how you will proceed. Outlining is essential because it forces writers to plan how they will organize their work. This is an organization of your thoughts on a larger scale, which is an organization of main topics and whether or not they flow well. Writing without an outline is like navigating without a map.

⁸ This part is heavily based on Linda H. Edwards, *Legal Writing and Analysis*.

The main stage of writing, which we will focus on, is starting to put your thoughts on the paper. We will refer to this stage as the ***drafting stage*** or ***writing stage***. At this point, you have some ideas and possibly your notes from your research that you want to present to your reader.

When you are at this stage of your writing, keep in mind that what you write – the draft – is for yourself. It is not perfect. Also, understand that this stage of your writing is the most time-consuming. You may need a lot of writing and re-writing for your original ideas to flourish. Some, therefore, suggest it is better to compose earlier and edit later.⁹ However, do not procrastinate. Some of us are able to write constantly and transfer our thoughts on paper without paying much attention to the form and style of our writing. They can think as they write. Their goal is to record their thoughts first and polish them later. And since thinking at this stage is more about seeking a solution to a problem, some even primarily define legal writing as an effort at legal problem-solving.¹⁰ Communication comes after finding a solution to the problem when writing is finalized and ready to be shared with your audience.¹¹

Most writers find this step the most difficult, but thorough research and a detailed outline make it easier. Lawyers do not need to write each memo section in the same order that they will appear in the final product. For instance, it may be easier to write the introductory sections that precede and summarize the argument after writing the argument itself.

One of the main challenges younger writers face is organizing their thoughts and presenting them well-structured. Organization at this level requires paying attention to each paragraph and section to ensure you have presented a brief and to-the-point introduction, body, and conclusion.¹²

The *post-writing stage* is to polish your writing further and finalize it for submission or use. Once the final draft is prepared, make sure to double-review your work. Your goal at this stage is to review your work carefully and critically for substantive and procedural errors. It is normal to resist bringing change to our draft and think that our work is complete. But being a critical editor requires admitting that your first draft will always have errors and flaws that should be fixed. You may critically analyze your arguments and analysis and see if you are satisfied with the way they are presented or

⁹ Tom Goldstein and Jethro K. Lieberman, *The Lawyer's Guide to Writing Well* (2nd Ed.) (November 2002), at 41.

¹⁰ *Id.*

¹¹ *Id.*

¹² This part is based on Afghanistan Legal Education Project, *LGS 160: Legal Methods I, Section 4.2: Types of Legal Writing and Writing Process* (Stanford Law School), 1- 3.

not. If you have doubts about the strength, accuracy, or clarity of your analysis and writing, others will definitely have. So, make sure you passionately work on the last step of your assignment to improve your writing quality. You will need to revise your writing to tailor it to your audience and revise your work for purpose and form. You will also need to improve the coherence between different parts of your writing. As you revise your work, you should also check grammar, sentence structure, punctuation, capitalization, spelling, citation, and format of the document you have written.

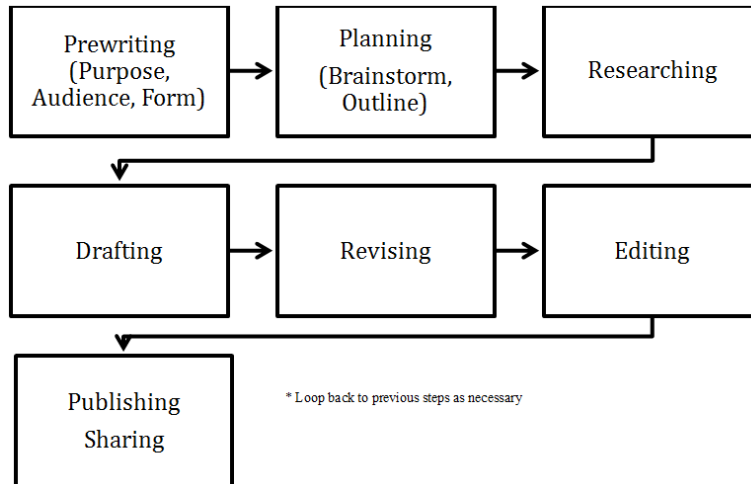
This stage of your work is essential and time-consuming. Revising both for form and purpose is a lot of work. It is normal for the first drafts of even the most brilliant legal writers to have many flaws. Revising removes those flaws. One way to approach the editing process is to revise one aspect of the writing at a time. For instance, edit first for large-scale organizations. Once those revisions are completed, edit for small-scale organization, paragraph organization, grammar, spelling, and word choice. Adjust arguments and words if they do not convey the proper tone. Every draft should be read out loud because what sounds clear in the writer's head may sound confusing to another person. Writers should read and revise their work from the perspective of their intended audience. Authors should not assume that their audience will be as familiar with the topic as they are, so they should provide the necessary background. If the assignment allows, each piece of writing should be edited by another person.

Frequently, during the course of revision, writers realize that they need to return to an earlier stage in the writing process. They may realize they are missing an aspect of the legal question that requires additional research and alterations to their outlines. Like legal research, the writing process should be viewed as a loop rather than a straight line.¹³

Finally, you will share your writing with your reader. If you receive any feedback, please note that critical feedback is an excellent opportunity for you to learn about your writing strengths and weaknesses. Make sure that you make the best use of this feedback.

The graph below summarizes the process of writing. However, note that no writer uses precisely the same writing process. The steps described below should be viewed as a guide for writers to adapt to their needs. This process is not necessarily linear, and rather, you should be ready to double back whenever necessary.

¹³ *Id.*



3. STRATEGIES FOR BETTER WRITING¹⁴

In this part, you will learn some general writing techniques. Some of these techniques will help you to write briefly and clearly, and other techniques help you to comply with the etiquette of professional writing. Finally, some techniques focus on the structure and organization of your writing.

3.1. Maintain a Professional Tone

One way legal writing differs from other forms of writing is the level of formality it requires. Legal writing is typically formal, which means avoiding colloquial language, symbols, or abbreviations that are commonplace in everyday communication with friends and family. However, adopting an overly formal tone is not recommended either. Legal writing should convey confidence, balance, and curiosity – never insecurity, anger, or hostility.

Most legal documents produced by lawyers require adherence to formal formats, such as proper headings, greetings, and closing sections, similar to those required in business communications. Avoid using contractions, colloquialisms, slash constructions, and abbreviations typically used when taking notes. For example, always write "will not" instead of "won't," use "and" instead of "&," and opt for "both" rather than "and/or." Additionally, refrain from using "etc." in professional writing.

¹⁴ This part is heavily based on Linda H. Edwards, *Legal Writing and Analysis*. See also Purdue University's Online Writing Lab (<https://owl.english.purdue.edu/owl/>) for helpful resources and instruction on spelling, grammar, word choice, and sentence structure.

Formality also entails avoiding unnecessary self-references or mentions of your firm. Maintain a tone that demonstrates respect for your reader and steer clear of sarcasm, humor, or expressions of anger in legal writing. Allowing emotions to influence your professional judgment will be both ineffective and unprofessional. Furthermore, informality in written communications can often lead to confusion and misunderstanding.

