



UNACKNOWLEDGED HARM

*Hurdles to Receiving Victims'
Assistance in Afghanistan*

**CENTER FOR
CIVILIANS IN CONFLICT**
RECOGNIZE. PREVENT. PROTECT. AMEND.

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T +1 202 558 6958

E comms@civiliansinconflict.org

civiliansinconflict.org

Cover: *Child walks through damaged
neighborhood in Kabul, October 2008*
Credit: Stepnout

Contents

About CIVIC	v
Acknowledgements.....	v
Acronyms.....	vi
Executive Summary	1
Recommendations	4
Methodology.....	6
Introduction.....	7
Law and Policy	8
The Afghan Government Victims' Assistance Programs	9
<i>Presidential Code 91 and 92 Funds</i>	9
<i>State Ministry for Martyrs and Disabled Affairs (SMMDA)</i> <i>Assistance for Victims</i>	12
Civilian Perspectives on Challenges Accessing Government Victims' Assistance.....	13
<i>Length of Time to Process</i>	13
<i>Suspension of the Code 92 Fund and Lack of Political Will</i>	14
<i>Document and Reporting Requirement Burden</i>	15
<i>Vulnerability to Corruption</i>	15
<i>Challenges for Women Applicants</i>	16
<i>Fear of Retaliation from AOGs</i>	17
<i>US Ex-gratia Payments in Afghanistan</i>	18
<i>The Conflict Mitigation Assistance for Civilians (COMAC) Project</i>	20
Conclusion	22

About CIVIC

Center for Civilians in Conflict (CIVIC) is an international organization dedicated to promoting the protection of civilians caught in conflict. CIVIC's mission is to work with armed actors and civilians in conflict to develop and implement solutions to prevent, mitigate, and respond to civilian harm. Our vision is a world where parties to armed conflict recognize the dignity and rights of civilians, prevent civilian harm, protect civilians caught in conflict, and amend harm.

CIVIC was established in 2003 by Marla Ruzicka, a young humanitarian who advocated on behalf of civilian war victims and their families in Iraq and Afghanistan. Building on her extraordinary legacy, CIVIC now operates in conflict zones throughout the Middle East, Africa, Europe, and South Asia to advance a higher standard of protection for civilians.

At CIVIC, we believe that parties to armed conflict have a responsibility to prevent and address civilian harm. To accomplish this, we assess the causes of civilian harm in particular conflicts, craft practical solutions to address that harm, and advocate for the adoption of new policies and practices that lead to the improved well-being of civilians caught in conflict. Recognizing the power of collaboration, we engage with civilians, governments, militaries, and international and regional institutions to identify and institutionalize strengthened protections for civilians in conflict.

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Acronyms

AAF	Afghan Air Force
ACAP	Afghan Civilian Assistance Program
AFG	Afghani
AIHRC	Afghanistan's Independent Human Rights Commission
ANA	Afghan National Army
ANDSF	Afghan National Defense and Security Forces
ANP	Afghan National Police
AOGs	Armed Opposition Groups
AOP	Administrative Office of the President
CCMT	Civilian Casualties Mitigation Team
CEO	Chief Executive Office
CIVIC	Center for Civilians in Conflict
COMAC	Conflict Mitigation Assistance for Civilians
DOD	Department of Defense
IA	Immediate Assistance
IDLG	Independent Directorate of Local Governance
IHL	International Humanitarian Law
IHRL	International Human Rights Law
ISKP	Islamic State of Khorasan Province
MOD	Ministry of Defense
MOF	Ministry of Finance
MOI	Ministry of Interior
MOLSAMD	Ministry of Labour, Social Affairs, Martyrs and Disabled
MOPH	Ministry of Public Health
MP	Member of Parliament
MSF	Médecins Sans Frontières
NDS	National Directorate of Security
NMCC	National Military Command Centre
NPCC	National Police Command Center
NSC	National Security Council
NUG	National Unity Government
RS	Resolute Support
SMMDA	State Ministry for Martyrs and Disabled Affairs
SOPs	Standard Operating Procedures
TA	Tailored Assistance
UNAMA	United Nations Assistance Mission in Afghanistan
USAID	United States Agency for International Development
USD	United States Dollar



Family on a bike in Afghanistan

Credit: Lauras Eye, 2009.

Executive Summary

Violence in Afghanistan has taken the lives of thousands of civilians and left families grieving across the country. As intra-Afghan talks between the Taliban and the government are ongoing, violence continues unabated, with over 5,900 dead or injured in the first nine months of 2020.¹ The losses suffered by Afghans are immeasurable, psychologically traumatic, and emotionally painful. For the poorest, the loss of a breadwinner, suffering a debilitating injury, or experiencing property damage causes significant financial hardship.

The Afghan government has enacted victims' assistance programs since 2004, which provide some financial assistance for deaths and injuries, irrespective of who caused them. While laudable, these programs are plagued by challenges that hinder the delivery of assistance to conflict victims. In 2017, in a landmark Civilian Casualty Mitigation and Prevention Policy, the government again committed to assisting conflict victims. The policy also obligates the Afghan National Defense and Security Forces (ANDSF) to report civilian casualties and damages to relevant agencies.

The Afghan government has two payment programs for civilians who are harmed during Afghan military operations or by armed opposition groups (AOGs). The first is a one-time payment through the president's Code 91/92 funds, which provide victims with 100,000 Afghani (AFG) (USD 1,300) for deaths and AFG 50,000 (USD 650) for injuries. Victims of war-related deaths and injuries are eligible for this type of assistance, regardless of which party is responsible for the harm. The Independent Directorate of Local Governance (IDLG) manages and processes the funds, and from 2014-2020, the Chief Executive Office (CEO) approved the payments. Since May of 2020, the funds have been administered through the Administrative Office of the President (AOP), though disputed presidential elections caused the distribution of funds to effectively halt in March. The second type of payment is processed through the State Ministry for Martyrs and Disabled Affairs (SMMDA). It includes a monthly payment of AFG 1,500 (USD 20) for family members of civilians who are killed, and AFG 750 (USD 10) for civilians injured due to the armed conflict.² The monthly payment for injuries used to cover all people with disabilities, but since early September 2020, it has been limited to war-related disabilities. None of the Afghan payment programs provide compensation for property damage.

Complementing the Afghan payment programs are two United States (US) government programs. A US Agency for International Development (USAID) funded project, known as Conflict Mitigation Assistance for Civilians (COMAC), which provides non-monetary emergency food and medical assistance to conflict victims, and a US military ex-gratia payment program, which began in 2005 to provide compensation for Afghans who were incidentally killed, injured, or whose property was

The losses suffered by Afghans are immeasurable, psychologically traumatic, and emotionally painful.

1 UNAMA, "Afghanistan: Protection of Civilians in Armed Conflict, Third Quarter Report From January to September 2020", Kabul, October 2020 (https://unama.unmissions.org/sites/default/files/unama_protection_of_civilians_in_armed_conflict_-_3rd_quarter_report_2020_revised_5nov_.pdf)

2 Center for Civilians in Conflict, "Caring for Their Own: A Strong Afghan Response to Civilian Harm", January 27, 2013 (<https://civiliansinconflict.org/publications/research/caring-stronger-afghan-response-civilian-harm/>).

damaged during US military operations. NATO forces in Afghanistan adopted a similar ex-gratia program in 2010.

This policy brief evaluates the various victims' assistance mechanisms from a civilian applicant's perspective to understand the challenges they face in accessing these programs. It also assesses progress from the 2013 Center for Civilians in Conflict's (CIVIC) report "*Caring for their Own: A Stronger Afghan Response to Civilian Harm*". Some of the recommendations to the Afghan government in the 2013 report included creating an Afghan Civilian Casualty Mitigation Team (CCMT), which would track and analyze civilian harm and verify claims for assistance; streamlining the application process and removing bureaucratic obstacles; making the payment programs more accessible for women; and enacting public awareness programs. While a nascent form of CCMT exists at the Tawheed Center in the Presidential Palace, it is not integrated into the Afghan government's verification of claims for assisting conflict victims. As our current research has found, other recommendations to improve the application process and make the program more accessible to women have not been acted on.

