Review of Wakil-e-Gozars’ Duties and Their Relationship with Administrative Corruption
Review of Wakil-e-Gozars’ Duties and Their Relationship with Administrative Corruption

Integrity Watch Afghanistan

Hameed Razaq
EXECUTIVE SUMMARY

This research was completed in due time. It's findings are written at the end of the report along with recommendations. At first, library-based study was conducted which involved a review of historical and legal literature to extract background information on the topic, definition of Wakil-e-gozar, and other legal issues related to Wakil-e-gozar. Then, three interviewers were assigned to interview wakil e gozars and people who obtain their services in three different provinces (Hirat, Balkh and Nangarhar). These interviewers were first trained in how to work in the field and gather the required data before being sent to the pre-determined locations to put their acquired skills and knowledge into practice. The interviews inside Kabul were conducted by the researcher himself/ herself. After enough data were collected, their convergence and divergence were analysed; the relationship between the variables was examined and the report was put together with the inclusion of the research findings and recommendations.
**INTRODUCTION**

_wakil-e Gozars_ (district/ neighborhood representatives) in Afghanistan act as the middlemen between the government and local communities, for a range of activities and services that require attestation. Since these attestations are closely connected to the matters of personal status of individuals and only those who have close relationship with the person in need of that service are aware of these matters.

Therefore, only he who resides in that neighborhood and is associated with the government can attest to such activities and services. Such a person is called _Wakil-e Gozar_ or, in some regions, _Khan, Kalanther or Arbab_.

The process of reaching the position of a _Wakil-e Gozar_ involves selections at the community level. It has been observed that _Wakils_ take bribes for some of their activities and are sometimes involved in corruption. Therefore, this study was undertaken to examine the _Wakils’_ involvement in administrative corruption.

**Definition of Wakil-e Gozar:** _Wakil_ means a person chosen to represent a community and _Gozar_ means a neighborhood or area. Hence, a _Wakil-e Gozar_ represents the interests of a community and articulates its problems to government officials.

**Purpose of the study**

This study answers the following questions:

1. What activities do the _Wakil-e Gozars_ carry out?
2. Which of the _Wakils’_ activities are most subject to corruption?
3. Which individuals are more vulnerable as a consequence?
4. _Wakils’_ selection and characteristics
5. What is their justification for indulging in corruption?

**Statistical population of the study**

This study has been conducted on two types of individuals:

1. _Wakil-e-Gozars_
2. Individuals who need _Wakil-e Gozars’_ services

**Research Methodology**

In this study, two methods of data collection have been employed:

1. Library-based study
   - A review of literature was conducted to study historical documents in order to establish the historic place of Wakils in Afghanistan’s legal system.
2. Interview approach
   - In order to get a deeper understanding of the issue and find more information on the type of activities _Wakil-e-Gozars_ are involved in, their relationship with the communities, their roles and responsibilities and how they receive bribes, the study also relied on in-depth structured and unstructured interviews.
Research problems

Every social research has its own problems. The problems associated to this research are listed below:

1. From the viewpoint of research population
   There is a statistical population but the data on the number of Wakils and the population size of a community each Wakil-e Gozar representative is based on an estimate.¹

2. Identification of the individuals who benefit from Wakil-e Gozars’ services is a challenging task because the people who need those services are not registered anywhere. Hence, a snowball sampling technique is the only way one can use to get around this problem.

3. There have not been many studies conducted on Wakil-e Gozars. Therefore, it is very difficult to gather the required information on a particular topic.

History of Wakil-e-Gozars’ services in Afghanistan

After the fall of Kabul-Shahan kingdom in the year 444, the traditional administrative system of Kabul was dismantled, the void left behind could not be properly filled with a fresh system² that complied with the principles of the new legal code because Kabul remained detached from the power hubs of the Islamic Era Khurasan, such as Balkh, Bukhara, Ghazni, Hirat and Kandahar. This forced the people of Kabul to create their own system to ensure social order. Since the representatives of the central power acted more as collectors of taxes and public dues³ instead of fulfilling their responsibilities with regard to maintaining social order, the people of Kabul created an organization on their own to structure their social lives, which continued to operate in its primitive form until the beginning of Shaheed Mohammad Daud’s time in 1332 SH and had practical applications in people’s social lives.⁴

The best form of this organization was constituted by Kalantar-e Gozars, who were selected from within by the communities themselves. This was a form of a traditional urban democracy, which existed in few places.

Every Gozar (neighborhood) had its own Kalantar. These Kalantars were selected based on their wisdom, knowledge, devoutness, piety and good reputation among the community members and they would continue to serve in their role as long as the people were happy with them. The duties and responsibilities associated with being a Kalantar were voluntary and without any material rewards.⁵ Kalantars resolved disputes between members of their communities, mobilized the community members to participate in national events, encouraged and prepared the youth to defend their homeland in the event of a war, helped the people in their neighborhoods with their wise advice on the organization of ceremonies held for celebration or mourning and gathered help for them whenever needed. In such cases, they acted as leading figures and caretakers of poor