In fact, formal written communication is highly emphasized in Afghanistan. A perusal of official documents indicates that government bodies employ a codified level of formality, assigning different titles to authorities according to their administrative rank and role. Judges, prosecutors, researchers, and academics have unique titles reflective of their experience and rank. This emphasis on official and administrative titles led to the introduction of a regulation in 1921 that prescribed, simplified, or prohibited the use of specific titles. Noncompliance with these formalities during written communication can be seen as disrespectful and unprofessional, which could negatively influence the intended outcome of the writing. Therefore, maintaining a professional tone is vital. Additionally, in a professional context such as this, plagiarism is taken seriously and can lead to severe consequences, including civil lawsuits or even criminal liabilities.

3.2. Use Short Sentences and Paragraphs

Considering that the primary goal of writing is communication, it is essential to use all means necessary to achieve this objective. One effective strategy is to write clearly and concisely. This section emphasizes the importance of writing clearly, while the following sections on avoiding wordiness, legalese, and matched pairs will offer ways to write shorter sentences.

As mentioned earlier, try to avoid complex sentences as much as possible. When needed, break longer sentences into two or more shorter ones. Writing can easily become lengthy and unmanageable, which is why many journals and courts in various jurisdictions impose word limits on different types of documents and briefs produced by lawyers. In fact, writing concisely is often more challenging than writing at length. As one commentator puts it, "It takes more time to write a crisp, tight, concise piece than a loose, long, baggy one."

Also, keep your audience in mind and avoid skipping important details, even if you think the reader might already know the information. Another strategy for plain writing is to steer clear of sophisticated or outdated words. Some writers may be tempted to use unnecessary, complex vocabulary to impress readers, but this can risk obscuring the intended message.

The same rules of brevity and precision apply to paragraphs. Paragraphs are the smallest organizational units in legal writing, and each should address a single idea. Start with a topic sentence that conveys the central idea, followed by sentences that explain and provide evidence for the concept expressed in the topic sentence. Ensure smooth transitions between paragraphs. Aim to write in plain language, per the Supreme Court's instructions.

In 2011, the Supreme Court of Afghanistan held the National Judicial Conference to initiate judicial reform. The Supreme Court assigned committees of judges to prepare guidelines for simplifying judicial decisions across various courts, including criminal, civil, commercial, and others. These guidelines shared similarities and contained key provisions promoting simple, concise, and easily readable legal writing. Simple writing means avoiding complex and unnecessary terms while using legal terminology when needed. Each guideline offers instructions on the style and components of judicial decisions and holdings across different court levels and suggests standard forms to be used by both parties and courts.

However, in practice, legal writing can still include complex sentences. Writers use a variety of sentence structures to hold their readers' attention. For example, they mix short, declarative sentences ("The defendant needed money.") with more complex sentence structures ("With a shotgun in one hand and bolt cutters in the other, the defendant approached the gate of the victim's home before dawn.").

3.3. Avoid Wordiness

Why is writing short and to the point always better? Lawyers are busy professionals and may not have enough time to read a detailed document unless necessary. A normal reader will become bored of reading long documents and may lose focus. As someone who has researched a matter, analyzed it and spent time writing it, you do not want your reader to skip parts of your writing because it is too wordy, confusing, or boring. So, make it a good habit only to add the necessary words. A good writer avoids using unnecessary words.

Also, avoid using what is known as "throat-clearing" words and phrases such as the followings:

It is interesting to note that...

It is important to remember that...

It is widely understood that...

Using these phrases could negatively affect the quality of your writing. These phrases not only make your writing wordy but also prevent you from using strong subjects and verbs and other methods of writing briefly. Usually, these phrases slip in our first draft. So, when reviewing your work, make sure to remove them. A checklist is provided at the end of this Chapter that will help you how to review your writing for, among others, clarity.

Finally, see if you can change unnecessary phrases with their single-word synonyms. For instance, you can simply use the word "because" instead of writing "due to the fact that." This will take us to our next points on how you can write shorter by using simple and only necessary words.

3.4. Avoid Legalese

It may seem impossible to avoid using legal terms when discussing a legal matter. Law is often highly technical, frequently requiring numerous legal terms that may be unfamiliar to non-lawyers. However, you may need to communicate your point to someone who is not a legal professional. Also, keep in mind that your primary goal is to convey your message clearly to your reader.

Considering these factors, it is advisable to use legal terms only when necessary. If possible, avoid using complex legal terms. If you must use a legal term that may be difficult for your reader to understand, consider providing an explanation or rephrasing the sentence using simpler language. In other words, attempt to transform legalese into more straightforward language whenever possible. Later, you will learn more about paraphrasing techniques.

Below is a list of terms that lawyers frequently use and alternative terms for each that you can incorporate into your writing. Reviewing these words, consider similar legalese that lawyers may use in Dari or Pashto and consider how to avoid using such terms.

LEGALESE	PLAIN ENGLISH ALTERNATIVES
Adequate number of	Enough, sufficient
Aforesaid, aforementioned	Previous
All of the parties	All parties
As to whether (or not)	Whether
At the time	When
During such times as	While
For the reason that	Because
Heretofore	Previously

In lieu of	Instead of
Said	The that
Take into consideration	Consider
Under the provisions, pursuant to	Under; in accordance with
With respect to	About

3.5. Avoid Redundancies and Matched Pairs

A single concept can often be conveyed without using synonymous words or phrases, which can lead to issues with matched pairs and redundancies in writing. **Matched pairs** refer to the use of two words or phrases with similar or nearly identical meanings in the same sentence, such as using "true" and "correct" together. Using one of those words in most cases should be sufficient, and there is no need to use both. **Redundancy** involves using words that could be omitted without losing meaning, like "ask" and "question," together when one could be deleted without altering the sentence's meaning. Consider the following examples:

Example	
Do not write:	Instead, write:
He asked his client a question about his age.	He asked his client about his age.
That contract is null and void.	That contract is void.

People use matched pairs and redundant words for various reasons, such as meeting length or word count requirements, sounding poetic, or adding weight and credibility to their writing. Additionally, people may pair foreign words (like Arabic words in Dari writing) with equivalent words in their local language. However, using matched pairs is unnecessary in legal writing. Here are some examples of matched pairs and redundant words:

Matched Pairs	Redundant Words
Alter and change	Advance planning
Bind and obligate	Final outcome
each and every	First and foremost
full and complete	Honest truth
null and void	Repeat again
good and sufficient	Past experience
stipulate and agree	new beginning
true and correct	Whether or not

When using paired words, different possibilities may arise. In some cases, the paired words have the same meaning, making the writing wordy. To avoid wordiness, choose one of the paired words that are clear and commonly used. Alternatively, each word may have a different technical meaning. For instance, using "void" and "voidable" together as paired words, assuming they have the same meaning, will confuse the reader, as these words have different meanings and uses.

3.6. Tabulate

Besides being able to write short and to the point, it is also essential to pay attention to the structure of your writing. Some of the times, you may present several ideas, rules, elements, or items. In that case, it is better to tabulate each of those items. Some of the times, this technique is used in legislative drafting. A rule is often explained in one or more sentences with any numbers or sub-parts. When you state such rules in your own words, it helps your reader if you prepare a tabulated list of items. Below is one example.

Example

Civil Code Article 502(2)

Conditions of validity of the contract are the capacity of contracting parties, suitability of the subject for contractual rules, usefulness of the contract, and its non-opposition to public order and morals.¹⁵

And here is what a tabulated sentence looks like:

Conditions of validity of the contract are (1) the capacity of contracting parties, (2) suitability of the subject for contractual rules, (3) usefulness of the contract [,] and (4) its non-opposition to public order and morals.