Afghan government statistics show that they have assisted approximately 4,000 victims between March 2019 and March 2020.³ According to the United Nations Assistance Mission in Afghanistan (UNAMA) over 10,000 civilians have been killed or injured since 2014. UNAMA's report also indicates that out of 36 cases of civilian harm they investigated in their mid-2020 report, only five received assistance.⁴ Thus, over half of civilian victims in Afghanistan have not received any payments or are unaware of programs to apply for assistance.

CIVIC's interviews show that, as in our 2012-2013 research, most civilian victims find the bureaucratic steps required for accessing the Afghan payment programs difficult, which deters them from applying. There are seven layers of approval needed to file a claim. This, as well corruption at the provincial level such as bribes to get approval signatures, delay the application process, with applicants waiting between four months to two years to receive payment. The requirement to seek signatures from the National Directorate of Security (NDS) has impeded many applicants who are unable to access the NDS compound or are concerned about retaliation from the Taliban for engaging with the NDS.

Notably, only 15 percent of Code 91/92 applicants are women, indicating that women applicants face additional hurdles. According to UNAMA's 2020 report, four out of ten casualties are children and women.⁵ This means that many of the victims who have died or been injured are men, a majority of whom left behind widows without breadwinners. The low number of female applications suggests that women increasingly find themselves in poverty, deterring economic progress for themselves and their children.

Additionally, the Code 91/92 victims' assistance programs were suspended in March 2020 due to political crisis over the presidential election. Even with the installation of the new government in June, a lack of political will and shifting governmental structures impeded resumption of the program, leaving conflict victims without the much-needed financial assistance.

3 CIVIC interview with an IDLG official, Kabul, July 17, 2020.

4 UNAMA, "Afghanistan: Protection of Civilians in Armed Conflict, Mid-Year Report From 1 January to 30 June 2020", Kabul, July 2020 (https://unama.unmissions.org/sites/default/files/unama_poc_midyear_report_2020_-_27_july-revised_10_august.pdf) UNAMA, 2020 Mid-Year Report, p. 26

5 UNAMA, Third Quarter Report, p. 6.

Civilian victims living in Taliban controlled areas often do not apply for assistance out of fear that if they receive any assistance from the government, the Taliban might suspect them of being government agents or supporters. This was a consistent finding in Nangarhar, Kandahar, and Kunduz provinces, where the Taliban controls many districts, compared to Baghlan, Herat, and Balkh provinces where we also did research. Moreover, victims who live in rural areas across all six provinces are either unaware of the various assistance programs available or find it difficult to travel to the provincial capitals to apply for assistance.

CIVIC also found that the USAID-supported COMAC is limited to those who can travel to provincial centers to apply, and the majority of the civilians CIVIC interviewed were unaware of the COMAC program. Finally, a majority of the Afghan civilians CIVIC interviewed did not know how to apply for the US military condolence payment or was unaware of the eligibility criteria.

In a positive move, the Afghan government is trying to improve the SMMDA application process and created a one-stop information center to answer questions about the application process and issue biometric cards to prevent “ghost” applicants. At the time of writing, there was only one such information center operating at the main office in Kabul, which from 2019 to 2020 issued 171,000 ID cards and 150,000 ATM cards for persons with disabilities, despite there being over one million Afghans registered as disabled with the SMMDA.

The Afghan government has taken positive steps to recognize and assist civilians suffering conflict-related harm. However, as this policy brief highlights, the Afghan government must commit to improving these programs and help Afghan civilians who continue to bear the toll of the violence. CIVIC recommends the following steps to improve the various programs, so as to acknowledge civilian harm and assist conflict victims.

Recommendations

To the Administrative Office of the President (AOP)

- Resume Code 91/92 assistance immediately. The AOP should speed up the resumption of responsibilities from the former Chief Executive Office and immediately restart processing and delivering assistance payments to Afghan civilian victims.
- Remove the NDS verification signature from the application process as the Afghan National Police (ANP) confirmation is sufficient for confirming the incident and civilian casualties.
- Request the National Security Council (NSC) to instruct ANDSF to record the name and age of civilians killed or injured and share with the Tawheed Center, which would be instructed to share such data with the AOP to assist in verification of claims processed by the AOP and IDLG.
- Establish protocols with the Afghanistan Independent Human Rights Commission (AIHRC) for victim verification information, as the institution keeps a record of victim information.
- Separate the victims' assistance budget allocation from the presidential emergency codes to provide more transparency on how money is used to assist Afghan civilians.
- Provide an annual report to Parliament on the number of civilians assisted through Afghan assistance programs, separated by type of harm and amount disbursed.

To the AOP and the State Ministry for Martyrs and Disabled Affairs (SMMDA)

- Create a single application process for accessing monetary payments from Code 91/92 and SMMDA funds, which ensures applicants have the option of automatic enrollment in both programs. As CIVIC recommended in 2013, revised application procedures should be simple, easily accessible, transparent, and gender sensitive – ensuring equal access for female applicants. Applicant phone numbers should be recorded, and provincial officials administering payments from the Code 91/92 and SMMDA programs should contact applicants once their claims are either approved or denied. Updated application guidelines should be distributed to provincial governments, and all relevant provincial officials should receive adequate training on the new procedures to ensure consistency and equity.

To the Independent Directorate of Local Governance (IDLG)

- Devolve responsibilities for approving monetary payments to the provincial governments to allow for faster approvals and disbursement of funds.
- Amend the eligibility criteria for monetary payments and recognition of harm, including property damage and less severe injuries. Less severe injuries include all harm and injuries that do not require hospitalization.
- Adopt measures to ease procedures to enable more women to apply for assistance. These can include awareness campaigns over the radio or in health clinics, where women are more likely to see or hear about it, and hiring female employees to facilitate applications from women at the provincial level.

- Create victims' assistance offices in the provincial governor's office to support processing applications at the provincial level. The government should prioritize opening such offices in provinces with high conflict-related incidents or establish four geographic regional hubs where victims can travel to apply for the program and get support.
- To the National Security Council (NSC), Ministry of Defense (MOD), and Ministry of Interior (MOI)
- Issue instruction to all members of the ANDSF to report all deaths, injuries, and property damage during operations up their chain of command to the Tawheed Center. This information should include the name and age of victims and should be shared with the AOP for verification purposes in victim assistance by the AOP and IDLG.

To the Conflict Mitigation Assistance for Civilians (COMAC) program

- Increase awareness of programs and expand coverage beyond provincial capitals to districts, and use local community councils or shuras and elders to inform victims about the program.
- Extend the three month timeframe from time of incident to six months for applying for the assistance as it deprives the civilian victims who cannot travel to provincial centers due to insecurity or inaccessibility.

To the US Military

- Increase awareness of the ex-gratia payment program and create a safe, accessible claims process that allows victims or survivors to file in person, including at an embassy, or online. The application process should clearly outline the information needed from a claimant or their representative to file a claim, what to expect, and how to be contacted.

Methodology

This research draws from 41 semi-structured interviews in Kabul and six provinces (Nangarhar, Herat, Balkh, Kunduz, Baghlan, and Kandahar). The interviewees include 25 civilians and 16 government officials, local politicians, women's rights activists, and members of non-governmental organizations (NGOs). In total, 12 women and 29 men were interviewed. All civilians interviewed for this research had experienced death or injury of a family member and were eligible for some form of assistance. CIVIC used random sampling for identifying interviewees in the selected provinces. Due to the Covid-19 lockdown, CIVIC conducted interviews over the telephone or via virtual communications. CIVIC conducted in-person interviews with officials and civilians in Kabul and some provinces, while observing social distancing protocols.

In these interviews, CIVIC asked civilians about their perception of the assistance programs and the challenges they face while applying for assistance. The brief is not a survey of all Afghan victims across the country, but rather it represents perspectives of those civilians we interviewed for this research.

CIVIC also conducted a literature review to understand the context and status of civilian casualties and the Afghan government post-harm responses to civilian harm. This policy brief is a follow up to CIVIC's 2013 report, *"Caring for their Own: A Stronger Afghan Response to Civilian Harm"*, which assessed the Afghan government's assistance programs in detail and, where needed, we have referred to the report for more information.

