

“WE HOPE, BUT WE ARE HOPELESS”

Civilians’ Perceptions of the Compensation Process in Iraq



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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.

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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.

INTRODUCTION

Civilians in Iraq suffered immensely under the rule of ISIS who, by late 2014, controlled 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.¹⁸ Thousands of civilians were killed and injured by ISIS and during the Iraqi and anti-ISIS coalition operations to recover territory from ISIS,¹⁹ and more than 130,000 homes were destroyed or damaged.²⁰

The losses suffered by civilians are immeasurable, psychologically traumatic and emotionally painful. They are also pushing many Iraqis into poverty. 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 2009 law on "Compensating the Victims of Military Operations, Military Mistakes and Terrorist Actions" (the compensation law), is a crucial opportunity for the Government of Iraq (GOI) to recognize the suffering of civilians affected by ISIS and/or the military operations against ISIS and to offer monetary payments to 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 deter exploitation of unaddressed grievances and losses to sow unrest in Iraq.

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.

COMPENSATION LAW AND STRUCTURES

Compensation Law

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.²¹ Eligible applicants are the affected persons themselves and their relatives, including parents, spouses, children, and siblings. The law, amended in 2015, applies retroactively from March 20, 2003 to the present day.²²

The compensation law affords assistance to civilians irrespective of who caused the harm (Iraqi armed forces or ISIS), for both international humanitarian law (IHL) violations or incidental harm.²³ The law reflects international humanitarian and human rights law provisions that a state responsible for IHL violations is required to make full reparation for the loss or injury caused.²⁴ Significantly, Iraq is one of the few countries, along with Afghanistan, that has committed the government to assisting victims of terrorism as well as those who suffered incidental harm during

18 "2016 Humanitarian Response Plan: Iraq," UN OCHA, December 2015, https://reliefweb.int/sites/reliefweb.int/files/resources/final_iraq_2016_hrp.pdf.

19 According to the GOI, 1,260 civilians were killed in the fighting in Mosul. As of September 2018, the coalition reported at least 1,114 civilian deaths due to coalition strikes since the start of Operation Inherent Resolve in both Iraq and Syria. Local authorities in Mosul estimated in February 2018 that approximately 10,000 civilians were killed in the military operations in Mosul from both ground fighting and airstrikes. Raya Jalabi, "Battle over bodies rages quietly in Iraq's Mosul long after Islamic State defeat," Reuters, February 5, 2018, <https://uk.reuters.com/article/uk-mideast-crisis-mosul-bodies-insight/battle-over-bodies-rages-quietly-in-iraqs-mosul-long-after-islamic-state-defeat-idUKKBN1FP12H>; Susannah George, "Mosul is a Graveyard: Final IS Battle Kills 9,000," Associated Press, December 21, 2017, <https://apnews.com/bbea7094fb954838a2fdc11278d65460>; CJTF, Operation Inherent Resolve Monthly Civilian Casualty Report, September 2018, <http://www.inherentresolve.mil/News/News-Releases/News-Article-View/Article/1646397/combined-joint-task-force-operation-inherent-resolve-monthly-civilian-casualty/>.

20 The Iraqi government estimated the total damage to the housing sector in the seven governorates affected by the conflict at IQD 18.7 trillion (US\$ 16.1 billion), with an approximate 138,051 residential buildings impacted. Low-income housing experienced the bulk of the damage, indicating that the conflict has severely impacted the low-income population of Iraq, worsening an already fragile situation. 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>.

21 Law "Compensating the Victims of Military Operations, Military Mistakes and Terrorist Operations/Actions," Law 20, adopted in 2009.

22 Law 57, adopted in 2015.

23 CIVIC defines "incidental harm" as harm to civilians within the lawful parameters of armed actors' presence, activities, and operations.

24 Article 91, Additional Protocol I to the Geneva Conventions; Article 2(3), International Covenant on Civil and Political Rights.

military operations.²⁵ Such efforts by warring parties are an essential recognition of the inherent dignity and humanity of all persons—principles enshrined in international human rights and humanitarian law.