3.7. Pay Attention to Customary Practice

Custom plays a significant role in both substantive areas of law and the way lawyers write and communicate. You may need to adhere to widely accepted practices for using legal language. In English, for example, lawyers often use words such as "find," "held," and "decided" and their various forms when referring to a court's decision. Custom

¹⁵ Civil Code, Official Gazette Number 353, Article 502, Clause 2.

influences the meaning and usage of such words, determining when they should be capitalized, italicized, abbreviated, or pluralized.

In Afghanistan, starting an official letter with an Islamic greeting (i.e., As-salamu alaykum) may be a customary practice in professional communication. Moreover, it is common in official letters to high-ranking officials to refer to them in the third person and use plural pronouns when making a request. Instead of writing, "Please give permission to the respective administration to share this information with my client," one might follow custom and write: "It is requested that His Excellency issues permission to the respective administration to share this information with my client." Other examples might include consistently providing an identifying number in written communications. If these practices are prevalent in your area, compliance is necessary. Consider the customary norms in writing that writers in general, and lawyers in particular, use in Afghanistan.

3.8. Use Words Carefully

As a writer, selecting words that accurately convey the intended meanings is crucial. To achieve this, regular consultation with dictionaries and thesauruses may be necessary. More specifically, be cautious when using adverbs that express your opinion on the likelihood of a particular legal outcome. Suppose your client, a corporation, requests your written legal advice regarding a dispute with some customers. Your choice of words carries significant weight, as crucial decisions may hinge upon them. Therefore, ensure proper usage. When a legal matter is subject to dispute with equal chances of winning or losing, avoid using words that imply a predictable outcome.

Exercise caution when using intensifiers—adverbs intended for emphasis. Before incorporating words such as "clearly," "very," "extremely," or "obviously," consider whether they truly reflect your intended meaning. For example, writing "Based on Article 502 of the Civil Code, the contract is obviously void" can be improved by removing "obviously" and presenting a compelling argument that clearly demonstrates the contract's invalidity. Relying solely on an intensifier neither proves nor disproves anything.

Lastly, if you struggle with the proper usage of similar-sounding words, such as "than" and "then" or "affect" and "effect," devote time to resolving these issues and learning the correct application of each word.¹⁶ If you have doubts, refer to a dictionary and make sure that you have used the word properly.

¹⁶ See generally Strunk, William, and White, E B. *The Elements of Style*, 4th ed. at 39 – 65.

3.9. Support Your Claims

In Afghanistan's legal system today, an essential component of professional writing involves substantiating claims with evidence, reasoning, and authority, reflecting the principles from the Holy Quran, Hadith, and Fiqh sources, given their significant role in Afghan law. Mere assertions in the legal profession, even if referring to a specific article from a legal authority, are usually insufficient. It's crucial to elucidate the rule in question and demonstrate its application to the specific case at hand. This approach to legal writing not only enhances the credibility of the argument but also respects the intricacies of Afghanistan's legal framework, which intertwines civil law traditions with Islamic jurisprudence.

3.10. Names of Parties and Things

In legal writing, you often need to use the names of the parties involved in the legal matter. Sometimes, people with similar names, such as Ahmad and Ahmadi, may be involved in a case. Other times, they may have long or uncommon names, that using them repeatedly could confuse your readers. It is also not well-structured writing to refer to these persons sometimes by name and other times by using a pronoun. You can use one of the following options to refer to people in the case. First, you can use some forms of a person's name, such as first name, last name, or both. If you use this option, make sure that you use the same form throughout your document to avoid any confusion. Second, you can use a "procedural designation" for the person, such as plaintiff, defendant, appellee, or appellant. Third, you can use a characterization based on the person's role in the case, such as a landlord, tenant, buyer, or seller.

From those three options, use the one that will help your reader with reading and following your arguments. More importantly, use one option consistently throughout the document. Your reader will be easily confused if you refer to persons in your document, sometimes by their names and sometimes by their role in the case.

Likewise, you may have to repeatedly refer to things in your writing, such as referring to different contracts signed on different dates. You can refer to them based on their respective formation dates, such as the "January 5 Contract" and the "February 6 Contract". You can also refer to them as "the Sale Contract" and "the Lease Contract" if you are referring to two subject-wise different types of contracts.

3.11. Use Transitional Words

One way to present your analysis in an organized and coherent way is to use transition words. As you learned earlier, these words will help connect one idea or concept to another. There are different types of transition words, each of which has a different function and usage. Below is the list of some transition words you may use frequently in your writing¹⁷:

Transitions	Function
also, and, in addition, besides, what is more, similarly, further	To add point
for instance, for example, for one thing, for another thing	To give example
in other words, that is, in short, put differently again	To restate
so, as a result, thus, therefore, accordingly, then	To introduce a result
but, however, on the other hand, still, nevertheless, conversely	To contrast
to summarize, to sum up, to conclude, in conclusion, in short	To sum up
First, Second, Third,...Finally,...	To sequence ideas

4. INTRODUCTION TO ETHICAL WRITING

This last part focuses on the ethics of writing. The goal is to know when and how to cite different authorities you may use in your writing. This part of the book is different from the rest in that it will first explain what method is practiced with regard to citation in Afghanistan. Then, it will provide an opportunity for comparative study by describing when and how citations are regulated in other jurisdictions. Finally, this section will suggest how a better way of citation could be used based on international best practices while keeping in mind the unique features of certain authorities in Afghanistan's legal system. You will learn how to cite better by using numbers, letters, words, or sometimes abbreviations. However, explaining how to cite from all the different authorities one can possibly use is a topic beyond this section. So, we will only focus on how to cite from the most common authorities. As a new generation of Afghan lawyers, these suggestions help you find and disperse a more standard, complete, and unified way of citation in Afghanistan.

4.1. Plagiarism

Broadly speaking, plagiarism is using another person's words or ideas and pretending they are your own. This happens when you fail to cite because the reader has no idea whether you want to pretend the ideas are your own or if you are just forgetful.

¹⁷ See generally Garner, Bryan A., *Legal Writing in Plain English*, University of Chicago Press, Chicago, (2001) at 67-71.

Citing or acknowledging your sources will help you avoid plagiarism. Citing your sources consistently and well can help you in many ways. An example of how proper citations can help you: if you cite someone who is very well respected in the field, it shows good judgment on your part, and it shows that you are well-versed in the authorities of that field. Your argument is made stronger by your acknowledgment of that authority. Additionally, it indicates that you have done thorough research. People will be more likely to trust the rest of your argument when you demonstrate that you are credible early on.

Legal researchers and lawyers are ethically compelled to avoid plagiarism, akin to theft of intellectual property. Non-compliance with these rules can tarnish their reputation in the legal community, leading to professional embarrassment, potential expulsion from academic institutions, or even job loss. Reputational integrity is vital; being perceived as dishonest or untrustworthy can cast a shadow over the validity of their work. Under Afghanistan's 2017 penal code, for instance, plagiarism could lead to criminal liability. If an individual exploited another's intellectual property without permission and falsely attributed it, they violated intellectual rights, transforming plagiarism from an ethical concern into a potential criminal offense with serious legal implications.

4.2. The Purpose of Citation

The primary goal of citation is to enable readers to access the sources you relied on. Proper citation indicates that you are a thorough researcher knowledgeable of the subject you are writing about. The poor citation gives the impression that you are careless, and unethical and raises concerns about your trustworthiness as a reliable source. Additionally, providing citations is to acknowledge that credits, as well as blame, will go to the sources you used.