¹ It is estimated that every 1,000 individuals are represented by one wakil.
² Sistani, Afghanistan and Islam, (Kabul: Academy of Sciences, 1367), p.27
³ Allama Habibi, Afghanistan: Guzargah-e Tarikh, (Kabul: Matba-I Dawlati, 1362) p.38
⁴ Mir Mohammad sharif Pakrai, Sidarat-e Mohammad Daud, (Kabul: the Academy of Sciences, 1382) p.17
⁵ Prof. Syed Sa’aduddin Hashimi, Zindagi Ijtimai wa Qabilawi dar Afghanistan, (Kabul: Matba-e Pohantun, 1366)p.12-14
families and orphaned children. They also acted as the middlemen between their communities and government officials.6

The degree of trust people placed in these Kalantars was so great that, in some cases, they would not choose wives for their sons without consulting them first. And when a problem arose in a family, they would go to a Kalantar for advice.7

Hence, it becomes clear that social problems were solved by or with the help of Kalantar-e Gozars. However, when faced with a problem concerning buying and selling of property, murder, theft, robbery or any other more serious problem, they would have to go to Kotwali (police station) and Sharia courts.8

After thorough deliberation on the above-mentioned topics we reach the following conclusions:

1. That a Wakil or neighborhood representative’s job was to act as a middleman between the community members and the state:
   In order to meet the needs of the people who came to them for help, the Wakils would go to the authorities to advocate for their communities. Hence, it would not be wrong to say that Wakil-Gozars were the first individuals or institution to carry out advocacy.9 They would address their community members’ problems and fulfill their wishes through advocacy and lobbying. Today, too, they carry out this responsibility. In addition, Wakils serve as the link between communities and the public service departments. With the trust of both sides Wakils are able to provide arbitration and facilitation services in cases involving corruption.

2. In matters involving robbery and murder:
   Criminal cases such as murder, theft and robbery were dealt with by the penal code. The job of dealing with such cases was and is still done by the police. The first action against a suspect is taken by the police.

3. In cases involving purchase and sale of houses and property:
   A Wakil can wield the most influence when it comes to buying, selling or registering of houses or property. The matter is then referred to courts for further processing, including endorsement of property transfers.

What the law says about Wakils?
   With regard to Wakils the Penal Code and the Population Registration Act explicitly state the following:
   “For the purpose of this act, the following individuals are considered public service officials:

---

6 Ibid
7 Ibid, p.16
8 Assadullah Shaoor, essay on Kabul-zamin, Aryai website
9 Advocacy is a strategy employed across the globe by civic organizations, social activists and even policy makers to influence policy direction. Policy refers to plans, a series of actions or a set of regulations implemented by government agencies in order to influence procedures and decisions of the private sector and other organizations.
1. Employees and workers of government and state-owned enterprises
2. Employees and workers of public institutions
3. Members of State organs and provincial and local councils
4. Attorneys, experts, witnesses and other individuals whose attestations are considered valid.

According to the provisions of this act, *Wakil-e-Gozars* are considered public service officials, because their attestations are considered valid by the authorities. Hence, paragraph 4 of this article holds true for *Wakil-e-Gozars*.

Also, articles XI and XIII of the Population Registration Act explicitly states that two Afghans must attest to the competency and good character of an individual applying for a national identity card (Tazkira) and a *Wakil-e-Gozar* must certify the identities of the attesting individuals.

**How *Wakil-e-Gozars* are selected?**

*Wakils* are generally selected in three ways, each of which is explained below:

Only male members of a community participate in the selection of *Wakil-e-Gozars* and female members do not have any role in this process.\(^\text{11}\)

In addition, another research report states the following in this regard, “Perception and acceptance of a community are dependent on the perception and acceptance of its male members, because in Afghanistan’s traditional society it is the males who preside over the Jirgas (tribal assemblies of elders), make decisions, select and get selected.” \(^\text{12}\)

These selections are carried out in a mosque or the house of an influential person who resides in that community. Majority of those interviewed have said that *Wakil-e-Gozars* are selected from the community elite.

Before addressing the main topic, we should briefly discuss the word elite and the terminology associated with it:

According to the definition we have of the elite, “Elites are persons and groups who are effective for historical actions since they poses power and have influence on society, or they make resolution and/or through creation of ideas, feelings, and or emotions.” \(^\text{13}\) This definition suggests that the elite are the individuals who not only make decisions but also have an impact on the society and this impact is based on the power they gain. However, it has not been clarified in this definition where they gain this power from and how they impact the society. To answer this question, we have to study the section of the report on Hereditary Power, which has been examined in this research.

It is important to mention that not all eligible males participate in the selection of *Wakil-e Gozars*.\(^\text{14}\) A reference is also made to this topic in the afore-mentioned research report, which states “*Wakil-e-Gozars* are selected on the basis of certain important attributes they posses, such as credibility.

\(^{10}\)----Ministry of Justice, the Penal Code, (Kabul: Matba-e Daowlati, 1355) 12th Article
\(^{11}\)Research conducted in Kabul, Balkh, Nangarhar and Hirat establishes this claim.
\(^{12}\)Women & Children Legal Research Foundation, research report, Bad Painful Sedative, 1383, p.12
\(^{13}\)Roche, Gay, Social change, translation: Dr. Wusuqi, Mansour, (Tehsran: Nashr-e Nay, 1389) p.121
\(^{14}\)Research conducted in Kabul, Balkh, Nangarhar and Hirat
influence, wealth and literacy. The selection, which should involve all members of the community, is done by only the elders and wealthy and influential members.” The majority of the participants of the selection Jirga is constituted by the mosque students, worshippers, community elders, and influential and wealthy individuals who live in that particular village or neighborhood.