Introduction

Civilians have suffered immensely in the four decades of armed conflict in Afghanistan. According to UNAMA, which began systematic recording of casualties in 2009, over 100,000 civilians have been injured or killed in Afghanistan due to armed conflict.⁶ Between January and September 2020 at least 5,939 civilian casualties (2,117 killed and 3,822 injured) have occurred.⁷ Intra-Afghan talks on a negotiated settlement started on September 12, 2020. These talks come on the heels of the February 2020 US-Afghan agreement where the United States government agreed to reduce its forces in the country and release 5,000 Taliban prisoners, and the Taliban agreed not to attack US forces and start talks with representatives of the Afghan government.⁸ Despite ongoing talks, negotiations on a nationwide ceasefire have yet to be agreed on.

Afghan civilians expect and deserve recognition and assistance from warring parties to help them cope with conflict-related harm. For most Afghans, the loss of a breadwinner, suffering an injury, or experiencing property damages causes significant financial hardship. No amount of money can ever bring back a loved one; however, the Afghan government and international militaries, along with aid programs enacted at different stages since 2004, have supported many Afghans. These victims' assistance programs (including those enacted by the Afghan government since 2004, the US military since 2005⁹, and NATO since 2010¹⁰) include monetary payments for death and injuries, and the US and NATO programs account for property damage as well. The USAID-funded Afghan Civilian Assistance Programs (ACAP), enacted since 2003 for Afghan civilians who suffered losses due to US and NATO military operations against the Taliban and other armed actors, have provided non-monetary assistance such as food, medical support, household items, livelihood and vocational training, and rehabilitation therapy.¹¹

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- 6 United Nations News, "Civilians continue to bear the brunt of Afghanistan's 'ugly war' - UN report", July 17, 2017, (<https://news.un.org/en/story/2017/07/561622-civilians-continue-bear-brunt-afghanistans-ugly-war-un-report>)
 - 7 UNAMA, "Afghanistan: Protection of Civilians in Armed Conflict, Third Quarter Report From January to September 2020", Kabul, October 2020 (https://unama.unmissions.org/sites/default/files/unama_protection_of_civilians_in_armed_conflict_-_3rd_quarter_report_2020_revised_5nov_.pdf)
 - 8 BBC News, "Afghan conflict: US and Taliban sign deal to end 18-year war", February 29, 2020 (<https://www.bbc.com/news/world-asia-51689443>)
 - 9 Center for Civilians in Conflict, *US Military Claims System for Civilians*, April 30, 2008, <http://civiliansinconflict.org/resources/pub/us-military-claims-system-for-civilians>; Center for Civilians in Conflict, *Losing the people: The Costs and Consequences of Civilian Suffering in Afghanistan*, 2009, ADD LINK; Center for Civilians in Conflict, *United States Military Compensation to Civilians in Armed Conflict*, May 2010, https://civiliansinconflict.org/wp-content/uploads/2017/09/CENTER_Condolence_White_Paper_2010.pdf; Center for Civilians in Conflict, *Ex-gratia Payments in Afghanistan: A Case for Standing Policy for the US Military*, May 11, 2015, https://civiliansinconflict.org/wp-content/uploads/2017/08/CIVIC_Exgratia_payments_2015_Brief.pdf; and Cora Currier, "How the US paid for death and damage in Afghanistan" *The Intercept*, February 27, 2015, <https://theintercept.com/2015/02/27/payments-civilians-afghanistan/>.
 - 10 NATO, "NATO Nations Approve Civilian Casualty Guidelines", August 6, 2010 (https://www.nato.int/cps/en/natohq/official_texts_65114.htm?selectedLocale=en)
 - 11 USAID, "Afghan Civilian Assistance Program II", May 7, 2019, <https://www.usaid.gov/afghanistan/fact-sheets/afghan-civilian-assistance-program-ii-acap-ii>.

Law and Policy

Parties to the conflict in Afghanistan have a legal obligation to ensure accountability and reparations for violations under both international humanitarian law (IHL) and international human rights law (IHRL). Under IHRL and IHL this includes restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition, and guarantees of non-recurrence of violations (duty of prevention).¹²

Some armed actors also offer assistance to victims that have been incidentally harmed during combat or where no such violations have been confirmed. This practice of amends can be in the form of acknowledgments, monetary payments, and individual or communal livelihood assistance programs. Amends is not reparations, which follows from breaches of applicable international law. In Afghanistan, US and NATO forces made such amends for persons and property incidentally harmed, damaged, or destroyed during military operations.

The Afghan government is among very few governments that assist war-related victims, regardless of which armed actor caused the harm.¹³ The Afghan government relies on domestic law, policy, and religious (*diyya*) and cultural reasons for assisting conflict victims, irrespective of who caused the harm. Such efforts reflect the inherent dignity and humanity of all persons, enshrined in IHL. When civilians are offered help from their government for conflict-related harm, regardless of who the injuring party is, such assistance is characterized as victims' assistance.

12 Office of High Commissioner, "Basic Principles and Guidelines on the Right to a Remedy and Reparation for Victims of Gross Violations of International Human Rights Law and Serious Violations of International Humanitarian Law", December 2005 (<https://www.ohchr.org/EN/ProfessionalInterest/Pages/RemedyAndReparation.aspx>)

13 The Iraqi government is also providing victims' assistance to all civilians harmed during the conflict, irrespective of who caused the harm.

The Afghan Government Victims' Assistance Programs

Article 53, Afghanistan Constitution

The state shall adopt necessary measures to regulate medical services as well as financial aid to survivors of martyrs and missing persons, and for reintegration of the disabled and handicapped and their active participation in society, in accordance with provisions of the law. The state shall guarantee the rights of retirees, and shall render necessary aid to the elderly, women without caretaker, disabled and handicapped as well as poor orphans, in accordance with provisions of the law.

Article 53 of Afghanistan's Constitution has provided the impetus for policies focused on assisting civilians. Since 2001, the Afghan government has enacted different laws and policies to facilitate assistance provision.¹⁴ The Afghan government has also publicly committed to and enacted the 2017 National Policy on Prevention and Mitigation of Civilian Casualties and Damages to reduce civilian harm caused by its security forces and assist those harmed. The policy also obligates the ANDSF to report civilian casualties and damages to relevant agencies.

The government provides two kinds of monetary payment to civilians suffering from conflict-related harm: a one-time payment through emergency budget Code 91 or Code 92, and monthly financial assistance to conflict-affected families of victims through the SMMDA. The SMMDA also provides this fund for families of ANDSF casualties. In this section, we briefly discuss each of these programs and how they have changed since 2013.

Presidential Code 91 and 92 Funds

Each year, Afghanistan's Ministry of Finance (MOF) allocates a monetary sum from the national budget for emergencies and contingency plans that only the president is authorized to use. Among these codes, two (Code 91 of policy and Code 92 of emergency) have been used for the victims' assistance payments. Code 92 is for emergency situations and Code 91 is policy code and has been used for security of high-ranking officials, healthcare, international travel, and expenditures.¹⁵ The Afghan president has the authority to transfer cash between the codes and has used both codes for victims' assistance payments since 2004.¹⁶ The MOF has allocated the same amount of AFN 1,000,000,000 (around USD 12,987,000) for both Code 91 and Code 92 covering March 2019 to March 2020.¹⁷

Families of civilians killed or "martyred" as a result of the conflict are eligible for a payment of AFN 100,000 (USD 1,300) under Codes 91/92, while those civilians suffering war-related injuries are eligible to receive AFN 50,000 (USD 650).¹⁸ However, victims with less severe injuries and property losses are not covered by this code.