Citing your sources accurately is crucial for those referencing your work, as it saves them the time and effort spent searching for the original materials. Readers generally appreciate writings with clear, easily traceable sources. In Afghanistan, this practice is especially vital in legal documents. Without proper citations, judges and lawyers may struggle to locate the exact sources you've used in your writing. If they refer to a different version of the source than the one you used due to incomplete or inaccurate citation, it can lead to confusion and potentially undermine your arguments. Thus, when referencing any primary or secondary source that you wish the court to consider, it's essential to clearly identify where the reference came from. Simply stating that the Labor Law supports your client's claims isn't specific enough. Judges will typically verify claims by consulting the original source, so failing to provide proper citations can adversely affect both you and your client.

Also, we discussed the differences between civil law and common law systems in an earlier section. You will likely be working with both systems in your career alongside others who may exclusively work in civil law or common law. Because of this, it is important that lawyers from both systems be able to locate the sources you used to help make sense in their minds of what your argument is saying and whether you are using the most authoritative sources for your argument.

4.3. Quotation

A quotation is used when one or a group of words are taken from another text or speech. The quotation could be used in different forms, such as quoting extensively or briefly, directly or indirectly.

You must cite when you use a direct quotation, an indirect quote, and when you paraphrase. A **direct quote** is when you use the exact words from another document and put them into your writing, indicated by the use of " or << >>. An **indirect quote**, also known as a paraphrase, is when you use an *idea* or *main point* of a sentence or paragraph and use different words to convey the message, but the idea is still not yours. You *must always* cite when you use someone else's work as your own.

Also, some authors quote several sentences or paragraphs, and others may only see the need to quote a few words or phrases or a few sentences '. It is normal and acceptable to quote from another person directly; sometimes, people can say things better than you can. However, as a general rule, always remember that for the types of writing you will write, a short quotation is preferred over a long quotation. If you are writing for a law journal, pay attention to the citation and other general writing requirements set by the journal you intend to publish.

Generally, you must be careful about quoting more than needed. Using too many quotations, particularly long quotations, is not recommended. The overusing of quotations could be interpreted as a show-off or insecurity of the author. The long and unnecessary quotation also shows that an author is too lazy to read, comprehend, and paraphrase the text. Remember that the goal in writing is to communicate or to solve a problem. This requires focusing on your reader and a solution to the problem. Focusing on oneself and trying to show off will negatively affect the quality of legal writing. Similarly, not having the necessary confidence to state our analysis will also lead to poor-quality writing.¹⁸

¹⁸ Tom Goldstein and Jethro K. Lieberman, *The Lawyer's Guide to Writing Well*, at 99.

So, if you have used longer quotations, try to shorten them during the revision process by using the techniques explained in the following sections. In Afghanistan, lawyers need to quote a lot from statutory sources because of the important role that statutory laws play in the country's legal system. However, quoting several law provisions in the body of your writing will damage the goal of writing, particularly if your reader is not a lawyer. Therefore, it is generally allowed to use a clear rule statement based on relevant statutory provisions. If citing the exact wording of the law is needed, the relevant provision could be supplemented to the original document. In practice, for certain documents, such as written legal advice, it is common to add an appendix to the original document quoting all relevant statutory provisions supporting it.

Finally, a rule in writing suggests if the number of quoted words exceeds 50 words, the author should indent the quoted text. That is to start the text further from the margin than the main part of the text. Also, properly use a full stop for the text you quoted. As a general rule, if end punctuation is part of the quoted text, add it within the quotation marks. If it is not part of the quoted text, add the punctuation outside the quotation marks¹⁹. See the below examples:

Example	Explanation
The service "shall have to be determined or determinable in service contracts."	The period is part of the quoted text.
Was the mistake "so grave that contracting party would not confirm contract if he were aware of it"?	The question mark is not part of the quoted text.

4.4. Alterations and Omissions

Use brackets when you change any part of the quoted text. Do this when you change lowercase to uppercase, add punctuation, or omit one or more letters and words from the text. Use three periods (...) if you omit several words from a text. Below are some examples²⁰:

Example	Explanation
"[M]ost of the contracts we sign on a daily basis are valid contracts."	Here, the lowercase m is changed to an uppercase M.
"In the contract [] concluded between Ahmad and Ali, all legal requirements were met."	Here, the letter "s" is omitted. (The original document had "contracts.")

¹⁹ Linda H. Edwards, *Legal Writing and Analysis*, at 201.

²⁰ *Id.* 201 – 202.

"The first two broader categories [of sources of obligation] are legal acts and legal events." ²¹	Here, some new words are added to ensure the reader understands the meaning of the text.
"The Civil Code ... specifically addresses civil contract law and delict, or what is known in the Civil Code as a civil responsibility." ²²	Here, a few words have been omitted within the quoted text. Note that there is space before and after the ellipsis mark, the three periods.

4.5. Paraphrasing

Another technique you can use to avoid plagiarism is to paraphrase. Paraphrasing is used when the idea²³ of another is explained in one's own words. In simple words, paraphrasing is the act of rewording a text or speech initially produced by someone else. The words used by a person paraphrasing a text should differ from those used in the original source. If the same words or phrases are used, then quotations should be used for those words and phrases. Paraphrasing will help you avoid plagiarism and explain an idea presented by another in a way that best suits your purposes. So, you can further tailor that idea to your writing, making it clearer or shorter. Since the idea still belongs to someone else, you still have to provide the citation. Like writing, paraphrasing is an art that requires practice.

Remember that quoting too much could negatively affect the quality of your writing. Paraphrasing is one way to avoid quoting too much. In order to be able to paraphrase, you need to first understand the idea or concept fully in the source. Then, you can reproduce it in your own words. To do so, first, you need to read the original text carefully and, if necessary, reread it. You can take notes at this stage. Second, you need to put the original source away and write from your notes and mind. If you still cannot write or have doubts about the accuracy of your writing, you can refer back to the original source and make sure that you fully understand it. You can also take a break and think about what you just read. Once you complete paraphrasing the text, double-check that you have fully and accurately explained the idea. Then provide a citation. Below is a good example, prepared by Purdue University Online Writing Lab, on what is an acceptable paraphrasing and what is not.

²¹ Afghanistan Legal Education Project, *An Introduction to the Law of Obligations of Afghanistan* (2014) at 9.

²² *Id.* at 8.

²³ Emphasize added.

Some Examples to Compare²⁴

The original passage:

Students frequently overuse direct quotations in taking notes, and as a result, they overuse quotations in the final [research] paper. Probably only about 10% of your final manuscript should appear as a directly quoted matter. Therefore, you should strive to limit the amount of exact transcribing of source materials while taking notes. Lester, James D. *Writing Research Papers*. 2nd ed. (1976): 46-47.

An improved legitimate paraphrase:

Research papers commonly contain excessive quoting by students who struggle to keep such material to a recommended minimum. The issue typically arises during the note-taking process, making it crucial to reduce the instances of directly transcribing sources (Lester 46-47).

An enhanced acceptable summary:

To reduce the amount of quoted content in research papers, students should limit their direct quotations from sources when taking notes (Lester 46-47).

A more blatantly plagiarized version:

Students frequently overuse direct quotations in taking notes, leading to an overuse of quotations in the final research paper. Only about 10% of your final manuscript should appear as a directly quoted matter. Hence, it's crucial to limit the amount of exact transcribing of source materials while taking notes.