**Method One: Public Selection**

The Public Selection model has been seen in some areas. Under this method, the candidate aspiring to become a *Wakil* collects signatures of the concerned individuals. The signatures are then taken or sent to the concerned nahiya (District) office for final approval, which finalizes the candidate’s selection as a *Wakil-e Gozar*.

This method is not only prone to abuse but also objectionable for not being very democratic in nature, because nobody, under normal circumstances, would refuse if a *Wakil* went to them to ask for their signature.

In this regard, we will review some narratives:

Ahmad, from the Gulbagh locality of Kabul city, said, ‘[A] *Wakil-e-Gozar* came to me and asked me to attest his selection and sign his paper. Despite knowing that he was not the right person for this position, I had no choice but to accede to his request. I was afraid that if I refused to sign, he would do the same when I needed his attestation.’

Another resident of the same locality Farhad said, ‘When the *Wakil* came to get my signature, I signed without a second thought, because I didn’t want to make an enemy of him.’

Also, another objection about this method of selection is that the candidate collects signatures as he wills and so, he mostly goes to those individuals who, he knows, will support him.

One of the interviewees from Hisa-e Dowom of Gozar-e Mirza Qasim said, ‘The candidate did not come to me and some other people I knew to get our signatures because he knew we would not attest.’

A mosque student from the same nahiya said, ‘I suggested to the *Wakil* that he collect the signatures of those individuals who know and listen to him.’

In addition, in some cases it has been observed that forged signatures were used on the *Wakil*’s selection documents. Naim, a local resident of the Bibi Mahro neighborhood, said, ‘The *Wakil* collected signatures from some people and forged the remaining ones to show to the District Office that he was popular among the people of his community.’

**Method Two:**

The community members gather at the house of one of the elders or influential members of the community, or the local mosque and openly vote for the *Wakil-e Gozar* by raising their hands.\(^{17}\)

\(^{15}\) Ibid
\(^{16}\) Locations: Deh Qala-e Omar Khan, Gozar-e Baba Qambar, and Khwaja Rawash
\(^{17}\) Locations: Sajjadia, Gozar-e Mirza Qasim and Siah Gard
This approach has fewer flaws than the previous one and the chances of abuse are conceivably less. However, the open nature of the process and the candidates’ presence in it has negative impact on the voting process and decreases the people’s freedom of casting negative votes.

Javed, a resident of the Huda wa Sufia village, says, ‘When I was raising my hand, I saw the Wakil looking at me. I was afraid that if I don’t raise my hand, I might get into trouble in the future.’

The secret ballot
In some areas, Wakil-e Gozar or Wakil-e nahiya are elected using the secret ballot. In these areas, ballot boxes are placed in a specific location and the electors cast their votes for their favorite candidates.

This approach, too, is not completely problem-free. For example, during an election in the Deh Murad Khan area, the ballot boxes were swapped. The candidates’ posters affixed to the boxes were changed and the votes for one candidate were transferred into another candidate’s box.18

Who can become Wakil-e-Gozar?

Characteristics of a Wakil-e-Gozar
First and foremost, a person who becomes a Wakil-e-Gozar has to be literate. Secondly, he must not have any official jobs19. Additionally, this research uncovered some general Wakil-e-Gozar characteristics, which are existed in majority of the nahiyas (districts). They are described as follows;

1. Literacy:
It is a must for a Wakil-e-Gozar to be literate. In the areas where the research was conducted most of the area representatives interviewed were literate. However, it was seen that the representatives in some of the areas, such as Qala-e Wakil, Qala-e Mohammad Omar Khan and Qala-e Mir Mohammad Daud were illiterate20.

Nonetheless, literate Wakils are larger in number as compared to the illiterate ones. In all the areas where we conducted the research we only came across four illiterate Wakils.

2. Power and influence:
On account of the wealth and property they own the area Wakils enjoy a certain type of power and authority. This enables them to have control over the workforce they have employed and, as a result, acquire social power for himself or herself. These types of Wakils have mostly been seen in Balkh, Nangarhar and Bagrami.

3. Inheritance
Inheritance, too, has an important impact on the selection of Wakils. In some areas, individuals have inherited this role from their fathers or ancestors. An example of this can be found in the Qala-e Mohammad Omar Khan area located in ...where the role of a Wakil has passed down to the father, from him to the older brother, and then to the younger brother.21

1. Wakil-e-Gozaars and settlement of disputes:

---

18 Interview with a resident of Deh Murad Khan 11/11/1391
19 Interview with a municipal employee, dated 12/12/1391
20 Interviews with some residents of Qala-eWakil and Mir Mohammad Daud, dated 15/11/1390
21 Interview with residents of Qala-e Mohammad Omar Khan in Kabul’s 10th district, dated 14/12/1390
Wakil-e-Gozars sometimes play a dominant role in the peaceful resolution of disputes. This function has existed for a long time. In the past, this task was performed by Maliks or Khans. The function of the Wakil-e Gozar, as a tradition, is enforceable in most cases. In order to better understand this topic, we will first discuss what tradition means and then go into the Wakil-e Gozar’s membership in councils that are charged with the responsibility of settling disputes.

