

EXECUTIVE SUMMARY

“WE HOPE, BUT WE ARE HOPELESS”

Civilians’ Perceptions of the Compensation Process in Iraq



RECOGNIZE. PREVENT. PROTECT. AMEND.

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

*COVER Civilians walk on a road between
west Mosul and a camp for internally
displaced persons in Nineveh, Iraq.*

CIVIC/Maranie Rae Staab/June 2017.

ABOUT CENTER FOR CIVILIANS IN CONFLICT

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 civilians affected by the war 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 the adoption of new policies and practices that lead to the improved wellbeing 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.

ACKNOWLEDGEMENTS

This policy brief was written by CIVIC's Iraq Researcher Caroline Baudot. Ali Waleed Ahmed and Hana Qader provided research assistance in Anbar and Nineveh. Sahr Muhammedally, CIVIC MENA Director, edited the report. The report was also reviewed by Ali al-Assaf, Iraq Country Director, and Shannon N. Green, Senior Director of Programs. Piper Hendricks, Senior Communications Manager, provided additional editing support.

CIVIC is grateful to the civilians and government staff supporting implementation of the compensation law who shared their perspectives and experience in the course of our research, and to the non-governmental organizations who supported the research. The civilians with whom CIVIC spoke have suffered greatly during the armed conflict and years of insecurity. We greatly appreciate their willingness to speak with us. CIVIC takes seriously our responsibility to ensure their words are translated into policies and practices that address their protection concerns. CIVIC's work in Iraq is supported by the German Federal Foreign Office.

EXECUTIVE SUMMARY

In 2009, Iraq adopted Law 20, “*Compensating the Victims of Military Operations, Military Mistakes and Terrorist Actions*” (the compensation law), to compensate for deaths, injuries, and damage affecting work, study, or property.¹ The law, amended in 2015, applies retroactively from March 20, 2003 through the present day and covers harm caused by the Islamic State or Daesh (also referred to as ISIS) or during military operations against ISIS.²

The compensation law recognizes that civilians in Iraq suffered immensely under ISIS rule, who took control of one-third of Iraq including Tikrit, Fallujah, Ramadi, Mosul, and Sinjar. Between January 2014 and November 2015, 3.2 million people were forced to flee their homes.³ Thousands of civilians were killed and injured by ISIS as the group advanced to control territory and while it held territory. Military operations to retake territory held by ISIS—led by Iraqi Security Forces (ISF),⁴ the Hashad al Shabi, the Peshmerga, and the US-led anti-ISIS coalition—further resulted in thousands of civilian deaths and injuries, more than a million displaced civilians, and widespread damage and destruction of homes and cities.⁵

The psychological and emotional losses suffered by civilians are immeasurable. The losses also carry a financial burden, pushing many Iraqis already facing financial challenges towards even more desperate circumstances. For the poorest, losing a breadwinner, suffering an injury, or experiencing property damage causes significant financial hardship.

While no amount of money can ever bring back a loved one, Iraq’s compensation law is a crucial opportunity for the Government of Iraq (GOI) to recognize the suffering of civilians affected by ISIS and military operations and help civilians rebuild their lives. Fair and effective implementation of this law may also contribute to

improving civilians’ perceptions of the government’s willingness and capacity to support them and, in turn, make them less susceptible to attempts to sow unrest by exploiting unaddressed grievances.

This policy brief provides an overview of the compensation law, the structures in place to implement it, and the application process to file claims under it. The policy brief also presents civilians’ perspectives on the compensation law’s implementation and proposes practical recommendations to reform the compensation process and make it accessible, fair, and effective.

Since 2016, Iraqi authorities have re-opened compensation offices and subcommittees in governorates retaken from ISIS. While applications to address harm caused since 2014 are being processed and forwarded to Baghdad authorities for approval and payment, civilians face immense challenges in navigating the complexity and bureaucracy of the program. In our research, civilians highlighted the following five concerns with greatest urgency:

- **The compensation process is plagued by nepotism and corruption and does not guarantee equal access to all applicants.** Those with *wasta* (connections) and those who pay bribes benefit from reduced delays, less onerous evidentiary requirements, and/or faster and bigger compensation payments.⁶ As a result, many civilians have lost faith in the process and do not trust the government to process their claims.

“If you want to apply, you need wasta. I don’t have wasta, I don’t believe anyone and I don’t trust anyone.”—Civilian in Mosul, September 2018.

“We see on a daily basis that some individuals who have connections with government staff from the same tribe benefit from a facilitated process. In addition, some provincial council members

1 Law “Compensating the Victims of Military Operations, Military Mistakes and Terrorist Operations/Actions,” Law 20, adopted in 2009.

2 Law 57, adopted in 2015, amended Law 20.

3 “2016 Humanitarian Response Plan: Iraq,” UN OCHA, December 2015, https://reliefweb.int/sites/reliefweb.int/files/resources/final_iraq_2016_hrp.pdf.

