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**Islamic Emirate of Afghanistan  
The Supreme Court  
Instructional Manual for Writing Decisions**

**The header of the Page:**

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- (1) The decision shall be written on the official Islamic Emirate of Afghanistan (IEA) letter-pad.
- (2) The court shall specify which province or district court it is and whether it is a division, civil or military, primary, appellate, or Cassation court.
- (3) The issuance date shall be mentioned in the lunar calendar in its place in an organized manner in (day, month, and year) order.
- (4) Every page of the decision shall be specified, and the total number of pages shall be listed.
- (5) The general and specific numbers of the decision shall be written as follows:

$$\frac{G\#}{S\#} \text{ ————— } \frac{12}{4}$$

Similarly, the subject of the decision shall also be mentioned, whether it is usurpation, theft, etc. And every page shall be stamped and signed.

**Contents related to the Profile of Individuals column:**

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- (6) The plaintiff must be identified as appearing "in person," "by an attorney," "by a guardian," or "by an executor."
- (7) The complete identity of the plaintiff—including name, father's name, and grandfather's name—as well as current and permanent addresses such as province, district, and either village or city district must be stated.
- (8) Specify the plaintiff's ethnicity, occupation, and citizenship, along with their Tazkera (National Identification Document "NID") number.
- (9) The defendant must be identified as appearing "in person," "by an attorney," "by a guardian," or "by an executor."
- (10) State the defendant's complete credentials—including name, father's name, and grandfather's name—as well as current and permanent addresses, ethnicity, occupation, citizenship, and Tazkera (NID Card) number.

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- (11) Provide the complete credentials and current and permanent addresses of all supporting witnesses.
- (12) Detail the competence and content of each supporting witness's testimony and record each witness's name alongside their fingerprint.

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**Contents related to the Profile of Individuals column**

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- (13) The plaintiff and defendant must be identified as appearing "in person," "by an attorney," "by a guardian," or "by an executor."
- (14) State the complete credentials and both current and permanent addresses of the plaintiff and defendant—e.g., province, district, village, or city district—or reference them in the "Profile of Individuals" column.
- (15) Clearly define the subject matter's legal classification, specifying whether it is movable or immovable. If it is land, for example, detail its characteristics from public to private, such as its location to the west of Baba Medad village in the Waghaz district of Ghazni province.
- (16) Describe the land's features, identifying whether it is arable or non-arable, irrigated or rainfed, an orchard or uninhabited.
- (17) List boundaries and distances in sequential order: east, west, north, and south. In cases involving murder, specify the crime scene's location and its surrounding boundaries.
- (18) If adjacent areas are privately owned, provide the complete credentials of those individuals and attribute ownership accordingly.
- (19) For unowned land, like public or private expressways, roads, canals, rivers, etc., a simple mention of "public" or "private" suffices, though stating distances is advisable.
- (20) State the basis for the decision, citing elements like witness testimony, confessions, etc.
- (21) Summarize the decision and identify the party that was declared the winner.

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**Contents related to the Explanations column:**

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- (22) It is necessary to mention the date the petition was lodged, i.e., when did the plaintiff bring his/her petition before the court?

- (23) It is also appropriate to write whether the plaintiff directly brought his/her petition before the court or it has been referred to the court by the relevant authority through a letter.
- (24) He shall determine and explain his court, for example, To the Primary Sharia Court of the district of so and so province.
- (25) He shall write down the complete profile of the plaintiff- and the defendant in person, by an attorney, by the guardian, by the executor, or he shall write that the plaintiff or the defendant referred to in the Profile of Individuals column.
- (26) He shall write down the complete eligibility of the plaintiff and the defendant.
- (27) In case the plaintiff or the defendant is an attorney, he shall mention general and specific numbers of power of attorney and the date it has been prepared, and he shall specify both the court where the power of attorney has been prepared and the type of the power of attorney whether it is based on confession or witnesses.
- (28) It is necessary to mention the client's or clients' complete profile, their permanent and present addresses, eligibility, ethnicity, occupation, and citizenship.
- (29) In the case of power of attorney, it is necessary to determine relevant aspects of the lawsuit.
- (30) It is necessary to determine whether it is limited power of attorney, for example, the representation is limited only to defending the defendant, or it is absolute power of attorney, for example, it is covering all aspects such as hostility, peace, confession, and waiver.
- (31) It is necessary to clarify regarding the power of attorney whether it is limited to proceedings of this very court or covering all three courts.
- (32) Where the plaintiff or the defendant is the principal petitioner, he/she shall associate the ownership to him/herself, and if there is a representative, executor, or guardian, he shall associate the ownership to his client or the beneficiary, the one to whom the will has been made.
- (33) It is necessary to determine the subject matter, whether movable or immovable, in a legal manner by mentioning it explicitly or referencing it with the topic and its limits. For example, if the subject matter is a piece of land, it

would be better if its location is stated and an explanation given as to whether it is with or without fixtures.