Traditions and customs are all parts of human life that have existed since the creation of mankind. They relied upon them before the written form of codes of law, norms and principles that came from a single governing authority, was developed.

To date, this word has been defined in several different ways, each of which explains a particular aspect of the topic in question. Let’s consider some of the definitions in this regard:

There have been numerous definitions and interpretations of this term and each of them highlight a separate aspect of the matter. For better elaboration we can see the following definitions in this regard:

Customs and traditions are a set of non-written regulations that have been transferred from one generation to another; these norms are based upon mixed principles each of which can be related to a different historical background. These principles are rooted in human conscience and the level of their implementation is related to the level of acceptance at the social level. These norms are in fact reactionary which have been imposed by the society over a specific group or community and therefore can be related to individual’s relationship to the society or:

Traditions and customary regulations are a set of different principles and norms some of which dependent on their common acceptance provide a framework for justice.

And the following definition has also been put forward:

Traditional regulations are defined as a set of traditions, customs, beliefs and practices, which differ from one place or tribe to another.

It should be noted that the relationship between customs and Jirgas are non-separable very much similar to the relationship between law and the police in the same way that laws are enforced by the police, the decisions of a Jirga are implemented by the Wakil-e-Gozar who is a member of the Jirga and acts like a police chief. They differ in that laws are written and are implemented by the police, while customs are unwritten and Jirgas have existed among the people since ancient times.

As a known fact, Afghanistan throughout its history has been known as a country of councils and Jirgas and all important matters of the nation have been resolved through Jirgas and Shuras (Councils). Historically, the existence of Jirgas can be traced back to the times of the ancient Aryans of Bactria.

---

22 Dr. Katozian, Roots of Laws (Tehran: Ganj-e-Danish, 1383) Page 112
23 Nasrullah Stanikzai, Roots of Laws (Kabul: Kabul University, 1384) Page 26
24 For more information: Abdullah Mehraban, The history of Jirgas (Kabul: Academy of sciences 1367) Pages 27-28
Muhammad Alam Faiz Zad writes, “Aryan tribes and clans besides having the (Sabha) had another form of tribal Jirga they called Smiti.”

While studying the above-mentioned definitions of customs and traditions, a few points should be noted:

Firstly, these definitions indicate the understanding of individuals about different societies and their customs.

Secondly, we see that the mode of understanding traditions is not just related to Afghan society; instead it can be applied to members of all societies.

The common factor found in all these definitions is the fact that customs and traditions are non-written creeds, which open the door for further deliberation.

**Non-written aspect of customary regulations:**
The most basic and important issue related to the non-transparent and unjust aspect of the customary regulations is that these laws are not written or recorded anywhere and also their implementation is never monitored by any independent organization.

**Consequences for people refusing obey the Jirgas:**
People who abstain from the implementation of the Jirga’s decisions face severe consequences, which can be violent at times. In cases when a person abstains from the implementation of the Jirga’s decision can face the penalty (or Nagha) whereby the disobedient individual’s home is burnt down or they have to face the Jirga’s enmity. In other cases, an individual who doesn’t abide by the decision of the Jirga is forced to exile.

**Lack of timeliness in the decision over disputes:**
Another matter, which is worth mentioning is the fact that in most of these disputes, time duration is not considered effective in the resolution of a dispute. Animosities under discussion in a Jirga can carry on for generations, for example in the case of the Zadran tribe; the matter has remained unresolved for over 50 years.

Jirgas and tribal councils are considered the essence of Afghan civilization; people in different phases of history have used this mechanism to resolve their disputes. At special moments of history, Jirgas and consultative meetings have brought Local and National pride to our country leading to much needed peace, stability and unity.

As mentioned earlier, these structures and institutions which have decision-making authority at the local level are also present in other parts of the world under different names and structures. Some

---

25 Mohammad Alam Faiz Zad, Grand national Loya Jirgas of Afghanistan (Lahore, Babrak Lodhi; 1368) Pages: 15-16
26 Abdullah Mehraban, History of Jirgas (Kabul: Academy of Sciences, 1367) Page 25
28 The pain staking ‘Bud’, (Kabul: Research center for women and children’s rights, 1385) Page 12
29 Interview with Najibullah Babrakzai, Independent Human Rights Commission
of these institutions we were able to discover in the course of this study are introduced as follows:

A) Jirga:

Jirga is a community of people whose representatives have equal rights and who sit around to discuss a matter that has been referred to them.

It should be noted that Jirgas do not have permanent existence and are convened whenever possible in order to resolve a dispute; it is possible that a Jirga’s structure changes depending on the nature of the dispute or it may not change at all.

It should be noted that the resolution of claims needs an executive procedure, which is to be explained in detail as follows:

1. Structure: Jirgas that addresses these sorts of disputes consist of 40 to 50 members in which the Wakil-e-Gozar, local elders, mosque imams and influential individuals participate.

The local representative or Wakil-e-Gozar has a prominent role in the decisions and dispute resolution. This individual has the authority to represent the majority of the Jirga participants to impose or delegate a decision enforceable upon every participant. 30

2. Implementation procedure: The implementation procedure or working procedure is such that the Wakil-e-Gozar along with influential individuals including elders, the Mosque Imam and alongside landlords and the claimant sides gather in a specific place like a house yard or a mosque in order to listen to the cases of both sides. After hearing the cases, the Wakil or an individual appointed by the Wakil reads out a decision and as such the matter is resolved31.