4 Iraqi Security Forces (ISF), as used in this report, includes the Iraqi Army, the Iraqi Army Aviation, the Iraqi Air Force, Counter Terrorism Service (CTS), Federal Police, Emergency Response Division (ERD), and the local police including the Special Weapons and Tactics (SWAT) units involved in the fighting.

5 The Iraqi government estimated the total damage to the housing sector in the seven governorates affected by the conflict at IQD 18.7 trillion (USD 16.1 billion), with an approximate 138,051 residential buildings impacted. See “Part 2: Damage and Needs Assessment of Affected Governorates,” in “Iraq: Reconstruction and Investment,” World Bank Group, January 2018, <http://documents.worldbank.org/curated/en/600181520000498420/pdf/123631-REVISED-Iraq-Reconstruction-and-Investment-Part-2-Damage-and-Needs-Assessment-of-Affected-Governorates.pdf>.

6 “*Wasta*” is an Arabic word referring to a personal connection used to gain something and may be loosely translated as “nepotism.”

7 CIVIC interview with a civilian who did not file a claim despite losing relatives, Mosul, September 2018.

had their claims processed faster, even in Baghdad, and have received compensation payments higher than the estimated value, faster than anyone else.”⁸
—Lawyer in Ramadi, September 2018.

- **Onerous evidentiary requirements and cumbersome procedures create delays and exclude people from the process**, particularly those missing civil documentation (e.g., civil status ID, residency card, food ration card, or nationality certificate), or land title, or the death certificate of a missing relative, often due to fighting and displacement. While those requirements are designed to prevent fraudulent compensation claims, they are ineffective at combating corruption and instead prevent many families from applying for compensation and deprive them of much-needed support as a result.

“I lost five sons during military operations against ISIS. I submitted a claim, and I go twice a week to check if I will be paid, but I haven’t had any answer so far. I am a poor man, I am sick. I had to borrow money to file the claim and to live, and I depend on this payment to help me and my family.”⁹
—Civilian in Fallujah, September 2018.

“We need the process to change. I am not responsible for my house being destroyed, and the military left the people to face all those scary things. Why is the government making it difficult when it should make it easy for its citizens?”¹⁰ —Civilian in Ramadi, September 2018.

- **The requirement for an additional security clearance delays an already burdensome process.** Many civilians have already undergone security checks in order to return to their homes after fighting stopped or to renew their civil documentation. Applying for compensation requires an additional security clearance document signed by intelligence services to confirm the applicant is not listed in the database of ISIS suspects. This additional

document creates further delays for civilians looking for assistance to rebuild their war-torn lives. Furthermore, civilians who are related to someone listed in the database of ISIS suspects are summarily denied security clearance and thus ineligible for compensation. Under the compensation law, only people with judicial decisions against them under the counterterrorism law number 3 of 2005 should be excluded.¹¹

- **The costs involved and the frequent travel across governorates in gathering the documents necessary to submit a claim are deterring people from applying for compensation, particularly women.** In addition to the financial cost, frequent travel across governorates to collect all paperwork and to follow up on claims may put people at risk.

“My house was destroyed in 2016 during the conflict and my husband died several years ago. I work as a housemaid to support my daughters on my own. I know about the compensation law, but I do not have enough money to pay to file the claim. Paying a lawyer is expensive and I cannot afford it.”¹²—Civilian in Fallujah, September 2018.

- **The GOI has not made publicly available any information regarding the amount allocated in the 2017 and 2018 budgets for compensation payments, nor has it shared the total amount actually transferred and disbursed to applicants in 2017 and 2018.**¹³ Only a handful of people in Anbar whose homes were destroyed or damaged since 2014 have received small payments while, as of September 2018, no one in Nineveh has received any payment.¹⁴ No claims have been paid out for deaths or injuries since 2014 in any of the retaken governorates. Civilians interviewed by CIVIC who have applied for compensation resent not having received any payment or a payment much smaller than what they expected.

8 CIVIC interview with lawyer, Ramadi, September 2018.

9 CIVIC interview with a civilian, Fallujah, September 2018.

10 CIVIC interview with a civilian, Ramadi, September 2018.

11 Article 17, Law 20.

12 CIVIC interview with a civilian, Fallujah, September 2018.

13 None of the respondents – including representatives of the central committee and Martyr’s Foundation – provided CIVIC with information about the amounts allocated or paid and CIVIC was unable to find such amounts on official GOI websites or in a copy of the 2017 GOI budget. The most recent media report found on these figures was issued in 2013. According to this report, the government had paid 370 billion Iraqi dinars for compensation under law 20/57 as of January 2013. Al-Monitor. April 17, 2013. “Iraq pays \$300 million to Terror Victims,” <http://www.almonitor.com/pulse/originals/2013/04/iraq-terrorism-compensation-victims.html#ixzz4GkGpb2ri>.

14 CIVIC interview with Martyr’s Foundation representative, Baghdad, October 2018.



*A damaged house in west Mosul following the fighting between the ISF and ISIS.
CIVIC/Sahr Muhammedally/June 2017.*

“We are a rich country and all of this ruin is due to the government, so they should pay us.”¹⁵ —Civilian in Ramadi, September 2018.