14 For a more detailed discussion on each one of the government's obligations look at: Center for Civilians in Conflict, "Caring for Their Own: A Strong Afghan Response to Civilian Harm" (Kabul, 2013). <https://civiliansinconflict.org/publications/research/caring-stronger-afghan-response-civilian-harm/>

15 Esmatullah Suroush, دوشیم فرصم د نوکچ 91 د وک هج د وک ی نو لیم ی اهت خا درې (Payments in millions: how the budget for code 91 spends?), Etilaat Ruz Newspaper, September 13, 2019 (<https://www.etalatroz.com/84508/where-and-how-is-code-2-budget-used/>)

16 CIVIC's phone interview with a former ministry of finance official, Kabul, August 12, 2020.

17 Ministry of Finance, "Approved National Budget for 1398", November 17, 2019, <http://www.budgetmof.gov.af/images/1399%20National%20Budget-Decree%20Dari-%20Version%20%20Enacted%20Budget%20.pdf>, p. 91

18 For more detail on this see, Center for Civilians in Conflict, *Caring for Their Own*, p. 21 <https://civiliansinconflict.org/publications/research/caring-stronger-afghan-response-civilian-harm/>

When the program began in 2004, the fund was managed by the AOP. However, when President Ashraf Ghani and Dr. Abdullah Abdullah established the National Unity Government (NUG) in September 2014, the authority to approve and manage victims' assistance payments and the use of Codes 91/92 was handed over to the CEO, headed by Dr. Abdullah. Between March 2019 and March 2020, around 4,000 civilian victims received assistance from the Code 91/92 funds,¹⁹ though disputed presidential elections caused the distribution of funds to effectively halt in March 2020. Since May of 2020, the funds have been administered through the Administrative Office of the President (AOP). CIVIC's request to the CEO and IDLG for comprehensive data on how many Afghans received assistance under Code 91/92 since their creation was denied as government officials view the data as confidential. However, transparency on the number of Afghans assisted through these programs should be made public to allow for better assessment on how funds are being used to assist conflict victims.



A woman from Kandahar with her husband's photo who was killed by a roadside IED. Source: CIVIC

Based on the official procedure enacted by the CEO on February 28, 2016, the assistance is provided in two ways:

Delegation-Based Assistance: A delegation consists of a representative of the Ministry of Interior (MOI), Ministry of Public Health (MOPH), NDS, Afghan National Army (ANA), IDLG, and ANP. The delegation usually travels to the incident sites and interviews security officials, witnesses, and the families of victims. Once the delegation completes its investigation, a report is compiled and sent with a list of civilian victims to the CEO/AOP for payment through IDLG. Moreover, the president and the CEO can also create an ad hoc delegation. In practice, such a delegation is activated for incidents in major urban areas, or incidents with a large number of civilian casualties. Examples of such incidents include: Sangin district, Helmand, December 2014; Kabul's Zangaq Square explosion in May 2017; Dashti-Archi in Kunduz in May 2018; Ghazni city in 2019; and Balkh in January 2020.²⁰

Application-Based Assistance: Civilians can also apply directly for assistance, and need signatures from a hospital or medical clinic where the victim received treatment. These signatures then need to be confirmed by the ANP, NDS, and provincial health officials. This process can take three to four months. (See Figure 1).

IDLG statistics for one year show that they have assisted around 4,000 victims from March 2019 to March 2020,²¹ but according to UNAMA reports since 2014, over 10,000 civilians have been killed or injured annually. UNAMA also reported that out of 36 civilian harm cases they investigated for their mid-2020 report, only five received assistance.²² Over half of the civilian victims in Afghanistan do not receive any payments or have not applied for assistance.

¹⁹ CIVIC interview with an IDLG official, Kabul, July 17, 2020.

²⁰ In this incident in Sangin district of Helmand province, reportedly 25 civilians were killed and 45 were injured (for details of incident see https://ocs.gov.af/dr/order_details/207). In the Zangaq square explosion in Kabul city, around 85 people were killed and more than 350 other were injured (see here for details: <https://www.bbc.com/news/world-asia-40102903>). In the Dasthi Archi incident in Kunduz province, around 36 civilians were killed and 71 civilians were injured (for details and analysis see <https://www.afghanistan-analysts.org/en/reports/rights-freedom/two-new-reports-on-afghan-civilian-casualties-gruelling-but-important-reading/>). In Ander district of Ghazni province, 9 civilians were killed (see <http://khabarnama.net/blog/2019/03/13/the-ministry-of-defense-has-sent-a-delegation-to-inspect-civilian-casualties-in-ghazni/>). And as a result of the Afghan Air Force (AAF) airstrike in Balkh district of Balkh province, 7 civilians were killed (see here <https://da.azadiradio.com/a/30398643.html>).

²¹ CIVIC interview with an IDLG official, Kabul, July 17, 2020.

²² UNAMA, 2020 Mid-Year Report, p. 26.



Figure 1: Code 91/92 Application Procedures

State Ministry for Martyrs and Disabled Affairs (SMMDA) Assistance for Victims

The second type of assistance offered by the Afghan government is managed through the SMMDA.²³ The SMMDA's fund previously covered all individuals with disabilities, including civilians and ANDSF victims of war, and was therefore not purely a civilian victims' assistance fund. However, in September 2020, President Ghani issued a decree declaring that the fund would only be used for war-related disabilities, and those born with disabilities will no longer receive this assistance.²⁴



Meanwhile, civilians suffering a conflict-related disability or injury receive between AFN 750 (USD 10) and AFN 1,500 per month (USD 20).²⁵ The application process for accessing the fund is similar to the one used for Codes 91/92 and is equally burdensome.²⁶ Dependents of members of the ANDSF who have been killed or injured also receive the same amount.

SMMDA form filed for the family of a victim from Nangarhar. Source: CIVIC

According to a SMMDA spokesman, the MOF had allocated AFN 13,500,000,000 (USD 175,324,000) in funds for the financial year of 1398 (March 2019 to March 2020) to be paid to its beneficiaries. By August 2020, the MOF had distributed more than half of the budget, with the rest designated for distribution in upcoming months.²⁷ The SMMDA estimates that Afghanistan has around three million people with disabilities, of which around one million are registered with the ministry.²⁸

The SMMDA has taken initial steps to reform the application process, tackle corruption, and streamline the process of verifying victim disabilities and losses. To achieve these goals, in 2020 the SMMDA established a 717 call center accessible to all of Afghanistan and a “one-stop-shop” in Kabul, which processes applications and issues biometric IDs and ATM cards for beneficiaries.²⁹ The one-stop-shop aims to bring all officials under one roof to speed up application processing. The call center answers applicants' questions about procedures and policies for victims' assistance applications, and biometric ID cards are issued to tackle corruption and prevent ghost applicants. These are important measures, but need further improvement to meet the intended goal of assisting victims. Currently, there is only one operating one-stop information center in the SMMDA's main office in Kabul, which has issued 171,000 ID cards and 150,000 ATM cards for persons with disabilities in 2019 and 2020.³⁰

Additionally, the call center does not appear to be fully operational. Over a period of ten weeks, CIVIC called the call center ten times during the posted operating hours, but no one answered the call. None of the 25 civilians interviewed for this research knew about the call center or the one-stop information center.

23 Previously this fund was managed by the Martyrs and Disabled Deputy Minister at Ministry of Labor, Social Affairs, Martyrs and Disabled (MOLSAMD), but on October 7, 2018, it was separated as the National Support Authority for Martyrs and People with Disabilities and on January 19, 2019, the president through a decree changed to the State Ministry for Martyrs and Disabled Affairs.

24 Hadi Khoshnavis, “تساؤلیم آضی عبت نوناق: ښځو نځر ځی نالولوعم قووق ح عطق زا داقت نا” (Criticism of cutting no-war PwDs allowance: the law is discriminatory), Etilaat Ruz, September 8, 2020 (<https://www.etilaatroz.com/106345/criticism-of-cutting-off-rights-non-war-invalids-law-is-discriminatory/>)

25 For more details on this fund see our 2013 report: Center for Civilians in Conflict, “Caring for Their Own: A Strong Afghan Response to Civilian Harm,” P. 25 – 27.

