

## AFGHANISTAN'S WAR VICTIMS

The conflict in Afghanistan has caused immediate pain and long-term suffering to the civilian population. **War's civilian victims in Afghanistan deserve help.**

Following a field visit in May, UN Special Rapporteur Philip Alston said, "In the past four months, hundreds of civilians have been killed. They have died from bombs, missiles, explosive devices, police fire, beheadings and domestic violence. Those responsible include the police, militia groups, the Taliban and other anti-government elements, and the international forces."

**International forces and the Afghan Government assert their higher moral ground among these groups, and so should pay particular attention to war victims.** International forces cannot win this war without winning its people. And, without help, war victims are unlikely to recover, causing major setbacks for stability.

Many countries, the Afghan government included, have developed mechanisms to address civilian casualties. The means vary widely, including direct compensation, condolence or ex gratia payments (implying no liability), emergency relief, medical assistance, livelihood assistance, or other help. There are also many humanitarian relief or demining activities that may address or prevent civilian harm, but these are not specific to civilian casualties caused by international forces, and therefore are not explored in any depth here.

Security, corruption, and other implementation issues often prevent these various programs and sources of funding from reaching any but a fraction of civilians suffering harm. These challenges are made worse by a lack of coordination among the different actors. CIVIC has not learned of any instance in which these individual programs collaborate with each other to identify victims or coordinate assistance. This leaves many Afghan victims with nothing, which often leads to anger and resentment. **At CIVIC, we want to see these programs fully funded by international donors and coordinated by UNAMA or another qualified independent body.**

## INTERNATIONAL EFFORTS

**International Security Assistance Force (ISAF)** – At the end of 2006, the **Post-Operations Humanitarian Relief Fund (POHRF)** was created by some NATO member states to provide emergency relief following ISAF military operations that affect civilians. It is managed by COM ISAF and supported through voluntary country contributions, so far from Australia, Bulgaria, the Czech Republic, Estonia, Finland, Iceland, Lithuania, the Netherlands, and the United States. On paper, the fund can be used only to rebuild infrastructure damaged by ISAF troops, provide emergency relief, or offer other in-kind or non-monetary aid to civilians. In practice, CIVIC found that funds are sometimes used in situations having no apparent nexus to ISAF operations, including providing 'drought relief' in Gor Province or funding general mobile medical supplies to treat injuries not caused by ISAF operations. The fund is not used to provide individual compensation or other ex gratia payments. There

are no reported ISAF common funds for compensation, nor any ISAF policy on how ISAF member countries should approach issues of compensation or condolences.

**United States** – The United States’ mechanisms for helping civilians harmed is the most expansive among international forces. When civilians are injured, killed, or suffer property damages as a result of US combat activities, commanders may offer the family either a ‘condolence payment,’ drawn from the Commander’s Emergency Response Program (CERP), or a ‘solatia’ payment, drawn from unit funds. Neither payment is an expression of blame or liability. Distribution of either type of payment is at each commander's discretion. In Afghanistan, the maximum amount of payment is \$2,000 (solatia) and \$2,500 (condolence) for a death; \$400 (solatia) and \$1,500 (condolence) for serious injury; and \$200 (solatia) and \$2,200 (condolence) for property damage or minor personal injury.

The United States Congress also created and funds the **Afghan Civilian Assistance Program (ACAP)** – a humanitarian aid effort that provides sustainable livelihood assistance for families suffering losses due to international troop activities, whether death, injury, or property. ‘Losses’ in this case mean direct or indirect, including civilian casualties resulting from a suicide bomb targeting international troops. ACAP funds do not take the form of cash payments; instead, ACAP staff work with families to develop a local business, provide literacy or vocational training, medical treatment, or other in-kind assistance. Where international troop activities have affected a large number of families and/or damaged community infrastructure, ACAP may also work with community leaders on larger community projects. Since 2003, the US Congress has appropriated \$44 million to the fund, including a recent \$10 million in late 2008.

**United Kingdom** – Formally, the United Kingdom will provide financial assistance to civilians only when found legally liable for damages on the part of the Ministry of Defense (MoD). However, in a letter to CIVIC, a MoD representative confirmed that sometimes ex gratia payments will be given where there is ‘doubt’ about liability. Two British government personnel formerly stationed in Helmand Province told CIVIC that there are civilian MoD officers on the ground with some discretion to give voluntary indemnity or ex gratia payments. Much greater discretion is given to these officers in cases involving payments for property damage or property acquisition; they may also have some discretion, however, in giving to families in cases of death or injury.