The compensation law established a central committee, based in Baghdad, focusing on property damages.²⁶ The 2015 amendment created an office within the Martyr's Foundation, also based in Baghdad, focusing on claims for deaths, missing persons, abductions, and injuries.²⁷ At the governorate level, subcommittees receive and review claims for all types of harm covered by the law and recommend compensation amounts for property claims.²⁸ The governorate subcommittees then forward the applications to the central committee or the Martyr's Foundation for approval and notify applicants of their decision. The law offers applicants an opportunity to appeal the central committee's decisions within a fixed timeframe.²⁹

People injured or relatives of the deceased may receive monetary payments as a one-time grant and a pension of varying amounts depending on their ranks, level of disability/incapacitation, and status (government employee, member of security forces, and others).³⁰ The one-time grant is allocated as follows:

- IQD 5 million (USD 4,200) to the families of deceased and those injured with a 75%-100% disability /incapacitation;

- IQD 3 to 4.5 million (USD 2,500 to 3,800) for those with a 50%-74% disability/ incapacitation; and
- IQD 2.5 million (USD 2100) for those with less than 50% disability.³¹

Relatives of those recognized as martyrs may also receive an apartment or land and privileges such as priority for employment, education, and pilgrimage, as well as exemption from public education and transport fees.³² Compensation for property damage is awarded on a case-by-case basis depending on the assessed value of the item and the extent of the damage incurred.

Under-Resourced Implementation Structures

After 2014, governorate-level compensation subcommittees in ISIS-held areas were closed. While some of them continued to function from Baghdad, the number of claims processed dropped significantly. For instance, the Anbar subcommittee processed 2,913 property claims in 2013 and only 256 claims in 2014; the Nineveh subcommittee processed 5,156 property claims and 3,356 for deceased, injured, and missing in 2013, but only 989 and 660, respectively, in 2014.³³

As the GOI regained control of these areas, and further to the Council of Ministers' decision number 176, whose

25 Since 2003, CIVIC has advocated for post-harm assistance programs intended to recognize and mitigate the harm suffered by civilians as a result of conflict. As part of post-harm assistance, CIVIC champions the concept called "amends," in which a party to a conflict recognizes and provides assistance to civilians harmed within the lawful parameters of their presence, activities, and operations. CIVIC successfully advocated the US military to provide "financial assistance"—or "condolence payments," as the military refers to them—to Iraq war victims incidentally harmed during operations after 2003. We also worked with the US Congress to create the Marla Ruzicka Fund for Iraqi War Victims, named after CIVIC's founder who was killed in a suicide attack in Baghdad in 2005. This fund provided vocational trainings to Iraqi civilians, startup grants to businesses, and educational assistance to civilians incidentally harmed during US military operations. Similarly, the United Nations (UN) Global Counter-Terrorism Strategy, adopted in 2006, provides that states should "consider putting in place, on a voluntary basis, national systems of assistance that would promote the needs of victims of terrorism and their families and facilitate the normalization of their lives." <https://www.un.org/counterterrorism/ctif/en/un-global-counter-terrorism-strategy#poa4>. The "Framework principles for securing the human rights of victims of terrorism," developed by the UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism, urge "all States to recognize an international obligation [...] to provide reparation where death or serious injury results from an act of terrorism committed on their territory. Full and effective reparation should include, as appropriate, restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition." See "Report of the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism (A/HRC/20/14)," June 4, 2012, https://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session20/A-HRC-20-14_en.pdf.

26 The central committee includes representatives from the judiciary, the Ministries of Interior, Finance, and Justice, the Council of Ministers, the Kurdish Regional Government (KRG), and the Commission for Human Rights. It reports to the Council of Ministers.