26 See Center for Civilians in Conflict, “Caring for Their Own: A Strong Afghan Response to Civilian Harm,” P. 26.

27 Shamshad TV, “Interview with spokesman of SMMDA”, August 12, 2020 (<https://www.youtube.com/watch?v=5KSQ2v2f81Q>)

28 SMMDA, “Annual Report of Achievement and Improvement of 1398”, June 2020 (https://mmd.gov.af/sites/default/files/2020-06/Graphic%20Report_dari%20____-min_0.pdf)

29 SMMDA, “Annual Report of Achievement and Improvement of 1398”, June 2020.

30 Shamshad TV, “Interview with spokesman of SMMDA”, August 12, 2020 (<https://www.youtube.com/watch?v=5KSQ2v2f81Q>)

Civilian Perspectives on Challenges Accessing Government Victims' Assistance

CIVIC's 2013 research found that the Afghan government victims' assistance programs were impaired by bureaucratic processes, payment delays, inadequate assistance, accessibility obstacles, corruption and bribes, and specific challenges for women to gain access to compensation.³¹ As noted above, the government has taken some steps to improve these programs, however, CIVIC's research in 2020 shows that most of the challenges identified in 2013 persist. In particular, the suspension of the Code 92 program comes at a time when violence has increased and COVID-19 has impacted the country and its economy widely, exacerbating the hardships on civilians suffering from the conflict. The MOPH disclosed that their own internal survey shows an estimated 10 million people are believed to have had the virus, though official tested positive numbers are less than 40,000.³²



A woman in Kandahar shows her son picture who was killed in roadside IED. Source: CIVIC

Length of Time to Process

The application process is cumbersome and, at best, takes three to four months to be completed as it needs five signatures at the provincial level and two from officials in Kabul.³³ However, if any document is missing, it will take another three to four months to request the document and have it sent to Kabul for processing. Sometimes the applicants have to come to Kabul to follow up on their applications, though this is not required.³⁴ With the 2020 suspension of the Code 91/92 programs, even if the process resumes now, there will be victims who applied in 2019 who have still not received assistance from the funds. IDLG estimates that around 5,000 applications are backlogged in the system since March 2020 and await approval and payment.³⁵ For example, a woman from Herat province who lost three family members in 2017, including her husband, told CIVIC she did not receive any assistance although she had applied a month after the incident. She has to feed three children and is the only breadwinner in the family. "I am struggling to feed my family, please, please help me," she told CIVIC.³⁶

In other cases, civilians told CIVIC that the application process took over a year and at this writing had not received any assistance.³⁷ CIVIC has seen an application paper from a woman whose son was injured in a suicide attack in Kunduz and was hospitalized for several days. She applied for assistance on September 16, 2019, but to this date has not received any assistance.³⁸ CIVIC also found significant delays in the SMMDA assistance process, including two cases where victims had been waiting since 2017.³⁹

31 See CIVIC, *Caring for their Own*, pp 21-39.

32 BBC Persian, "تسا هدش الـتبیم انورک هب ناتسناغفا رد رغن نویلیم هد: تـشادهب ترازو یبایزرا" (Ministry of Health Survey: Ten million people have been infected to Corona", August 5, 2020 (<https://www.bbc.com/persian/afghanistan-53664364>)

33 These signatures at the provincial level are from the local hospital, Provincial Public Health Department, Provincial National Directorate of Security (NDS) Directorate, Provincial National Police Commander, and office of the governor. In Kabul, the application needs IDLG and CEO/AOP approvals.

34 CIVIC interview with an IDLG official, Kabul, July 17, 2020.

35 CIVIC interview with an IDLG official, Kabul, July 17, 2020.

36 CIVIC interview with a female family member of victims, Herat, July 11, 2020

37 CIVIC interview with a women right activist, Kunduz, 3 December 2019; CIVIC interview with a civilian, Herat, July 9, 2020.

38 CIVIC interview with a civilian, Kunduz, July 1, 2020.

39 CIVIC interview with a civilian, Herat, July 12, 2020; CIVIC interview with a civilian, Kandahar, July 10, 2020.

An IDLG official told CIVIC that the directorate planned to create an online application, but they could not find funds for designing and hosting such a tool.⁴⁰ As recommended in our 2013 report, CIVIC believes a better approach is to unify the process of applying for Code 91/92 and SMMDA funding by creating one application process to cut out unnecessary bureaucracy, speed up the payment process, and avoid unnecessary delays. Additionally, limited internet coverage across the country and a low level of literacy, especially in rural areas, means that online application may not be accessible for many.

CIVIC strongly recommends that the process for distributing funds through Code 91/92 resume at the earliest possible moment, and that the Afghan government fulfil its responsibilities and obligations toward civilian victims of war. CIVIC also suggests creating a victims' assistance budget that is separate from the president's budget codes, and to allocate this fund to the SMMDA budget for both one-time and monthly assistance. This will also increase the transparency of the fund's spending as the president's budget codes allocation is discretionary.

A Code 92 application filed for a killed civilian in Kunduz. Source: CIVIC

Suspension of the Code 92 Fund and Lack of Political Will

The disputed 2019 presidential election has impacted the victims' assistance programs, specifically the Code 92 fund, and has resulted in its suspension since March 2020, when President Ghani dismantled the CEO. Dr. Abdullah, President Ghani's main presidential election rival and head of the CEO, did not accept the decision and continued to process victims' assistance applications. From March to May 2020, the CEO had approved around 2,000 of the victims' assistance payments, but the MOF did not process transferring cash to the provincial level to be paid out to the civilian victims, questioning the CEO's legal authority. On May 17, 2020, President Ghani and Dr. Abdullah signed a new agreement and the CEO was dissolved. In August it was decided that the victims' assistance fund's approval would be handed over back to the AOP.⁴¹

Despite the new agreement, at the time of writing the application process has not yet resumed. Bureaucratic delays in transferring the program to the AOP have stymied the restart of the program. One former official with the CEO said the delays are due to prioritization and "lack of interest" in the victims' assistance program.⁴²

Government officials told CIVIC that another factor for the delay in processing payments is lack of budget. However, although Afghanistan has revenue challenges, an investigative report by Etilaat Ruz Newspaper showed that cash from Code 91, which could be used for victims' assistance, has been spent on official trips and security.⁴³ The main cause for delay in payment is a lack of commitment and political will for victim assistance. A former CEO official told CIVIC that there were cases where the MOF could not transfer the condolence payments for months, and only after parliamentary pressure on MOF were transactions completed.⁴⁴

40 CIVIC interview with an IDLG official, Kabul, July 17, 2020

41 CIVIC interview with an CEO official, Kabul, July 26, 2020.

42 CIVIC interview with an ex-CEO official, Kabul, July 26, 2020

43 Esmatullah Suroush, دوشیزم فرسرم ډنوک چ 91 ډوک هچ ډوب: ډنوی لیم یادت خاډرپ (Payments in millions: how the budget for code 91 spends?), Etilaat Ruz Newspaper, September 13, 2019 (<https://www.etilaatroz.com/84508/where-and-how-is-code-2-budget-used/>)

44 CIVIC interview with an ex-CEO official, Kabul, July 26, 2020.

Document and Reporting Requirement Burden

The current application process for Code 91/92 assistance requires the applicant to secure a signature from the provincial Afghan intelligence agency, the NDS, in order to receive assistance. The NDS signature is required to make sure the applicant is not a member of an AOG. However, civilians that CIVIC interviewed have challenges accessing NDS compounds. One victim said, “unless you have *wasta* (connection) in the NDS, you will not be allowed to enter its compound.”⁴⁵ Another civilian victim told CIVIC that he went to get approval from the NDS but was made to wait for two days. After waiting for two days he was again refused entry to the NDS compound, and out of frustration he tore up his application and gave up applying for the assistance.⁴⁶ The IDLG and CEO officials told CIVIC that the provincial government has the authority to approve the application without the NDS signature, or can seek NDS approval through a phone call;⁴⁷ but applicants are not aware of such a wavier and none of our interviewees who applied for assistance tried this option.

Another important challenge is the lack of systematic tracking of civilian casualties by ANDSF, especially by the ANP and NDS, whose signatures are required for processing victims’ assistance applications. The 2017 Civilian Casualties Policy requires tracking of civilian harm incidents by ANDSF, who are to report incidents to the National Military Command Center (NMCC), the National Police Command Center (NPCC), or the Nasrat Center. These centers report to the Tawheed Center, located at the Office of the National Security Council. However, in practice, civilian casualties are not systematically tracked by ANDSF and the reports of civilian casualties are not systematically shared with the CCMT at Tawheed Center. Therefore, some of victims do not receive acknowledgement of the incidents and are deprived of receiving assistance. For example, a member of the Herat provincial council told CIVIC that she knows incidents are not registered with NDS and ANP and therefore not processed.⁴⁸

The government must enact directives to all ANDSF to mandate reporting of civilian harm during their operations and require ANDSF to submit these reports to the Tawheed Center. It should also cross-check information with the AIHRC to verify the victims’ names, as AIHRC keeps a record of civilian casualty incidents and the names of victims involved.