**Canada** – Media coverage suggests that the Canadian Government has developed a compensation mechanism for Afghan civilians injured by Canadian troops. The Toronto Star reported at least eight instances in which the Canadian Government compensated Afghan families or individuals for unintended deaths or injuries. The paper reported these payments ranged from \$1,971 to \$31,584.

**The Netherlands** – Dutch troops have a ‘pocket-money’ fund that allows for ex gratia payments to Afghans suffering the death of a family member, injury, or property loss as a result of troop activities, according to a Public Information Officer at the Dutch PRT in Uruzgan. The payments are not considered an admission of blame; they are treated as an expression of moral obligation to families unintentionally harmed, as well as a politically prudent step to avoid alienating the population from the Dutch presence. Unlike some compensation programs, it must be established without a doubt that Dutch troops caused the damage, and requires sign off by the legal adviser and at least the commander of the Mission Team (in some cases a more senior official depending on the amount in question).

**Australia** – Australia has a fund for providing ex gratia payments to civilians harmed by Australian troop activities, but the process for distributing such compensation is so high-level that the funds are rarely distributed. Two separate ministries must sign off on any compensation payment, according to CIVIC interviews with Australian officials. There have been some instances, though, where one of these payments was made. In September 2008, Australian troops in Uruzgan province unintentionally killed a local community leader who was helping them oppose insurgent forces. Following a joint

ISAF-Afghan investigation, they provided an ‘honor payment’ to the family, according to The Age, a Melbourne newspaper.

**Ad hoc Country Assistance** – Most countries with small troop contingents in Afghanistan or troops deployed in more peaceful areas say their troops will help out a family or an individual suffering losses at the hands of their troops, whether due to combat or other incidents, on a case-by-case basis. For example, German troops have no designated fund to help civilians injured in conflict. However, when German soldiers shot three civilians at a checkpoint in northern Kunduz province in August 2008, they provided \$20,000 in cash and a car worth \$5,000 to the family, a sum they arrived at in consultation with the family and community leaders.

Representatives of each ISAF nation that CIVIC interviewed reported providing medical assistance when possible to civilians harmed by their operations. Numerous civilians whom CIVIC interviewed confirmed this, and said they were given free treatment and often free transport to/from medical facilities by those international military involved in the incident in question. For example, ISAF’s Regional Command West, led by Italy, has a clinic that provides medical care to civilians, whether injured due to conflict or otherwise. RCWest MedCap personnel – medical personnel traveling with military patrols – reportedly treated 8,564 civilians in the first seven months of 2008 for conflict-related injuries, as well as other non-combat related ailments.

## **AFGHAN GOVERNMENT EFFORTS**

**President Karzai’s Fund** – President Karzai has a fund to provide a small sum to Afghan families injured in conflict. These are referred to as ‘Code 99’ payments after the legal code under which they fall. Governors must compile a list of those civilians injured or killed in any given incident – whether due to the activities of international military forces, a suicide bomb attack, or other cause in the ongoing conflict – and forward it to the President’s office. The reported losses are then confirmed with other local sources in that province, and if approved, the funds may be distributed directly by the President’s office or locally via the Governor and other provincial officials. Civilians benefiting from this fund reported receiving 100,000 afghanis (US\$2,118) for a death and 50,000 afghanis (US\$1,060) for an injury. Typically, one member of the family is also supported in a pilgrimage to Mecca, Saudi Arabia.

**Ministry of Labor, Social Affairs, Martyrs, and Disabled (MOLSAMD) Fund for Martyrs and the Disabled** – The Martyrs Fund works similarly to a pension system. Those injured or killed due to conflict in Afghanistan, either pre- or post-2001, or due to landmines, are considered ‘martyrs’ and as such, they or their survivors are eligible for monthly financial assistance. Dependents of ‘martyrs’ receive a monthly allowance of 500 afghanis (US\$11). Support is tied to each child, and ends when the child turns 18 for male children, or when married for female children. Those who are themselves injured receive 500 afghanis per month or 250 afghanis (US\$5.30) per month, depending on whether they have been certified by health officials as 50 or 100 percent disabled. In 2006, MOLSAMD began comprehensively updating their records for the first time since the Taliban era. Payments have been suspended while this survey is ongoing, but MOLSAMD should recommence martyrs’ payments to an estimated 120,000 families by the end of 2008.

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