3. Applicability of the decisions: Decisions of the Jirgas have a special applicability; lack of obedience with regards to Jirga decisions is not only considered a moral flaw but also has severe consequences for example: among some of the tribes, the individual who abstains from following the decision of the Jirga is forced to leave the area and go into exile.32

In a Maraka (Gathering), a specific individual in charge of resolving the dispute is called a Nirkhior Marakachi. This individual is illiterate but is thought to have considerable experience in this regard.33

Other individuals outside the decision-making circle can also be invited to a Jirga though they are not supposed to influence the decision-making procedure.

Relationship between the official and unofficial systems for dispute resolution:

As stated above, there are unofficial or traditional mechanisms for dispute resolution in which the Wakil-e-Gozar has a key role to play, cases in which the local people refer to which are resolved by the Wakils and members of the Jirga.

---

30 Painful tradition of bud, Page 12
31 Interview with two Wakil-e-Gozar from Herat province, dated 5/12/1390
32 Interview with two Wakil-e-Gozar from Nangarhar province, dated 2/11/1390
33 Painful tradition of bud, Page 14
The reasons people refer their cases to the unofficial system can be summed up as follows:

1. *It is expensive.*
Parties involved in an unofficial dispute resolution gathering do not need to spend a lot of money. Following is one example: I, instead of wasting my time and money by taking my case to the court and paying bribes, invited the Wakil-e-Gozar and Jirga members to my house one day and the issue of dispute over my land was resolved very well.34

2. *It takes less time.*
Jirga decisions are resolved in the shortest time possible. People have no appeal. In this regard as well one of the interviewees stated: I had an issue over water with my neighbor. We involved the Wakil-e-Gozar and the problem was thus resolved.35

**Authorities, relationship and limits of the two systems**

There is a relationship between the two systems. However, the involvement of women in cases has a pivotal role in establishing that relationship. Some of these matters are discussed below.

1. **Referral of issues from the official system to the unofficial system:**
Most of the people use the court system to resolve disputes. However, when a woman is involved in a case, the courts refrain from engagement, and refer it back to the Jirgas where the Wakil-e-Gozar has an important role to play. The interviews support this practice. One of the Wakils stated as follows: “The case of a woman in Bagrami area who had filed a case against her brother was referred to us and we convened a Jirga as a result of which this issue was resolved.”36

   In this regard, Judge Safia stated: “We try to refer issues where domestic problems are involved back to the family itself, especially when one party is a woman. This mechanism has the following benefits.

   - Court time is not wasted;
   - Women do not have the facilities to visit court on a regular basis; and
   - Most of the time, families do not permit them to go to court.”37

Although the judge has given good reasons to rationalize the fact that cases are referred to the unofficial system, what remains unresolved is the mechanism involved in unofficial dispute resolution such as the implementation of justice and the issue of human rights. Is it possible that cases that cannot be addressed by the courts could be resolved by the Wakil-e-Gozar? These are questions that need to be addressed in separate research in order to illuminate the relationship between official and unofficial cases.

2. **Referral of cases from the unofficial system to the official one:**

---

34 Interview with a resident of Bagrami district, dated 7/10/1390  
35 Interview with a resident of Balkh district, Balkh province. Dated 15/11/1390  
36 Interview with Qari Daulat, Wakil-e-Gozar, Bagrami, Kabul 9/11/1390  
37 Interview with Qazi (Judge) Safia, Supreme Court, 18/10/1390
Research shows that very rarely, cases have been referred by the unofficial system to the official courts. In course of this research, not a single matter has ever been referred to the official courts from the traditional dispute resolution mechanisms.

2. Cooperation in house searches

Normally, Wakils are used as a sort of “local guide” in house searches. This happens when law enforcement agencies have doubts regarding a resident of an area. When they attempt a legal house search, police officers take with them the Wakil-e-Gozar, a nod to tradition associated with this action.

However, it has been noted that the law does not require the police to be accompanied by the Wakil-Wakil-e-Gozar, rather, the company of one of suspect’s relatives has been recommended. Taking a Wakil-e-Gozar on such searches not only wins the confidence of the suspected household, it also legitimizes the search operation in the eyes of the village and of the suspect’s family.

Police, and sometimes NDS officials, ask for the cooperation of the Wakil-e-Gozar in order to identify a suspects or criminals.

In this regard, the Website states that: instances of purchase, sale and allotment of houses, apartments and other places to tenants should be reported by landlords to the authorities via the Wakil-e-Gozar. The Wakil-e-Gozar and influential local residents have a national and ethical responsibility to react to all suspected tools and vehicles, identify all non-resident individuals and duly report such matters to the local security agencies in order to prevent unexpected incidents.

Based on the text above, it is clear that the Wakil-e-Gozar has the responsibility to inform the security officials about all doubtful elements or exchange of property based on rent or lease. This responsibility is only an ethical or moral one; there is no legal basis requiring such reporting.

Though prevention of crimes is a moral obligation of a Wakil-e-Gozar, Kabul Police Chief General Dawood Amin expresses his views in these words:

“Some of the Wakil-e-Gozar not only do not report smuggling activities to the police, they provide opportunities for them in their respective areas.”

This shows that some of the Wakil-e-Gozars cooperate with criminal elements.