5. CITATIONS FORM

Citations lend credence to your arguments, particularly when citing respected figures in the field. This demonstrates your familiarity with pertinent authorities and enhances the credibility of your argument, often leading judges to view your assertions more seriously.

Citation practices may vary across institutions, but in our increasingly globalized world, they hold significant value, especially for those considering international practice. When in doubt, it's advisable to cite your sources.

If you're new to the art of citation, the subsequent information serves as an introductory guide to its basic principles. It explains the common methods of citing specific sources

²⁴ This section is adapted from the Purdue University Online Writing Lab, found at: <https://owl.english.purdue.edu/owl/resource/619/1/> (retrieved on March 4, 2015).

and proposes some shorthand citation techniques. These are suggestions, and you may experiment with them in your research, although conventional citation practices are still recommended. Any changes towards a more convenient, standardized legal citation system in Afghanistan require endorsement from all legal stakeholders, including the Afghanistan Bar Association, courts, prosecutors, academics, and legal education institutions.

Citations can take the form of clauses or standalone sentences. In a citation clause, the citation is part of the sentence, which is common in Afghanistan when emphasizing the weight of a source. This method is commonly employed when citing primary Islamic law sources and statutory quotations. It's less recommended when citing less well-known secondary sources. Here are examples:

Citation Clause	Article 505 of the Civil Code states, "Validity of a contract is subject to the consent of contracting parties without duress and coercion."
Citation Sentence	"Validity of a contract is subject to the consent of contracting parties without duress and coercion." (Article 505 of the Civil Code).

Citations may be provided within the text or as footnotes. Academic writing typically uses footnotes, while practical writing often cites within the text. Remember, excessive citation can distract readers, so ensure each citation is necessary. In Afghanistan, legal practitioners typically include statutory sources or Islamic law rules as in-text citations in litigation writings, seldom using footnotes.²⁵

5.1. Basic Citation Components

There are many different accepted ways to cite sources in documents. If you have learned how to cite sources in the past and this system is different from what you knew, or the information is in a different order than what you are familiar with, do not worry. The most important part of citing is ensuring that all the critical information is provided. Generally speaking, the order should not matter.

Below we have introduced the key citation components for some most commonly used authorities. Generally, these components could be grouped into four major categories²⁶. The first part includes information about the authority used, including its name and

²⁵ This conclusion is made based on several briefs presented to various Afghan Courts, (on file with the author).

²⁶ This part is generally based on analysis of different citation forms used by lawyers and law scholars in Afghanistan. *Generally, see, Abdul Malek Halimi, Instruction for Monograph Writing* (Dari), Kābul: Intishārāt-i Risālat, (2nd ed. June 2013). *Also see, N. M. Sabri, An Introduction to Research Method in Law* (Farsi), Mizan Legal Foundation, Tehran 2010.

other relevant information that helps locate the authority. This part is the most important information, including important information about the source used. The second part includes information about the producer of the authority, such as the author's name, court, government body, or other personalities. Normally when citing from statutory sources, the statute's title explains whether it is a law, a regulation, or another type of legislative document. The third part contains information about the publisher, such as the publishing company in the case of secondary authorities or the government body responsible for publishing the authority. Again, the gazette number shows that the Ministry of Justice published it, and it can be found in the official gazette. Finally, specific information is needed about the exact part of the authority used, such as article number, page number, and other similar specifications. The following chart summarizes these key components and explains why each component is important by giving an example about citing from a statutory source. In the next section, you will learn more about how to cite from a statutory source.

Component	Example	Significance
Information about the title of the source	Criminal Procedure Code	This part helps the reader understand what type of source this is and possibly where he can find it.
Information about the producer or creator of the source	Criminal Procedure Code	The word Code or Law shows that it is a statute and should have been prepared in light of Article 94 of the Constitution 2004. For secondary sources, here information about the source's author is required.
Information about the publisher of the source	Official Gazette No. 1132 (2014)	It shows that the Ministry of Justice published the source in the Official Gazette. This part helps your reader to locate the source easily and the year showed when the source was published. It will help find out if the law was changed later on or not.
Information about the exact part of the source used	Article 11(1)	This component shows the specific part cited in clause

		one of article eleven. So your reader can see the particular part of your cited source.
--	--	---

The order of these details is normally the same as explained above. As you can see in the above chart, your citation should respectively include information about the authority you are using, information about the producer or creator of the source, information about the publisher, and information about the exact part of the source you have relied on in your writing. However, this order may change for secondary sources, as explained below in further detail. In any case, you need to record all these different types of information in order to be able to provide a complete citation.

In addition to footnotes, you may be required to list all sources that you have cited at the end of your writing. This last section is called references. The components explained above are generally the required components for footnote citations. The main difference you will see between a reference and a footnote is that references do not include information about specific parts of the source used, such as page numbers. Some writers prefer not to use publication-related information in the footnote and leave it to reference. Another difference between footnote and reference is that normally, in the reference section, the author's last name comes first, and then the first name will come second. However, in the footnote, it is vice versa. Finally, footnotes are used for different purposes other than just providing citations. A writer could use footnotes to explain a point. However, reference is only used for providing citations to authorities.

Let's see how to apply these general rules when citing specific authorities.

5.1.1. Constitution

As you have already learned in previous law courses, Afghanistan has had several constitutions in its legal history.²⁷ Like citing from any sources, different types of information are required when citing from a constitution. You will need the full and exact title of the constitution, the official gazette number of the Constitution, the year of publication, and the specific article of the constitution that you cite. Note that the accurate and complete title of one constitution might be the Constitution of the Islamic Republic of Afghanistan. For another Constitution, it may only be the "Constitution of Afghanistan." These small details are important for citing properly and avoiding confusion.

²⁷ For list of all constitutions of Afghanistan up to now, see: *Past Constitutions of Afghanistan*, website of Ministry of Justice, Islamic Republic of Afghanistan, <http://old.moj.gov.af/Content/files/index.htm> (last accessed 5/18/2023).

In practice, normally, authors cite the Constitution without all four components explained above. Their citation may look as follows:

Example of Practiced Citation

Constitution of Islamic Republic of Afghanistan (2004), or
The Islamic Republic of Afghanistan, Constitution 2004, or
CONST. OF THE ISLAMIC REPUBLIC OF AFGHANISTAN,

As you can see above, in practice, many do not use the official gazette number and the year of enactment or publication when citing from a constitution or statutory sources. As you will see later, citing the official gazette number is very important for avoiding any confusion about the sources used and helping your reader locate the source easily. It is quite possible that a given law could be approved in a year and then replaced with another law in the same year. Not citing the year or date of publication could cause confusion about which source you are referring to. Also, writing only a year of publication is not enough in these cases. A specific date of application that includes the month and day of publication is also important to avoid such confusion. However, writing a complete date of publication is also not as helpful as writing the official gazette number, if there is one. Therefore, it is always good to write both the official gazette number and the publication date. Since it is not very likely for the Constitution to change as quickly as statutory laws, therefore not writing the gazette number and exact date is not much of a concern when citing from the Constitution. Writing the year of enactment for the cited constitution was enacted should be sufficient. However, for the sake of uniformity, it is better to write the gazette number for all sources published in the official gazette, including the Constitution.