Vulnerability to Corruption

CIVIC interviewees have flagged different types of corruption that occurred during the process of claiming victims’ assistance. An official from IDLG told CIVIC that corruption includes asking for a percentage of the compensation awarded as a fee for processing the application, faking national ID cards, receiving payment for ghost martyrs (receiving assistance for those who are alive and did not get killed or injured), and requesting payment from applicants for accepting their forms.⁴⁹ A women’s rights activist from Kunduz claimed that she knows a family who lost 30 members and only one child was left. The central government provided the AFG 3,000,000 (around USD 39,200) per family, but the child probably only received AFG 200,000 (USD 2,600) of the assistance. “The rest [around AFG 2,800,000] was stolen by the local officials,” she said.⁵⁰ She claims that monetary assistance ends up in the hands of those who have *wasta* among the local authority. Unless you know someone in these entities, you may receive nothing.⁵¹

45 CIVIC interview with a civilian, Baghlan, interview#1, June 13, 2020.

46 CIVIC interview with a civilian, Baghlan, interview#3, June 13, 2020

47 CIVIC interview with an IDLG official, Kabul, July 17, 2020.

48 CIVIC interview with member of Herat provincial council, Herat, July 9, 2020.

49 CIVIC interview with an IDLG official, Kabul, July 17, 2020

50 CIVIC interview with a women right activist, Kunduz, 3 December 2019.

51 CIVIC interview with a women right activist, Kunduz, 3 December 2019.

In August 2020, the SMMDA spokesperson announced that they had invalidated 18,000 applicants with disability ID cards, as these individuals did not have disabilities, had more than one card, or did not exist at all.⁵²

Furthermore, as processing the application is time-consuming and complex, sometimes victims are asked to pay bribes to get some of the required signatures. A civilian from Baghlan told CIVIC that he was approached by a governmental official for a bribe to get NDS approval, which he denied, and since he could not get NDS's signature by himself, he gave up processing his application.⁵³ Out of the 20 civilians interviewed for this research who applied for either of the programs, seven reported they were asked by local officials for a bribe to provide documentation in support of their applications.

Challenges for Women Applicants

Currently, only 15 percent of those who receive Code 91/92 assistance are female applicants.⁵⁴ Women who apply for assistance face additional obstacles such as social barriers, low levels of literacy, lack of female employees in the provincial offices to support female applicants (which discourages applicants), and bureaucratic hurdles to receive court approval to be considered the heir to their husband or son.

According to UNAMA's 2019 annual report, men made up 58 percent of all civilian casualties and 64 percent of civilian deaths.⁵⁵ In 2020, four out of ten casualties were women and children, with the rest men.⁵⁶ UNAMA does not provide information on the marital status of civilian casualties, but given that most Afghans marry early, it is statistically highly probable that most of these men were married, and therefore left behind widows. According to the Afghan legal system, widows need to have a court verdict to be considered heirs for receiving any assistance. Based on the official procedure enacted by the CEO on February 28, 2016, "only someone who has an official court verdict as heir can apply for the assistance."⁵⁷ However, since it is very difficult for women to secure such an edict as courts ask for marriage registration documents, which are rarely issued in rural areas of Afghanistan, and since fathers-in-law and brothers-in-law can also be heirs, usually male members of the family receive the documents. A member of Herat provincial council told CIVIC that she knows of families who tried for two years to get a court verdict, but were unsuccessful.⁵⁸ For injuries, if the victim cannot process the application, she or he needs to appoint a *wakil* (representative) also approved by an official court to process the application.

“Widows don’t have the right to go outdoors. In our community, the women are not accepted as inheritors.”

- Afghan man from Balkh, June 2020

52 Shamshad TV, "Interview with spokesman of SMMDA", August 12, 2020 (<https://www.youtube.com/watch?v=5KSQ2v2f8IQ>)

53 CIVIC interview with a civilian, Baghlan, interview#3, June 13, 2020

54 CIVIC interview with an IDLG official, Kabul, July 17, 2020.

55 UNAMA, "Afghanistan: Protection of Civilians in Armed Conflict 2019", February, 2020 (https://unama.unmissions.org/sites/default/files/afghanistan_protection_of_civilians_annual_report_2019.pdf)

56 UNAMA, Third Quarter Report, p. 6.

57 A copy of "Procedure for victim assistance to civilian martyrs and injured during military operations" that CIVIC has seen.

58 CIVIC interview with member of Herat provincial council, Herat, July 9, 2020.

A male interviewee from Balkh province told CIVIC, “In our village, the woman who loses her husband is called a widow. Our people think the widows don’t have the right to go outdoors. In our community, women are not accepted as inheritors, so they cannot receive any post harm assistance from government and any other organizations.”⁵⁹

A female interviewee from Kandahar told CIVIC that when she learned of how challenging the process is she decided not to apply for assistance.⁶⁰ As a woman from Balkh whose husband was killed in an airstrike told CIVIC, “I did not have the court verdict as heir for my husband, and when I finally got it, the government local officials told me that my brothers-in-law had already claimed and received the assistance, leaving me and my children hopeless.”⁶¹ Lack of awareness of compensation programs among women is an important barrier to applying for assistance. A woman from Herat who had lost her husband, father-in-law, and brother-in-law told CIVIC that she does not know where to apply.⁶² A woman from Kunduz, whose son was severely injured in a suicide attack, had a similar complaint. She told CIVIC that while applying for the assistance, no one at the government office was supportive in providing information on how to apply and what the procedures for processing the application would be.⁶³

Despite these challenges, there are no current policies or outreach teams in the SSMDA or Code 91/92 programs to increase awareness among vulnerable groups, such as the disabled and women, or to assist these groups in processing applications. Afghan officials told CIVIC that policies and application processes are the same for everyone, and there is no policy or legal barrier for Afghan women to apply for victims’ assistance.⁶⁴ But a local official from the Ministry of Women’s Affairs admitted that applying for Code 91/92 assistance is near impossible for Afghan women because the application process is too bureaucratic and time-consuming, and there is a lack of female employees at the provincial level who can assist women applicants.⁶⁵ Given challenges for women, the government should design women-specific awareness programs, hire more women at the provincial level to support applicants, and encourage local officials to cooperate with women applicants to give them a better and more suitable environment.

Fear of Retaliation from AOGs

Twelve percent of civilian interviewees for this research said that victims who do not live in government-controlled areas do not apply for assistance as they fear reprisals from AOGs. The victims said that if they receive any payment from the government, the AOGs would suspect them to be government agents, and that would put their families in danger. A civilian from Nangarhar told CIVIC, “No one dares to apply for the assistance since the whole district is totally under the control of the Taliban, and receiving any assistance would mean we are cooperating with the government and would risk our lives. I do not know any victim’s family who received any assistance from the government as they are perceived as unbelievers.”⁶⁶

Civilians also fear AOGs will suspect them of being government agents if they meet with the NDS for signature of the application. A civilian victim from Baghlan told CIVIC that although he got the application, the process was too complicated and required going to the NDS, which could draw

59 CIVIC interview with a civilian victim, Balkh, June 3, 2020. It worth noting that according to the Afghan laws women can be inheritors though do not have equal share as a male member of a family.

60 CIVIC interview with a civilian, Kandahar, July 27, 2020.

61 CIVIC interview with a civilian victim, Balkh, July 3, 2020.

62 CIVIC interview with a female victim, Herat, July 11, 2020.

63 CIVIC interview with a civilian, Kunduz, July 1, 2020.

64 CIVIC interview with an ex-CEO official, Kabul, July 26, 2020; CIVIC interview with an IDLG official, Kabul, July 17, 2020.