3. Wakil-e-Gozars and the environment

One of the Wakil’s responsibilities is to cooperate with the municipality authorities in the area of sanitation and environmental protection. Wakils normally provide recommendations with regard to

---

38 Criminal execution law, articles 34, 35 and 36
39 Interview with Sirajul Haq Fazl legal advisor to the ministry of interior, 28/9/1390
40 Interview with Wakil-e-Gozar, Adraskan district, Dated 1/2/1390
41 Internet site, Afghan society of derivatives, Dated Thursday 23 Sumbula 1390, Report no. 3704
42 General Dawood Amin, Deputy Commander of Police Kabul, Dated Monday 30 April 2012. 8:23 A.M
the sanitation and public green spaces. They are involved in planting trees and managing neighborhood sanitation.\(^{43}\)

Noting the environmental responsibilities of the Wakil-e-Gozar, the Mayor of Kabul comments:

“Irresponsibility and inefficiency of some of the Wakils in helping with the cleaning of Kabul City shows their low capacity and the lack of an urban lifestyle among them. This shows that they still do not understand the culture of urban lifestyle.”\(^{44}\)

Wakils are accused of having in their environment-related responsibilities. One specific, oft-cited example refers to problems stemming from the mismanagement of rubbish, and are used as testimony to Wakil irresponsibility.

### 4. Wakils and Public Assistance

In the post-Taliban era, the presence of the international community in Afghanistan has led to the influx of foreign aid to the country. Foreign aid has been instrumental in improving the economic, social, cultural and political life of the country.\(^{45}\)

Public assistance, paid out of foreign aid but delivered through NGOs, is given to widows, helpless families, orphans, farmers, labor and other needy segments of the society. There are major challenges, however, for NGO aid providers in identifying these families, people with real needs. One of the easiest ways to do so, and to approach needy individuals among communities is to use the knowledge and help of Wakils. They have the essential understanding of the community, including its neediest members.

As demonstrated, below, there is convincing evidence that Wakils have not as a whole complied with this task; rather, many have been involved in the misuse of the international aid, and corruption related thereto. A) Inflated numbers

Wakils have inflated the number of needy individuals in their communities so that they could gain access to inflated amounts of aid.\(^{48}\)For example, if a charity organization approached a community trying to identify the correct number of widows in the community, the Wakil would provide them with a number larger than reality and thus benefit from the fraudulent addition.

B) Fraudulently directing help to friends and others not in need

In some instances, Wakils would receive aid and divide it among friends, relatives and associates; the aid would not reach needy individuals.\(^{46}\)

One interviewee stated: “The Islamic Republic of Afghanistan based on the promise made by the UN has received food aid from the WFP for 100,000 families in Kabul city. The aid is supposed to be distributed by six ministries and two organizations. So far, two stages of evaluation have been conducted by the related organizations and from among the one hundred families, 60,000 have

---

\(^{43}\) Interview with Wakils of Macroroyan Blocks 1, 2 and 3. 8/11/1390

\(^{44}\) Kabul Mayor, Muhammad Yunus Nawandesh, Afghanistan Voice Agency (AVA), Kabul. 10 Aqrab 1390 19:27

\(^{45}\) For further detail please refer to: Integrity Watch Afghanistan, training handbook, year 2010 page 12

\(^{46}\) Interview with residents of Mahdia Township, same date
been identified as more needy. Yet a number of needy people are not satisfied with the way the aid has been distributed. They accuse the Wakil-e-Gozars of their areas with factionalism and inability to justly distribute food aid."\(^{47}\)

All reports show that Wakils\(^{47}\) have not been able to distribute the aid among the rightfully needy people. Factionalism is a term denoting that Wakils have mostly considered their own and their associates’ interests in the distribution of aid.

C) Bribery for services in provision of cards

Wakils have been often been involved in taking bribes in exchange for the services they provide. Individuals who were eligible to receive aid would receive a special ID card for that purpose. In other instances, needy individuals were required to show their national ID card. However, even with the proper paperwork, needy families had to pay bribes to Wakils in exchange for provision of such services.\(^{48}\)

This issue has been discussed in some Internet websites as well: A member of the Kabul Provincial Council states:

“In Kabul City, around 5 million people live. Foreign aid in the form of wheat has been allocated to around 100,000 families, which are considered to be needier than the rest.

However, Ewaz Ali, a resident of District 13 says:

“The foreign aid provided by the international community to the needy families does not actually reach them., You can only receive your share of the aid if you have connections with the Wakil-e-Gozar.” He adds that he has approached the Wakil-e-Gozar in order to get an ID for the WFP food aid program, but has not been able to do so because he could not afford the 400 Afghani bribe asked by the Wakil-e-Gozar.

The following story is also compelling. Abdul Jabbar a resident of district 3 says:

“Some of the Wakils\(^{48}\) earn their living by depriving others of their rights. Wakils have bribed people with fake national ID’s to attain money and wheat provision cards.”

Abdul Hameed, a vegetable seller, says he bought two ID’s for 1000 Afghani from the Wakil-e-Gozar.\(^{49}\)

Two important issues emerge from these interviews.

1. Fake ID’s: Provision of fake national ID’s is considered a criminal offense. Whoever holds a fake national ID is in criminal violation and is liable to prosecution. Wakils have provided people with such fraudulent papers in order to gain access to illegal wheat.