“The government is not serious about compensation.”¹⁶ —Civilian in Fallujah, September 2018.

The compensation process is at a crossroads. Many people still hope and expect the government to provide for its citizens. Others are already concerned that the compensation process’ exclusion of the most vulnerable to the benefit of the most powerful will fuel feelings of resentment and disenfranchisement that can be exploited by remnants of ISIS and/or similar groups looking to manipulate grievances against the state. A civilian woman in Mosul summarized those

concerns eloquently, saying, “Compensation, what compensation? You see around us. Who will pay to rebuild this? No one. We cannot expect anything from our government. And you know who will benefit if we live like this? We will have another Daesh. They will come and find poor people who have nothing left. It will continue. I am happy Daesh is gone. They only cared about themselves. But where is the Iraqi government?”¹⁷

The government risks losing the opportunity afforded by the compensation law to rebuild the social contract with its citizens who have lost so much, and to promote socio-economic recovery, social cohesion, and sustainable returns. The reforms outlined herein are urgently needed for the GOI to seize that opportunity and ensure a more accessible, fair, and effective compensation process.

15 CIVIC interview with a civilian, Ramadi, September 2018.

16 CIVIC interview with a civilian, Fallujah, September 2018.

17 CIVIC interview with a civilian, Mosul, July 2018.

METHODOLOGY

This policy brief presents Iraqi civilians' perspectives on the implementation of Iraq's law on "*Compensating the Victims of Military Operations, Military Mistakes and Terrorist Actions*." While the compensation law covers several types of harm that civilians have suffered since 2003, this policy brief focuses on compensation applications for civilians killed and houses destroyed or damaged by ISIS or during military operations against ISIS.

The policy brief is based on CIVIC interviews with civilians, lawyers representing applicants in compensation claims, and employees of compensation offices, courts, and subcommittees in several districts of Anbar and Nineveh governorates, as well as with representatives of the central committee and Martyr's Foundation in Baghdad.

The interviews were semi-structured to allow greater flexibility in data collection and were conducted face to face or by phone in Arabic or English at the discretion of the respondent. The interviewers made clear the aims of the research and interviewees gave informed consent. For the security and privacy of all interviewees, CIVIC has withheld names and/or identifying information throughout the brief.

The policy brief is not a survey intended to provide statistically significant results or conclusions; it presents the perspectives of civilians CIVIC interviewed on the compensation process and sets forth practical recommendations on how to improve the process to ensure it is accessible, fair, and effective.

RECOMMENDATIONS

Urgent reforms are needed to ensure a more accessible, fair, and effective compensation process.

To the Government of Iraq:

- Allocate adequate funds in the 2019 budget for approved compensation claims to date and future claims.
- Enhance oversight of payments and ensure accountability for allegations of corruption.

To the Prime Minister's Office and Governors, with support from relevant Ministries:

- Provide adequate resources and appoint additional trained staff to compensation offices and subcommittees.
- Improve civilians' access to the documents required to complete a compensation application and to the compensation process by allowing people to renew their civil documents in their area of residence and of displacement, establishing mobile compensation teams, mobile courts and mobile teams for civil documentation and opening sufficiently-resourced compensation offices in every district in retaken areas as soon as possible.
- Resume paying damage assessment experts for their visits to and reports on damaged and destroyed houses.

To Compensation Subcommittees, Central Committee, and the Martyr's Foundation:

- Review evidentiary requirements that put an excessive burden on applicants and adopt simplified, faster, and consistent processes.
- Publish detailed statistics through the Compensation website and Facebook pages on the number, types, and dates of claims received, processed, accepted, and paid out, per governorate, to increase transparency and build confidence in their efforts.

To the Ministry of Finance:

- Develop guidelines for the work of the Martyr's Foundation, in accordance with Article 18 (Law 20).
- Make publicly available information on:
 - Funds allocated in the 2018 and 2019 budget for approved compensation claims to date and future claims;
 - Compensation payments allocated to date through central committee and Martyr's Foundation decisions, per governorate; and
 - Compensation payments actually disbursed to eligible applicants, per governorate.

To the Ministry of Interior

- Provide uniform guidelines for issuance of security clearance documents. Decisions to approve or refuse issuance should be solely based on individual criminal responsibility determined through judicial proceedings that adhere to international fair trial standards. Unless such responsibility has been established, individuals should enjoy nondiscriminatory access to the compensation process. Blanket denials based on family relations with ISIS should end.

To the Donor Community:

- Engage with and support the GOI to allocate adequate resources for processing compensation payments and encourage the GOI to ensure that funds allocated for compensation are used to meet civilian needs.
- Fund the United Nations' humanitarian appeal for Iraq, including legal assistance programs, and support the GOI's reconstruction efforts.

“We need the process to change. I am not responsible for my house being destroyed... Why is the government making it difficult when it should make it easy for its citizens?”

—Civilian, Fallujah, September 2018



A woman holds up the death certificate of her husband who was killed during operations in west Mosul. CIVIC/Maranie Rae Staab/June 2017.