So, citing Article 130 from the current Constitution of Afghanistan for the first time should be as follows:

Example of Suggested Citation

Constitution of Islamic Republic of Afghanistan, Official Gazette No. 818, Article 130 (January 28, 2004).

However, if you cite from a constitution more than once, the subsequent citation could be shorter without keeping the official gazette number and complete date. You can also use an abbreviated form of the Constitution's name and provides the section and article referenced.

Example of Shorter Citation

Constitution of Islamic Republic of Afghanistan (2004), Article 131.
CONST. OF THE ISLAMIC REPUBLIC OF AFGHANISTAN, Article 131.

5.1.2. Statutory Laws

Currently, different ways of citing from statutory law are practiced in Afghanistan. Some just cite the title of the statute. This method of citation is not complete. As you learned earlier, the minimum required components for proper citation are writing the exact title of the source, the producer's information, the publisher's information, and the specific information within the source used. Below is one way many cite statutory laws in Afghanistan. Can you explain why it is not the best way to cite from statutory laws?

Example of Practiced Citation

Article 10, *Labour Code of Afghanistan*.

Also note that some provide more details when citing from certain sources, such as the Civil Code of Afghanistan. They also provide the number of volumes (or books) of the Civil Code in which a particular article is located. So, in order to cite Article 1035 of the Civil Code, they cite it as follows.

Example of Practiced Citation

Article 1035, *Civil Code of Afghanistan*, Book No. 3.

Now, all four books of the Civil Code are mostly accessible in a single publication, and a reader can easily find where to search for a particular article in the Civil Code by using only the official gazette number. Therefore, this method of citation is not recommended. As explained above, the better way to provide a complete citation is to add the information related to the required components of the source. Thus, a preferred method of citation will look like this:

Example of Suggested Citation

Civil Code of Afghanistan, Official Gazette No. 353, Article 1035 (January 5, 1977).

Using the correct translation of the name of a source that is published only in Dari and Pashto – which is the case for almost all statutory sources in Afghanistan – is another problem. It is common to encounter different ways the title of authority is translated. The best way would be to check the last page of a statute and use the exact translation provided in the original Official Gazette. Normally newer versions of publications in the official gazette include the title, publication date, and gazette number in English as well. A sample is provided at the end of this Guide. It is better to use this translation by the Ministry of Justice even if it does not seem quite accurate. For instance, see the following example:

However, if the translation is not provided and you have to translate it yourself, it is also advisable to use the *transliterated* form. For our purposes, transliterating is writing a letter or word using the characters of another language. As an example, if you have to cite from official gazette number one that is not translated in English, you may have to provide a translation of it and then, in the bracket, use the transliterated form of it, which is provided below:

Example of Suggested Citation

Official Gazette Law (Qanoon e Jarida e Rasmi), Official Gazette No. 1, Article 1, (March 7, 1964).

Mineral Law, Official Gazette No. 1143, Article 2, (August 16, 2014).

Note if the legislation you are citing is repealed, use the date of the current version of the legislation. For instance, the Labour Law was amended and repealed several times. So, if you cite from the most current version, make sure your citation also refers to the most recent version.²⁸ However, if only a few articles of legislation are amended, such as in the case of the Criminal Procedure Code²⁹, use the date of amendment only for the amended articles.

Comparative Study

Based on international best practices, here is a new, shorter, and more organized way of citation that could be used when citing from statutory laws or a constitution:

²⁸ Labour Law of Afghanistan, Official Gazette No. 965, (December 6, 2008).

²⁹ Criminal Procedure Code of Afghanistan, Official Gazette No. 1131 (May 5, 2014).

1. Title number (if the code uses title numbers)
2. Abbreviation for name of code
3. Section number
4. Year the code was published

Example

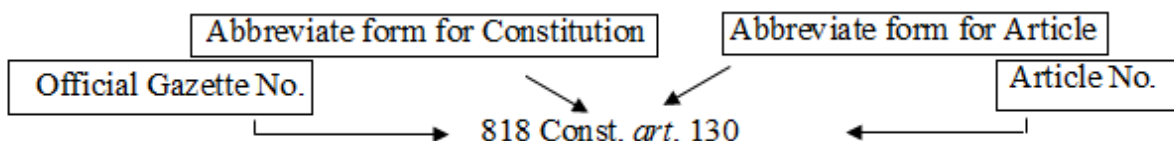
1	2	3	4
11	U.S.C.	523	(1994)

So, applying this in the example above, you may come up with the following method of citation for statutory sources:

1. Official Gazette Number (if the source is published in the Official Gazette)
2. Abbreviation for name of the source
3. Article Number
4. Year the source was published

1	2	3	4
353	C.C.A.	art. 1035	(1977)

This citation method could also be used when citing from the Constitution, which is illustrated below.



Since this citation method is not used in Afghanistan, you should not use it in your writing. But as a new generation of Afghan lawyers trained to be capable of working with English-speaking lawyers and clients, think about how you can introduce a better method of citation that could be more consistent with internationally accepted ways of citing from legal sources.

Note that some statutes, like the Civil Code of Afghanistan, are divided into many subsections and sub-parts. Arguably, no other law is so detailed and has such a complicated structure. Below is part of the table of contents of the Civil Code:

BOOK
Chapter
Section
Topic
Subtopic
Part 1
1 —

Figure 1 - Snapshot of Table of Content of the Civil Code

For the purpose of citation, note that citing only the article number and any sub-part of the article is sufficient. So, for instance, if you want to cite only the second part of Article 502 of the Civil Code, you can simply write Article 502(2). Alternatively, for the citation in the body of your text, you can use words instead of numbers and symbols, such as "Clause 2 of Article 502 explains conditions of validity of contracts." Note that using the word "clause" is better than words like sub-parts, sections, or sub-section as those words have special meanings and usage in the context of the Civil Code, which differs from the smaller part of an article. In other words, Section and Topic are headings that contain several articles. So, using those words as a smaller part of an article could cause confusion. Another approach – though not used in Afghanistan – could be using the section symbol (§) to refer to a sub-part of an article. Normally, the double section symbol (§§) is read as plural "Sections." So, to refer to clause 2 of Article 502 of the Civil Code, you can simply write 502 § 2.

You may rarely have to cite from statutory sources not published in the Official Gazette. They may have been published during the pre-official gazette era, such as during Osolnama or Nezamna eras. If that is the case, simply replace the official gazette number with the respective Osolnama or Nezamna number. Here is an example:

Example

Commercial Code of the Republic of Afghanistan, Osolnama Number 115, Article 200, (1955).

Finally, if you are citing from a translation, make sure to write the type of translation and information about the translation in your citation. For the citation above from Commercial Code, you can simply add the following:

Example

Commercial Code of the Republic of Afghanistan, Osolnama Number 115, Article 200, (1955)., Trans. by Elite Legal Services, Ltd. (translated in 2014).

5.1.3. Quran

When citing from the Quran, normally words of attribution such as "according to the Quran..." and "Allah says in the Quran..." are used before the quotation marks. After the quotation, the citation includes the name or number of the Chapter (surah) and verse (ayah). For example, if you have to cite verse 157 of the Al-Imran Chapter, you can cite it as [2:157] or [Al-Imran:157]. This method of citation could be used in the body of your text. Normally, when a long or multiple short verses are quoted from the Quran, you need to indent the quoted verses.