\(^{47}\) Internet site Aryayee, Dated 8/9/2011

\(^{48}\) Interview with the residents of District 11, 28/11/1390

\(^{49}\) Same source
2. With respect to the bribe of 1000 Afghani, not only is the bribery illegal, it was for the provision of a fake ID to someone who would not otherwise be eligible for food aid.

The Wakils’ have contributed to injustice in aid distribution, but it has also paved the way for misuse and opportunism of a set group of individuals.

One residents states:

“Help given to needy and poor people in this country is misused by the rich and well-to-do individuals. These individuals have the authority to bribe a Wakil-e-Gozar and also remove him from that position.”

These issues have been acknowledged by the representative of Mahdia Shura as well:

“I criticize the dealings of the Wakil-e-Gozar in Mahdia township. The Wakil-e-Gozar in this area has not relayed the aid provided by the agriculture ministry to the local people. This individual has misused all the aid for his own benefit.”

Transfer of property

Rent and lease
Wakils have a key role in activities related to property such as lease and rent. These issues are addressed below.

Lease is a legal dealing in which the owner of an entity (i.e. property, house, garden or apartment etc.) lends the entity to another individual for a specific duration of time and in exchange for a specific amount of money.

One of the basic areas of a lease contract where the role of the Wakil-Gozar is important is in connection with questions of property ownership. As part of the contract, both parties need to get the document signed by the Wakil. This signature by the Wakil-e-Gozar gives legitimacy to the agreement based on the following:

1. The Wakil knows the residents of an area, and who is the owner of the property.

2. Whenever there is a dispute among the parties, the Wakil acts as mediator.

It should be noted that the bribes Wakils receive with regard to lease certifications differs depending on the type, value and location of the property. For example, in Kabul City this varies from district to district. In more urbanized areas, such as Districts 1, 2, 8, 9, 10 and 11, more money is paid to Wakils, as compared to less urbanized areas of the city. For example, bribe payments for leases of 2 bedroom and 3 bedroom apartments in the Macroryan neighborhood range up to $20, and for 4

---

50 Same source
51 Mahdia Township is located in west Kabul and has 7000 residents
52 Interview with Abbas Mubariz, Representative of Mahdia township. Dated 3/3/2012
bedroom and 5 bedroom apartments, up to $50. This amount has accelerated to $100 in the highest value neighborhoods such as Wazir Akbar Khan.

**Sale and Purchase:**
Wakil-e-Gozars also have a role to play in the legal transfer of property based on sale and purchase. Ownership documents related to this kind of deal are of three types, the “Sharee Qabala,” “Urfi Qabala” and the “Unofficial Qabala.”

1. Sharee Qabala: This is the kind of legal document prepared in the Afghan courts and shows the ownership of the land by ancestry of the owner.

In a property deal involving this kind of document, there is no role for the Wakil-e-Gozar. Both parties to such deals refer their cases to the court where they are resolved and decided. In these ownership deals, Wakil-e-Gozars only receive “Shirini” (gift) ranging between $20 and $100.

Wakils in urbanized areas of Kabul seek bigger “Shirini” as compared to less urbanized parts of the capital.

2. Urfi Qabala: This ownership document is one to which the Wakil-e-Gozar attests. Holders of this kind of document who acquire such lands by inheritance or related ways need to get their documents certified by the Wakil-e-Gozar. Undeniable evidence suggests that in some areas the Wakils have received bribes up to $1000 for such services, with $50 the lowest reported illegal payment. Wakil.

Most of the Urfi Qabala documents exist in the unplanned parts of the city or in areas where people do not hold Sharee Qabala documents. In order to understand the implications, one interviewee clarifies:

“My brother lives in Germany and we had no choice but to sell our house. Our main issue was that our brother was away and our father had passed away. This matter was known by the Wakil-e-Gozar and therefore we had to pay him 45000 Afghanis ($800) to make sure our deal was struck, as we needed his signature.”

Meanwhile, one of the other interviewees said in this regard:

“When I sold my house I had to pay $100 to the Wakil-e-Gozar as I needed his signature on my document.”

3. Unofficial Qabala documents:

These kinds of ownership documents are signed by both parties without the involvement of the Wakil-e-Gozar. As such, this study will not refer to such transactions.

---

53 Interview with the residents of macroryan 3 and 4, dated 12 and 13/11/1390  
54 Interview with the residents of district 10, Wazir Akbar Khan, dated 24/10/1390  
55 Research report by the World Bank, unplanned houses of Kabul city, page 2  
56 Same source  
57 Interview with one of the residents in Yakatoot, 12/12/1390  
58 Interview with a resident of Kart-e-Nau, 10/11/1390
2. Inheritance Letter
Inheritance letters are legal documents drafted by the family of a deceased individual in order to ascertain the late individual’s property inheritance. In order to legalize a document of this sort the individual has to prove their ancestry, to which the Wakil-e-Gozar must attest as part of the bureaucratic procedure.

During the course of this research we came across three circumstances where the Wakil-e-Gozar had requested bribes:

1. “Normal” (no issue) under normal circumstances Wakils have asked for illicit payments from $10 to $50. From one interview:

“I approached the Wakil-e-Gozar in order to prepare my inheritance letter. However, I had to pay 500 Afghans ($9) to get my ancestry verified.”