- (34) He shall specify the case, whether it is an absolute or causal ownership claim.
- (35) Later, the court shall write down that the plaintiff was asked to submit his/her indictment and was granted time, for example, ten days.
- (36) Then, it shall write that the plaintiff submitted the indictment within the determined period; it was correct and complied with general and special criteria.
- (37) And it shall be noted down in the decision that after verification of the claim, the written indictment of the plaintiff was presented by the jury in the presence of 2 witnesses, and the plaintiff confirmed his/her written indictment by adding fingerprint in the presence of two witnesses, so-and-so.
- (38) Later on, it shall be written down that a summon was dispatched to the defendant. However, the summon document shall meet the criteria, and all the conditions will have been fulfilled in the summoning document. Then, in case of absolute ownership, he shall prove adverse possession through witnesses, and in case of causal ownership, confirmation of both parties shall be sufficient.
- (39) Pursuant to that, when the defendant appeared before the court if the plaintiff could read the indictment him/herself, he/she shall present it to him/her and establish it against him/her in the presence of the opponent (defendant) and shall point toward the defendant and the subject-matter when necessary. Where the subject matter could be made available in the court, it shall be made available during the presentation of the indictment and shall be pointed out. However, if the plaintiff cannot read the indictment, the judge shall read it in the presence of the plaintiff, defendant, and witnesses and have it confirmed by the plaintiff.
- (40) After that, he shall write down the indictment or summary of the indictment and shall mention the indictment or its summary with the explanation of the plaintiff in the decision. In case of summary, he shall write that the court has stamped the indictment, containing so-and-so number of pages, and every page is attached with papers of the decision.
- (41) And he shall write down in the decision that the defendant's written response (defense statement) was presented to the defendant in the judicial hearing in the presence of two witnesses, and the defendant confirmed his/her written response (defense statement) with his/her fingerprint added in the presence of two so and so witnesses.

- (42) Then the defendant shall proclaim his/her response (defense statement) in the judicial session in the presence of the opponent. Regarding pointing out, the defendant shall point out to the plaintiff and/or the subject matter. Then, the court shall write down that here is the response (defense statement) or brief response (defense statement) and shall mention the response (defense statement) or its summary together with the explanation of the defendant in the decision. In case of summary, the court shall write that response (defense statement) containing so-and-so pages, and each page is stamped by the court and is attached to this decision. However, in extensive and urgent cases, article no. (42, 55, 131, and 135) of the administrative procedure shall be considered.
- (43) Then the court shall write that the defendant appeared on a so-and-such date, and the defense statement of the defendant was present to this plaintiff in the judicial hearing in the presence of the plaintiff and witnesses. Then, if his/her defense statement was right and he/she could prove it, then in such a case, the defendant becomes the plaintiff, and the plaintiff becomes the defendant.
- (44) If the defense statement was not right, the court shall mention reasons for incorrectness in the decision.
- (45) And where he/she could not defend his/her defense statement, and while his/her defense statement does not encompass confession, then the lawsuit of the plaintiff shall be revoked, and the judge would demand positive evidence from the plaintiff for ascertaining his/her lawsuit.
- (46) And where the defendant confesses the plaintiff's claim, the court shall write the defendant's confession exactly as it is without any addition or deletion.
- (47) And the judge shall write in the decision that the confession of the defendant was presented to the defendant in the judicial hearing by the jury in the presence of two witnesses, namely so-and-so, and the defendant confirmed his written confession with adding his/her fingerprint in the presence of 2 witnesses, namely so-and-so.
- (48) Where the defendant is rejected, the judge shall write down the state of his refusal exactly as it is. However, he shall keep in account instructions of the article (41), shall demand positive evidence from the plaintiff for confirmation purposes, and shall write that pursuant to dismissal from the defendant, the plaintiff was asked to produce witnesses for confirmation of the claim.
- (49) If they produced witnesses, the court shall record the process of having witnesses by the plaintiff, their complete profile, competence, attributes, occupation, and age.