65 CIVIC interview with a local official, Baghlan, July 9, 2020

66 CIVIC interview with a civilian, Nangarhar, Interview #4, December 14, 2020.

scrutiny from the Taliban and cause problems for him and his family, so he gave up applying for the assistance.⁶⁷ The AOP should remove the requirement of an NDS signature from the application as police officers' signatures can ensure the incident type and its related civilian casualties.

US Ex-gratia Payments in Afghanistan

The United States military, as a party to the conflict, has also been making condolence payments to civilians incidentally harmed during its operations in Afghanistan. The US started this practice in 2005 and it was also adopted by NATO as policy in 2010.⁶⁸

The US military condolence payment and battle damage policies are “to express condolence, sympathy, or goodwill and are not for admission of wrongdoing and are not required by the law.”⁶⁹ As the US military's practice of ex-gratia payments is ad hoc, US Senator Patrick Leahy and NGOs, including CIVIC, have advocated for years to have a Department of Defense (DOD) policy that applies to all US military operations. In June 2020, the DOD issued an interim policy regulation for providing ex gratia payments to civilians harmed due to US military operations. The policy provides guidance to the US military on reporting and documentation, standard payment levels, and roles and responsibilities within the Pentagon and geographic combatant commands.⁷⁰ The policy defers the decision to individual commanders and limits payments to “friendly” civilians.

When Resolute Support (RS) receives an allegation of civilian harm, it conducts an initial review within 72 hours “to determine whether it is credible.”⁷¹ A credible allegation is confirmed after this initial investigation shows it is “more likely than not” that civilians were harmed by US strikes. If more evidence is provided to RS at a later time, some allegations can be reexamined.⁷² In 2019, out of 563 allegations, only 74 were considered credible, a decrease compared to 2018 when 223 allegations were considered credible. The decrease of allegations assessed as “credible” has raised concerns about the quality of the process, given that the US military increased kinetic operations significantly in 2019 with 7,243 munitions dropped.⁷³

In 2019, the US military made 605 payments to Afghans for a total amount of USD 1,520,116.⁷⁴ These payments were categorized as 336 battle damage, 204 hero payments, and 65 condolence payments. The condolence payments amounted to more than USD \$314,000.⁷⁵

67 CIVIC interview with a civilian, Baghlan, interview #2, June 13, 2020

68 For CIVIC previous reports on this look at CIVIC, “US Military Claims System for Civilians,” April 30, 2008, (<http://civiliansinconflict.org/resources/pub/us-military-claims-system-for-civilians>); CIVIC, “United States Military Compensation to Civilians in Armed Conflict”, May, 2010 (https://civiliansinconflict.org/wp-content/uploads/2017/09/CENTER_Condolence_White_Paper_2010.pdf); CIVIC, “Ex-gratia Payments in Afghanistan: A Case for Standing Policy for the US Military”, May 11, 2015 (https://civiliansinconflict.org/wp-content/uploads/2017/08/CIVIC_Exgratia_payments_2015_Brief.pdf)

69 Department of Defense, “Report on Ex Gratia Payment in the Event of Property Damage, Personal Injury, or Death that Was Incident to US Military Operations in Foreign Countries During 2019”, May 12, 2020

70 Department of Defense, “Memorandum for secretaries of the Military Departments”, June 22, 2020 (<https://media.defense.gov/2020/Jun/23/2002320314/-1/-1/1/INTERIM-REGULATIONS-FOR-CONDOLENCE-OR-SYMPATHY-PAYMENTS-TO-FRIENDLY-CIVILIANS-FOR-INJURY-OR-LOSS-THAT-IS-INCIDENT-TO-MILITARY-OPERATIONS.PDF>)

71 Susannah George, “As U.S. air war in Afghanistan surged, investigations into civilian harm plunged,” Washington Post, September 4, 2020 (<https://www.washingtonpost.com/world/2020/09/04/afghanistan-civilian-casualties-us-airstrikes/?arc404=true>)

72 Ibid

73 Ibid and Sahr Muhammadally and Marc Garlasco, “Reduction of Civilians Harm in Afghanistan: A Way Forward”, February 25, 2020 (<https://www.justsecurity.org/68810/reduction-of-civilian-harm-in-afghanistan-a-way-forward/>)

74 Department of Defense, “Report on Ex Gratia Payment in the Event of Property Damage, Personal Injury, or Death that Was Incident to US Military Operations in Foreign Countries During 2019”, May 12, 2020 (<https://media.defense.gov/2020/May/12/2002298396/-1/-1/1/REPORT-ON-EX-GRATIA-PAYMENTS-IN-THE-EVENT-OF-PROPERTY-DAMAGE-PERSONAL-INJURY-DEATH-THAT-WAS-INCIDENT-TO-U.S.-MILITARY-OPERATIONS-IN-FOREIGN-COUNTRIES-DURING-2019.PDF>)

75 Susannah George, “As U.S. air war in Afghanistan surged, investigations into civilian harm plunged,” Washington Post, September 4, 2020 (<https://www.washingtonpost.com/world/2020/09/04/afghanistan-civilian-casualties-us-airstrikes/?arc404=true>)

Battle damage is paid for property loss and condolence payments are awarded for civilian harm during an operation that involved the US military. A hero payment is a payment to “the surviving spouse or next of kin of host nation defense or police personnel who were purposely killed by the enemy forces while those personnel were supporting or defending US or coalition forces.”⁷⁶

Unlike the Afghanistan government victims’ assistance, the US military also pays for property damage during their operations, which in 2019 accounted for the majority of the payments (336 out of 605 cases).

In 2019, the US military in Afghanistan stopped making public the number of incidents attributed to its forces.⁷⁷ In response to UNAMA’s annual protection of civilians report, the DOD provides a summary of the incidents it has confirmed from its review. Since 2016, the DOD provides a bi-annual report to the US Congress on confirmed civilian casualties’ cases in all areas of military operations and condolence payments paid out.

CIVIC interviewed four civilians who believe they have been harmed by US operations in recent years. One of these four has received assistance. Abdul Ghiyas was a civilian from Kunduz who was killed, according to BBC, along with 41 other civilians in October 2015 after an airstrike by the US military on a Médecins Sans Frontières (MSF) hospital in Kunduz.⁷⁸ A family member told CIVIC that to receive the condolence payment from the US military, an applicant only needs a medical record of injury, or a death certificate signed by the hospital and a national ID card.⁷⁹ Ghiyas’ family received US \$4,000 from the military at the Kunduz airport. US forces in Afghanistan track incidents attributed to their operations and can thus verify when allegations are made.⁸⁰

On the other hand, three civilian victims of US military operations from Nangarhar and Kunduz who were interviewed by CIVIC did not know how and where to apply for US military assistance.⁸¹ A woman from Kunduz told CIVIC that her husband and their two children were severely injured by a US military airstrike in Kunduz in June 2018. She did not receive any assistance from either the US military or the Afghan government as she did not know how and where to apply.⁸² Civilian victims’ families from Nangarhar told CIVIC that the victim was among those civilians killed by a US military airstrike on September 18, 2019, which was intended for the Islamic State of Khorasan Province (ISKAP) fighters.⁸³

Since 2014, when US forces began to drawdown, there are fewer US bases left at the provincial level, making it difficult for Afghan civilians to file a claim. Therefore, unless the US military approaches victims’ families, there is no established channel that Afghan civilians can access to submit their applications for condolence payments.

Furthermore, during airstrikes it is difficult for civilians to determine if an airstrike is being conducted by the Afghan Air Force (AAF) or the United States military. Therefore, victims cannot be sure if

76 Department of Defense, “Report on Ex Gratia Payment in the Event of Property Damage, Personal Injury, or Death that Was Incident to US Military Operations in Foreign Countries During 2019”, May 12, 2020.

77 Robert Burns, “US Military Stops Releasing Afghanistan War Information”, *The Associated Press*, May 1, 2019 (<https://apnews.com/article/253f6e2504ad4c72aed8a2d0499a673e>)

78 BBC, “US strike on Afghan Kunduz clinic ‘killed 42’, MSF says”, October 12, 2015 (<https://www.bbc.com/news/world-asia-35082350>)

79 CIVIC interview with a civilian, Kunduz, July 1, 2020.

80 This report does not include analysis of US and RS civilian casualty tracking and analysis mechanisms.

81 CIVIC interview with civilian, Nangarhar; July 8, 2020; CIVIC interview with a civilian, Nangarhar, July 10, 2020; CIVIC interview with a civilian, Kunduz, July 2, 2020.