For longer citations, you need to provide additional information, such as the translation you are using, the publication, and the year of publication. See the below examples:

Example

According to the Quran: "They are those on whom (descend) blessings and mercy from Allah." [2:157]

Allah says in the Quran: "When you remember Me, I will remember you. Be grateful to Me and reject not Faith." [2:152]

The Qur'an. Trans. by Tarif Khalidi. New York: Viking, 2008. Print.

5.1.4. Hadith

Like citations from the Quran, you need to use words of attribution before your quotation and also use citations after your quotation. Examples of these words normally include: "as reported by ...", "as narrated by...", or "Prophet Muhammad (peace be upon him) said...."

Normally after the quotation, there are a number of ways to provide a citation. One way is to end the translation with "narrated by..." or "Prophet Muhammad (PBUH) said as reported by Abu Said Al Khudri in Sahih Bukhari."

Example

The Prophet Muhammad (peace be upon him) said "That which is lawful is clear, and that which is unlawful is also quite clear. Between these two is that which is ambiguous, which most people do not know. One who avoids the doubtful safeguards his faith and his honor." Riyadh-us-Salaheen, Hadith 588.

The Prophet Muhammad (peace be upon him) was asked what type of earning was best, and he replied: "A man's work with his hands and every (lawful) business transaction." Al-Tirmidhi, Hadith 846.

5.1.5. Cases

In the context of Afghanistan's civil law system, where precedent does not carry the same legal weight as in common law jurisdictions, there is currently a lack of a uniform method for citing from previously decided court cases. However, this doesn't undermine the potential usefulness of case law.

Cases serve multiple purposes: they can be leveraged in academic legal writing and provide valuable insights into judicial decision-making, serving as practical illustrations of law application. Case law is also instrumental in predictive writing, allowing legal professionals to guide clients facing similar issues on possible court outcomes.

Yet, access to cases and judicial decisions can pose a significant challenge, which might explain the limited use of case law in Afghanistan's legal education. Nonetheless, recognizing the educational value of these resources, the Supreme Court of Afghanistan has recently emphasized the need to publish court decisions. The aim is to familiarize future judges in the Judicial Stage Program with diverse case types, thereby enhancing their practical legal skills.³⁰

In the Supreme Court collection of cases, each case is dated and numbered. These are the key locators of cases. Depending on the type of a case, some other key identifiers could be names of parties, type of case, date and location of the incident (in criminal and public security cases), nature of the case, which is a short summary of the case, and basis for litigation which explains why a case is brought to court. The following snapshot of a case from the Supreme Court publication of cases shows these key components that we can use in our citation.

³⁰ See *supra* note **Error! Bookmark not defined.**

قرار قضائی نمبر (832) 1387/4/20 دیوان جزای عمومی
ستره محکمه ج.ا.ا.

خارنوال: عبدالواحد.

متهم: فوزیہ بنت . . .

نوع قضیہ: قتل دو نفر.

تاریخ و محل: دلو 1385 ایران - ولایت هرات.

Figure 2 - Example of Judicial Number and Decision Date That Could Serve as Case Locator

The identifiers or key components of a case differ based on the type of case. But generally, the information that is listed at the beginning of each case is as follows³¹:

1. Information regarding parties to a case,
2. Type of lawsuit,
3. Information about the location and nature of the incident,
4. Information about administrative processing of the case that includes dates and number locators to previous official records,
5. Facts of the case, holding, and date of the decision.³²

Some of the information provided in the case does not need to be provided in the legal citation of the case. The easiest way to cite a case is to simply use the name of the court, the judicial decision number, and the date of the holding. For instance, for the above case, you can cite as follows:

Suggested Style of Citing from a Case

General Criminal Division of the Supreme Court of the Islamic Republic of Afghanistan, Judicial Decision Number 832, dated 1387/4/20.

You need to provide some details about the case you are citing, such as a brief summary of it and how the court applied the law. This could be provided in the body of your writing. If you are writing for litigation purposes, you may also explain the reason why you cite the case primarily because case law is not a source of law in Afghanistan. You may use the skills you will learn in this guide to persuade or convince your reader based

³¹ See e.g., Article 6 of the Supreme Court Guideline on Simplifying Judicial Decisions in Criminal Courts, *supra* note **Error! Bookmark not defined.**

³² See *supra* note **Error! Bookmark not defined.**

on the case that is cited. If you cite a judicial decision in your writing, hoping that your reader will be convinced by it without explaining it, it will not support your argument very much.

In practice, authors normally cite cases using different styles. Most of the time, the citation is more of an explanation of the case in one or two sentences. For instance, you may read that "in a contract dispute between Ahmad and Mahmood decided by Appellate Court of Kabul on such and such date, it was stated that...." You can use this method of citation if you are citing from a case that is not officially published by courts and does not have a decision number. However, if you have the case number, date, and name of the court, it is better to use the style explained above.

Below is an example of how cases are cited in a country following the common law legal system. As you read it, think if a similar method of citation could be used in Afghanistan or not.

Comparative Study

Lawyers in different legal systems have developed different styles of citing from cases. In the US, for instance, the following style of citing from cases decided in federal courts is used³³.

1. Case name
2. Case's location:
 - a. Volume
 - b. Abbreviation for name of reporter
 - c. Page where the case begins
 - d. Page where the cited material appears
3. Court abbreviation
4. Year

1 2a 2b 2c 2d 3 4

└──────────────────┬────────┬────────┬────────┬────────┬────────┬────────┘

Staron v. McDonalds Corp., 51 F.3d 353, 357 (2d Cir. 1995).

As you can see above, this method of citation is short, and yet it includes key information about the case. Based on the example of a case decided in an Afghan court, what would be your suggestion if you were assigned to come up with a method of citation for cases decided by the Afghan courts?

5.1.6. Books

³³ *Id.*, *supra* note 4, 184.

When citing from a book or similar sources, four categories of information about the source are important. These components are explained below:

- a. Author's name,
- b. Title of the book, including the number of volumes and edition of the book, if more than one edition of the book exists,
- c. Information about others, such as editors and translators,
- d. Information related to publication, including details of publication such as year of publication, location of publication, and name of publisher.
- e. Finally, details about the exact part of the source used, such as page numbers.

Normally, if any information is missed, it will be skipped. Some use the word unknown for the missing information (e.g., Year of publication unknown), and some suggest using a blank underline for the missing part (e.g., using _____ for the name of the author is unknown).³⁴

Example

Author's name, Title of book, Publisher, Publishing Date, Page number, edition number, page number.

Mohammad Hashim Kamali, *Principles of Islamic Jurisprudence*, Islamic Society Texts (2003), 23.

5.1.7. Law Journals

Citing from an article published in a journal is more or less similar to citing from a book. However, since a journal is published more often, therefore some more information about the specific volume of the journals is needed.

Example

Mohammad Hashim Kamali, References to Islam and Women in the Afghan Constitution, *Arab Law Quarterly* 22, No. 3 (2008): 272.

5.1.8. Encyclopedias

³⁴ See, N. M. Sabri, *An Introduction to Research Method in Law (Farsi)*, Mizan Legal Foundation, Tehran 2010, 395 – 404.

Encyclopedias, dictionaries, and glossaries often do not have single authors. For these sources, include the following information if possible:

Example

Author/Editor/Institutional Author, Title, Volume Number, Publisher, Edition, and Year Published.

Nasrullah Stanikzai and others, *Legal Glossary: Dari and Pashto Legal Terminology*, Kabul University, Faculty of Law and Political Science, Kabul 2009.