- (50) And the court shall write in the decision that after giving testimony successively and separately, written testimony of witnesses was presented by the court to each witness in the judicial hearing in the presence of two witnesses, and each witness confirmed his testimony with adding his fingerprint in the presence of two witnesses, namely so and so.
- (51) The judge shall write the exact words of the testimony of the witnesses in the decision.
- (52) Witnesses will state the boundaries of the disputed land, mention the boundary holders with their complete profile, affiliate ownership to the boundary holders, and state distances, too.
- (53) The court will write that testimony was recorded in the judicial session in the presence of the parties to the dispute.
- (54) In their testimony, witnesses will point out the plaintiff, the defendant, and the subject matter (if it could be made available) with this or (it).
- (55) The court will write down whether or not the witnesses' testimony conformed with the plaintiff's claim. If it did not, the court will write down the reason for nonconformity and its revocation.
- (56) Testimony will be based on personal observation, not hearsay because testimony based on hearsay is valid in a few places referred to in the books of the Islamic jurisprudence.
- (57) After every witness gives testimony, the judge will give the witness person (the person against whom testimony has been given) the opportunity of cross-examination. If the witnessed person conducted a compound cross-examination and proved to the witnesses, the judge would revoke the testimony. But he will write down the compound cross-examination and the method of how it is proved.
- (58) If there was no cross-examination, or it was alone cross-examination, or it could not be proved, then the honorable judge will conduct Witness Verification (Tazkiyah al-Shahood) in-camera and publicly. However, in case of alone cross-examination, the judge will write down that cross-examination and also express the reason for its aloneness.
- (59) Where their Tazkiyah al-Shahood was conducted, their testimony was accepted, then he will write down fully the process that in-camera Tazkiyah al-Shahood was conducted through letter no. So-and-so and the public sanctity was conducted through so-and-so attestors in the judicial hearing in the presence of witnesses and parties to dispute.
- (60) Then, the honorable judge will write down that, after testimony was given and in-camera and public Tazkiyah al-Shahood was conducted, I, the judge,



requested a fatwa (adjudication) from the Mufti (adjudicator). Honorable Mufti provided this fatwa on a so-and-so date, and it bears this reference number.

- (61) Where the plaintiff expressed in writing his/her limitation toward witnesses, the judge will tell the plaintiff: You have the right to hold the defendant to swear. Then, the judge will refer the oath to the defendant upon request. But he will mention the type and words of oath in the decision.
- (62) Later, the honorable Mufti will write his fatwa and arguments.
- (63) Then, the honorable judge will write down the text of the ruling.

### **Contents related to the Text of the Ruling:**

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- (64) The judge shall first provide his complete credentials. Subsequently, he will state: "As an authorized, competent, and active judge of the specified court under the Islamic Emirate, I have issued a decision, either as a dismissal judgment or a binding judgment, during a judicial hearing attended by the relevant parties on a specified date and location." If the subject matter can be physically present in court, it should be, and the judge will indicate this.
- (65) The judge must articulate the reasoning for his decision. If the Head of the court also partakes in the judgment, the phrase "We judged, and we ruled" will be used. The decision will be written in conclusive text, avoiding narrative elements and ambiguous language.
- (66) In instances where an attorney is present, the judge will note: "A decision has been issued concerning your client, identified by name, father's name, and grandfather's name, in the presence of your legal representation."
- (67) The judge shall cite relevant jurisprudential references or articles from the Law on Judicial and Legal Court Proceedings to substantiate the decision. Upon completion, both the judge and the head of the directorate will sign the decision and affix an official stamp. Neither the Mufti nor the clerk will sign.

### **Contents related to the Announcement of the decision:**

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- (68) The Judge will announce the decision during the judicial hearing in the presence of both parties and any witnesses to the announcement.
- (69) He will document the complete credentials and competence of the announcement witnesses, along with the date of the announcement, in a separate Notification.

- (70) Post-announcement, the judge will inquire whether both parties accept the decision. Each party will confirm their stance and affix a fingerprint to the decision. The judge will inform them of the appeal time frame.
- (71) The winning party will receive the original decision document. A copy will be given to the losing party, and another retained in the judge's office.
- (72) If an appeal is sought, the judge will issue a letter to the higher or cassation court briefly summarizing the case. For instance, the dispute involved a specific object between two identified parties. The decision favored one party, who remains dissatisfied. The case file, e.g., containing 20 pages, accompanies this letter for your subsequent action.

### **Miscellaneous provisions:**

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- (73) The decision will include a summary of the petition or complaint.
- (74) Once both parties conclude their investigations and state, "We have no further comments," they should be informed that the trial is complete.
- (75) If expert opinions have been sought, the judge will note this in the decision.
- (76) Should the high court remand the case to lower courts for errors, it will specify each flaw in detail.
- (77) If a quashed decision is amended by a lower court, it will indicate that this is a revised version of the previously nullified decision.
- (78) Amended and quashed decisions will each have unique dates and serial numbers.
- (79) When the high court confirms an amended decision, it will be noted as "confirmed after amendment."
- (80) If the cassation court voids lower court decisions, any subsequent amendments will precisely document the cassation court's revocations.
- (81) When sending case files to higher courts, lower courts will organize them in a table format, ensuring each page—from complaint to decision—carries the court's stamp and page number.