82 CIVIC interview with a civilian, Kunduz, July 2, 2020.

83 Ahmad Sultan and Abdul Qadir Sediqi, “U.S. drone strike kills 30 pine nut farmworkers in Afghanistan,” Reuters, September 19, 2019 (<https://www.reuters.com/article/us-afghanistan-attack-drones-idUSKBN1W40NW>)

they are eligible for US condolence payments. For example, a civilian from Balkh told CIVIC that his uncle's house was hit by an airstrike that killed all his uncle's family, but he was not sure who (the AAF or US military) was responsible. "People say it was a B52 plane, but I am not sure as it was night, and I was asleep," he told CIVIC.⁸⁴ CIVIC requested information on the incident from RS, but by the time of publication, did not receive a response.

The Conflict Mitigation Assistance for Civilians (COMAC) Project

Besides the Afghan government, a USAID-funded program called the Conflict Mitigation Assistance for Civilians (COMAC) provides direct assistance to civilians harmed during the conflict, irrespective of who caused the harm. COMAC is a US \$40 million project running from March 2018 to March 2023 for Afghan civilians and families suffering from injuries or loss due to on-going conflict.⁸⁵ Blumont, an international development organization, implements the COMAC project in all 34 provinces of Afghanistan. According to a COMAC official, 85,000 household members benefit from COMAC immediate and/or tailored assistance. The beneficiaries include approximately 40,500 females and 44,500 males; however, only 8 percent of those who apply are women.⁸⁶ COMAC is a follow up to the USAID 2004 ACAP,⁸⁷ which provided non-monetary assistance to those impacted by US and NATO forces.

The COMAC project has three elements – namely immediate assistance (IA), tailored assistance (TA), and capacity building for the Afghan government to enhance capacity for service delivery for victims. IA is provided in the form of in-kind goods, including essential food and household sanitary items, sufficient to support an affected seven-member family for 60 days. If a family has eight or more members, the IA package is adjusted accordingly.⁸⁸ The IA consists of 13 food and non-food items for the families of victims, while TA is based on skills and requirements of the beneficiary and is provided mainly for the purpose of securing livelihoods and medical and psychosocial assistance.⁸⁹ COMAC does not provide assistance to victims employed by the government and those civilians that have received assistance through other public or

A civilian from Balkh told CIVIC that his uncle's house was hit by an airstrike that killed all his uncle's family, but he was not sure who (the AAF or US military) was responsible.

84 CIVIC interview with a civilian, Balkh, June 3, 2020.

85 USAID, "Conflict Mitigation Assistance for Civilians (COMAC) Overview", March 11, 2019 (<https://www.usaid.gov/news-information/fact-sheets/conflict-mitigation-assistance-civilians-comac>)

86 CIVIC online interview with COMAC Acting Deputy Chief of Party, Kabul, August 15, 2020. For the assistance, COMAC obtains copies of verified victims lists and supporting documents related to each victim such as medical documents for the injured person along with photos of the injury through Ministry of Interior (MOI) and Ministry of Public Health (MOPH). For smaller-scale incidents, COMAC completes a victim vetting form which includes the personal identification information of affected individuals and verifies the information first at the local level (e.g. community elders or heads of CDCs/DDAs and district police departments) and then at the provincial or national level through MOI and SMDA. Alternatively, COMAC accepts written statements (known as beneficiary petitions) from the affected individual with a short description explaining how they or their family member(s), which are signed by relevant local and provincial authorities (Provincial Governor's Office and/or Provincial Police Department; and MMD). This must also be supported with additional evidence of damage caused.

87 CIVIC has made public statements that do endorse or advocate that the US Congress, and other countries, support the Afghan Civilian Assistance Program (ACAP) in past years. See CIVIC, "Losing the People: The cost and consequence of Civilian Suffering in Afghanistan", February 18, 2009, (<https://civiliansinconflict.org/publications/research/losing-people-costs-consequences-civilian-suffering-afghanistan/>)

88 CIVIC online interview with COMAC Acting Deputy Chief of Party, Kabul, August 15, 2020.

89 CIVIC Interview with an COMAC provincial official, Kabul, June 5, 2020.

private programs to avoid duplication. COMAC also provides referral services through its network of hospitals, clinics, rehabilitation centers, psychosocial counselors, vocational training providers, NGOs, international nonprofits, and public service providers. This includes a healthcare referral, which is provided based on an injury assessment and a consultation conducted by COMAC's healthcare team. COMAC also covers transportation and/or accommodation costs to ensure victims gain access to the treatment prescribed by COMAC's healthcare service providers. The livelihood referral comprises of either a service or training that complements the beneficiaries' income generation activities (e.g. animal husbandry training and/or livestock vaccinations; rug-weaving and/or carpentry training; etc.).⁹⁰

Civilians who applied for COMAC were told they only had to obtain two signatures for their applications: the first from the local police commander and a second from a village elder confirming the incident, as well as confirming that the applicant is not a member of any armed group and is not employed by the government. However, as a US-funded project, project staff cannot travel to AOG controlled areas, where the bulk of civilian casualties occur, therefore, they have to rely on other NGOs and network to refer victims to COMAC.⁹¹

Furthermore, civilians from Baghlan and Kunduz province told CIVIC that they applied for COMAC assistance three months after an incident, but were told by COMAC's officials that they only covered victims who applied within the first two months after an incident.⁹² This practice excludes a large number of victims, who cannot travel to the provincial center within two months of an incident due to challenges in crossing from AOG to government controlled areas. Out of 25 civilians CIVIC interviewed, only five had received assistance from COMAC. The rest of the interviewees either did not know about COMAC or were told it is too late to apply for assistance. Furthermore, interviewees told CIVIC that COMAC assistance can take a month to begin, which is a long time for families who have lost their breadwinners.⁹³

The COMAC Deputy Chief of Party acknowledges that the lengthy incident and victim verification process is a challenge, adding that COMAC relies on the participation of local government and provincial authorities (such as the MOI) to verify information reported in beneficiary assistance applications. The COMAC Deputy Chief of Party said, "The process can be lengthy in some provinces, due to a lack of prioritization of petition review. Or, in other cases, due to a lack of cooperation from district-level police or healthcare facilities that have records of civilian losses but do not share the information promptly with COMAC."⁹⁴ There is also an incident eligibility timeframe of up to three months from the date of incident to receive assistance from COMAC.⁹⁵

Overall, COMAC is more accessible to Afghan victims than the Afghan government and US military's condolence payment applications due to their presence in provinces and better outreach programs. COMAC's process is also less time-consuming compared to other programs. However, since COMAC has limited access at the district-level, victims in rural areas have little to no information about the program or find it difficult to travel to provincial centers to apply for assistance.

90 CIVIC online interview with COMAC Acting Deputy Chief of Party, Kabul, August 15, 2020.

91 CIVIC online interview with COMAC Acting Deputy Chief of Party, Kabul, August 15, 2020.

92 CIVIC Interview with a civilian, Baghlan, June 13, 2020; CIVIC interviews with a civilian, Kunduz, June 28, 2020.

93 CIVIC interview with a local official, Baghlan, June 9, 2020.

94 CIVIC online interview with COMAC Acting Deputy Chief of Party, Kabul, August 15, 2020.

95 CIVIC email exchange with COMAC official, Kabul, September 19, 2020.

Conclusion

The conflict in Afghanistan continues to take a devastating toll on civilians. Thousands of Afghans have lost their lives and others have seen their lives irrevocably changed through loss of income, high medical bills, disabilities, and property damage. The Afghan government and its international supporters can do more to increase the effectiveness of various victims' assistance programs so they reach all civilians and provide them with the opportunity to try and rebuild their lives.



Credit: Adam Yates

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T +1 202 558 6958
E comms@civiliansinconflict.org
civiliansinconflict.org