2. Where transfers of property are concerned

Inheritance that involves transfer of property requires bribes of between $50 and $100. Regarding this as well, one interviewee reports:

“In order to get a Sharee Qabala, an inheritance letter should be obtained. We went to the Wakil-e-Gozar for the approval of the inheritance letter. He asked for $100 and we had no option but to pay him the amount.”

3. Existence of legal issue

Where there are serious legal issues, Wakils will ask for up to $2000 in bribes for resolution, which are often themselves illegal solutions. Wakils are thus involved in both bribery and illegal exercise of authority. Please read the following two interviews that shed light on the matter:

An interviewee from Murad Khani reports:

“One of my brothers lives outside the country. We wanted to prepare an inheritance letter. The Wakil-e-Gozar was aware of my brother’s residence outside the country and therefore asked for $2000 as bribery. After some discussion, we had him agree upon $1500 and then our document was acknowledged.”

Another participant, from Macroryan, reported:

“My husband had received an allotment for an apartment by a previous government. My husband was killed during the wars and we wanted to prepare an inheritance letter in order to sell the house. However, one of my daughters who is also heir to the property was 12 years old and thus below the adulthood age required by law for the transfer of inheritance rights. Therefore, I had no option but

---

59 Interview with a resident of District 1, Kabul, 11/12/1390
60 Interview with a resident of Macroryan 3, District 9, Kabul, dated 24/10/1390
61 Interview with a landlord in Murad Khan, dated 27/9/1390
to pay $1000 to the Wakil-e-Gozar who acknowledged that my deceased husband didn’t have any underage children.”

**Marriage certificate (Nikah letter)**

Marriages in Afghanistan are considered legitimate when the families of the bride and groom prepare an official letter called a Nikah letter (Marriage Certificate). Although the signature of a Wakil-e-Gozar is not legally required it is part of the tradition that the Wakil should participate at wedding ceremonies. The Wakils are normally paid a normal sum of money in order to acknowledge the wedding. However, in cases where the family approaches them for resolution of bureaucratic issues the Wakils have been reported to demand money depending on the issue, below are some of the accounts related to this point.

“I approached the Wakil-e-Gozar to approve my marriage letter. He was a friend of my father, that’s why he didn’t ask for any money. Still, I paid him 100 Afghanis”

Another individual reports:

“I came from Australia with the intention to prepare a marriage letter from the court. I approached the Wakil-e-Gozar for approval of the letter. He asked for $20 and I had no option but to pay him.”

**Zawjiat letter (Another form of Marriage Certificate)**

While the Nikah letter is prepared on the day of marriage, the Zawjiat letter (or approval of marriage) is a document that can be prepared by a couple at any time during the course of their marriage. For the preparation of this letter as well, the Wakils have reportedly asked for bribes between $10 to $50. Interviewees report:

“In order to prepare the Zawjiat letter, I went to the Wakil-e-Gozar and paid him 500 ($9) Afghanis to get my job done.”

Another individual who had a similar experience with the Wakil stated:

”I went to the Wakil-e-Gozar to prepare the Zawjiat letter. I hadn’t met the Wakil before this as I was returning from my foreign stay over the years. The Wakil asked me for 2500 ($45) Afghanis and I had to pay him as I didn’t have much time.”

**Representation letter:**

Representation letter is a document which a person uses to represent another person officially in legal processes, as a kind of power of attorney. This representation comes into effect if a person does not have the ability to defend him- or herself (such as mentally ill or underage) or they have travelled and until their return another individual is to represent them. In cases of property purchase as well, individuals who require representation use a letter of this sort. In order to achieve a

62 Interview with a resident of Macroryan, dated 24/11/1390
63 Interview with Wakils from districts 8 and 12, Kabul, dated 9/10/1390
64 Interview with a resident of District 3, Kabul, dated 2/11/1390
65 Interview with a resident of Herat city, dated 10/11/1390
66 Interview with a resident of Mazar-e-Sharif, dated 3/12/1390
67 Interview with a resident of Adraskan district, 11/11/1390
representation letter both individuals need to apply to a court of law whereby the bureaucratic procedure involves the attestation of the district management including the ‘Wakil-e-Gozar’. It has been reported that the Wakils obtain $10 to $100 in order to provide such an attestation.68

**National Identity:**

Wakil-e-Gozars also have a say in the process of an individual obtaining a national ID card. Based on the national census law, whenever a person applies for such documentation they need attestations from two of their neighbors and two government employees. The attestations of neighbors need approval by the local Wakil-e-Gozar. Wakils have reportedly received bribes between $2 to $100. The following accounts evidence this practice.

“I approached the Wakil-e-Gozar with regard to my national ID. The Wakil asked for 100 Afghanis ($2). When I provided him the money he resolved my matter.” 69

Another interviewee reports:

” I wanted to prepare national IDs for my children who were travelling abroad. I was however required to change their age and for that I paid $100 to the Wakil-e-Gozar.”70

**Wakils’ justification for being involved in corruption**

Most people who paid bribes to Wakils say that Wakils claim their motive is the absence of any official government salary.

---

68 Interview with estate agents, district 9, Kabul. Dated 10,11,12 and 14/10/1390
69 One of the interviewees in Mazar-e-Sharif. Dated 23/11/1390
70 Interview with a resident of district 10, Kabul city. Dated 9/9/1390