5.1.9. Websites

You may need to cite from an online source as well. Most of the time, websites related to government agencies offer some useful information that you may want to cite. Once you evaluate an online source, then you have to collect the main information that will help locate the source. To do so, you need the headline or page name you are citing from, the author of the source, the URL link, and the date you accessed the material. These details will serve the same purposes we explained earlier under the component of your citation, which are avoiding confusion and helping your reader easily locate the source.

Often times you may find it easier to find the website of the Ministry of Justice and search within the Official Gazette. However, note that the materials you will find are scanned documents of original sources. Besides, the website and the online database are managed and run by the Ministry of Justice; it is fine to still cite for publications of the official gazette as you cited from a printed version. This means that you do not have to write the URL and other details explained below.

Example

"Website Article," Website Title. Website Publisher, Date Month Year Published. Web. Date Month Year Accessed.

"Ministry of Justice Major Activities and Achievements for the Year 1392", *Ministry of Justice*, Islamic Republic of Afghanistan, 19 April 2014, Web. 5 May 2015.

Website URL link → moj.gov.af/en/news/ministry-of-justice-major-activities-and-achievements-for-the-year-1392

Website title →  **MINISTRY OF JUSTICE**
ISLAMIC REPUBLIC OF AFGHANISTAN

Article title → **Ministry of Justice Major Activities and Achievements for the Year 1392**

Publication date → **Publish Date:** Apr 19, 2014 **Category:** General

Ministry of Justice (MOJ) of Islamic Republic of Afghanistan, as per its work plan, has had many achievements during of the year 1392 (2013-2014). The major achievements of MOJ for this year are as below:

Legislation:

Drafting, scrutinizing and amending laws, and also addition and omission of law articles are one of the main works of the MOJ. In this year, MOJ had the below achievements in this area:

You may cite mostly from government websites, which usually do not have an author. However, if you cite from a website for a publication with an author, you can add the author's complete name at the beginning and add other details after it, as explained above.

5.1.10. Other Sources

In addition to the sources listed above, you may cite various other sources. Often, these sources are not purely legal authorities. Therefore, follow the general rule of citation for such sources. If you are writing for a law journal, consult the journal's citation instructions. An example of a law periodical's citation instruction is provided at the end of this guide. Many journals specify the method of citation they require or prefer.

Generally, you may find that you need to follow a specific citation system or style, such as APA style, Modern Language Association style (MLA), The Chicago Manual of Style, Bluebook (a legal citation system used in the US), ALWD Citation Manual (another legal citation system used in the US), or another system. Explaining these systems is beyond the scope of this guide. However, if your professor asks you to use one of those systems, take the time to familiarize yourself with it. You can use the research skills you have learned to identify the resources that will help you learn how to use those systems. Normally, each system provides in-depth guidelines on the components of citation and the order of the information supplied.

5.2. Citation Signals

You may use one authority several times throughout your writing. Having too many citations could take a significant part of your writing. They could cause confusion or

distraction to your readers as well. Therefore, writers and editors have developed some signals that they can use to overcome some of these problems. These signals are mostly abbreviations of words that have a specific meaning. They can further support a statement, guide readers to more sources, or build connections between different citations. Citation signals are italicized (or underlined). Generally, no comma separates the signal from the rest of the citation. The only exception is "e.g.," which needs a comma before and after. These signals should be in lowercase unless they comes at the beginning of a citation sentence. Below are some of the most commonly used signals.³⁵ As you read these signals, look at how authors have used them in this guide and other books.

Signal	Usage and meaning
<i>e.g.,</i>	This signal is an abbreviation meaning "for example." It is short for the Latin exempla gratia and indicates support.
<i>Accord</i>	This is another signal that indicates support. It means "according."
<i>See</i>	These are signals that provide support and refer the reader to other sources.
<i>See also</i>	
<i>Cf.</i>	The authority supports by analogy that " <i>Cf.</i> " literally means "compare."
<i>Compare ...with...</i>	This signal suggests a useful comparison.
<i>Contra</i>	These signals generally suggest contradiction.
<i>But see</i>	
<i>But cf.</i>	
<i>See generally</i>	This signal indicates background material.
<i>Supra</i>	This signal refers readers to something mentioned above or earlier.
<i>Infra</i>	This signal refers readers to something mentioned below or later.
<i>Id.</i>	This signal is an abbreviated form of a Latin word, <i>ibidem</i> , which is used to reference a source cited in the preceding endnote or footnote.

CONCLUSION

In this guide, you learned introductory concepts related to legal writing. You were introduced to the purpose, types, and process of legal writing. A significant portion of

³⁵ *See generally* Peter W. Martin, Introduction to Basic Legal Citation (online ed. 2014), available at: <https://www.law.cornell.edu/citation/> (accessed 5/18/2023).

this guide focused on strategies that will help you write more effectively. These strategies were explained in the form of tips and suggestions that, when used together, will assist you in writing more professionally and clearly. These strategies will be helpful not only in legal writing but also in general writing. In the latter part of this guide, you learned about ethical writing and how to avoid plagiarism. This section also explained how to quote, paraphrase, and cite, as well as the practiced methods of citation for certain authorities and the preferred way of citing from those sources.

This guide has prepared you to develop further your practical legal skills, which will prove invaluable in your law career. More specifically, you can now explore writing different legal documents, such as legal briefs, memoranda, and demand letters.

GLOSSARY

Glossary	Definitions
Civil Law legal systems	Legal systems that rely heavily on systematic and comprehensive codification for judicial authority. These are systems where court decisions, like scholarly commentaries, are considered secondary sources. Afghanistan and France are examples of Civil Law systems.
Common Law legal systems	Systems where primary sources include court decisions in addition to constitutions, statutes, and regulations. Examples of Common Law legal systems include the United Kingdom and Australia.
Direct quote	When you use the exact words from another document and put them into your writing, indicated by the use of " or << >>.
Indirect quote	Also known as a paraphrase. When you use an idea or main point of a sentence or paragraph and use different words to convey the message, the idea is still not yours.
Litigation drafting	One type of writing is related to a lawsuit.
Advice letter	Also referred to as a letter of advice, it is a letter that contains information about the legal outcome of an issue and generally explains to a client what steps should be taken.
Demand letter	A letter in which a lawyer demands that the letter's recipient do something.
Contract writing	One type of legal writing lawyers use is to prepare drafts of agreements for their clients based on applicable laws and the best interest of their clients.
Corporate documents	Legal documents that explain important matters of a corporation's establishment, purpose, governance, and dissolution.
Legislation writing	One type of technical writing lawyers use is to draft legislative documents such as statutes and regulations.
Scholarly writing	Also known as academic writing, scholarly writing is one type of writing scholars use to write on topics that are usually used by academic communities such as universities.
Predictive writing	One type of writing that forecasts how a legal decision-maker will apply the law to a particular set of facts.

Persuasive writing	One type of writing that aims to convince a legal decision-maker to choose a particular course of action.
Matched pairs	Using two words or phrases together that have similar or nearly the same meaning, such as using the words true and correct together in one sentence.
Redundancy	Using words that could be omitted without loss of meaning, such as using words ask and question where we can safely delete one without changing the meaning of a sentence.
Intensifiers	Adverbs are used to give emphasis.
Plagiarism	Using another person's words or ideas and pretending they are your own.
Paraphrasing	The act of rewording text or speech initially produced by someone else.

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