27 The Martyr's Foundation is an institution established through Law 3 (2005), whose mandate is "[... to remedy] the general situation of the martyrs' families and compensate[] them financially and morally in what is proportional to the scope of sacrifices which the martyrs offered and the suffering of their families after their martyrdom." The Martyr's Foundation reports to the Prime Minister's Office. See the Martyr's Foundation website, <http://www.alshuhadaa.com/en/>.

28 Subcommittees are headed by a judge and include representatives from the Ministries of Defense, Interior, Health, the governorate, the real estate directorate, and the Martyr's Foundation.

29 Article 7, Law 57.

30 Articles 9 and 10, Law 57.

31 Article 8, Law 57.

32 Articles 11 and 12, Law 57.

33 Figures provided by the central committee in September 2018, document on file with author.

date is unknown, subcommittees re-opened in retaken governorates.³⁴ They also opened offices at the district level to facilitate civilians' access to the compensation process. At the time of writing, the Anbar subcommittee is located in Ramadi, with operational offices in Fallujah, Garmah, and Heet.³⁵ The Nineveh subcommittee is located in Mosul, with offices in Bashiqa, Bartella, Hamdanyah, Qayyarah, Sinjar, and Tal Afar. Governors are responsible for supporting subcommittees' and offices' operating costs and for hiring staff.

Compensation offices and subcommittees are currently severely under resourced, leading to significant delays in the compensation process. Offices lack sufficient numbers of trained staff, resulting in incomplete files being sent to subcommittees and delays in the review of applications.³⁶ CIVIC visited an office in Nineveh where people had to wait in a queue outside to request information or submit applications.³⁷ Inside the office, there was no electricity during our 90-minute visit. According to staff, challenges to better serving applicants also include lack of equipment and support. For example, staff have to use their own cars to travel twice weekly to the subcommittee to submit files.³⁸ Both compensation offices and subcommittees lack computers and trainings that would enable them to electronically file and share applications, instead using a slow, paper-based system.³⁹ There is currently only one judge in Anbar reviewing and approving compensation claims, compared to three prior to 2014, and only one subcommittee for Nineveh, where there also were three prior to 2014.⁴⁰

Prior to 2014, compensation authorities took an average of two years to process a claim.⁴¹ Delays have now increased due to the higher number of applications related to ISIS and the reduced staffing capacity in formerly ISIS-held areas to process them. Delays are also due to the changes instituted in



Lacking a computer-based system and filing cabinets, a compensation office within the Nineveh province uses these cardboard boxes to file compensation applications received.

the 2015 amendment, including changes in central committee members, the Martyr's Foundation's new responsibilities, and unresolved debates over its mandate.⁴²

Application Process

These diagrams are simplified representations of the compensation application process. They do not reflect current inconsistencies within and across governorates. Inconsistencies include: differing requirements (e.g., for witnesses' appearances; number of security clearance documents; and signatures required on those documents), roles and responsibilities (e.g., civil defense is involved in the process in Nineveh but not Anbar; mukhtars⁴³ and sheikhs have a more prominent role in Anbar than in Nineveh), subcommittees' approval processes, timelines, and payments delivery methods.

34 "Guidelines on Compensation for Victims of Military Operations, Military Mistakes and Terrorist Actions," central committee [no date provided].

35 Offices may also be operational in Ana, Rutba, Haditha, Rawa and Amrya. The office in Qaem is not operational.

36 CIVIC interview with compensation subcommittees in Anbar and Nineveh, September 2018.

37 To avoid pressure on staff in the compensation office, CIVIC is withholding location of the office in Nineveh.

38 CIVIC interview with staff in compensation office, Nineveh, September 2018.

39 The subcommittee in Anbar only has two computers.

40 CIVIC interview with Anbar compensation subcommittee representative, September 2018. CIVIC interview with Nineveh compensation subcommittee representative, Mosul, September 2018.

41 "Reparations from the Victims of Conflict in Iraq," Ceasefire Centre for Civil Rights and Minority Rights group international, November 2017, <https://minorityrights.org/wp-content/uploads/2017/11/Reparations-in-Iraq-Ceasefire-November-2017.pdf>.

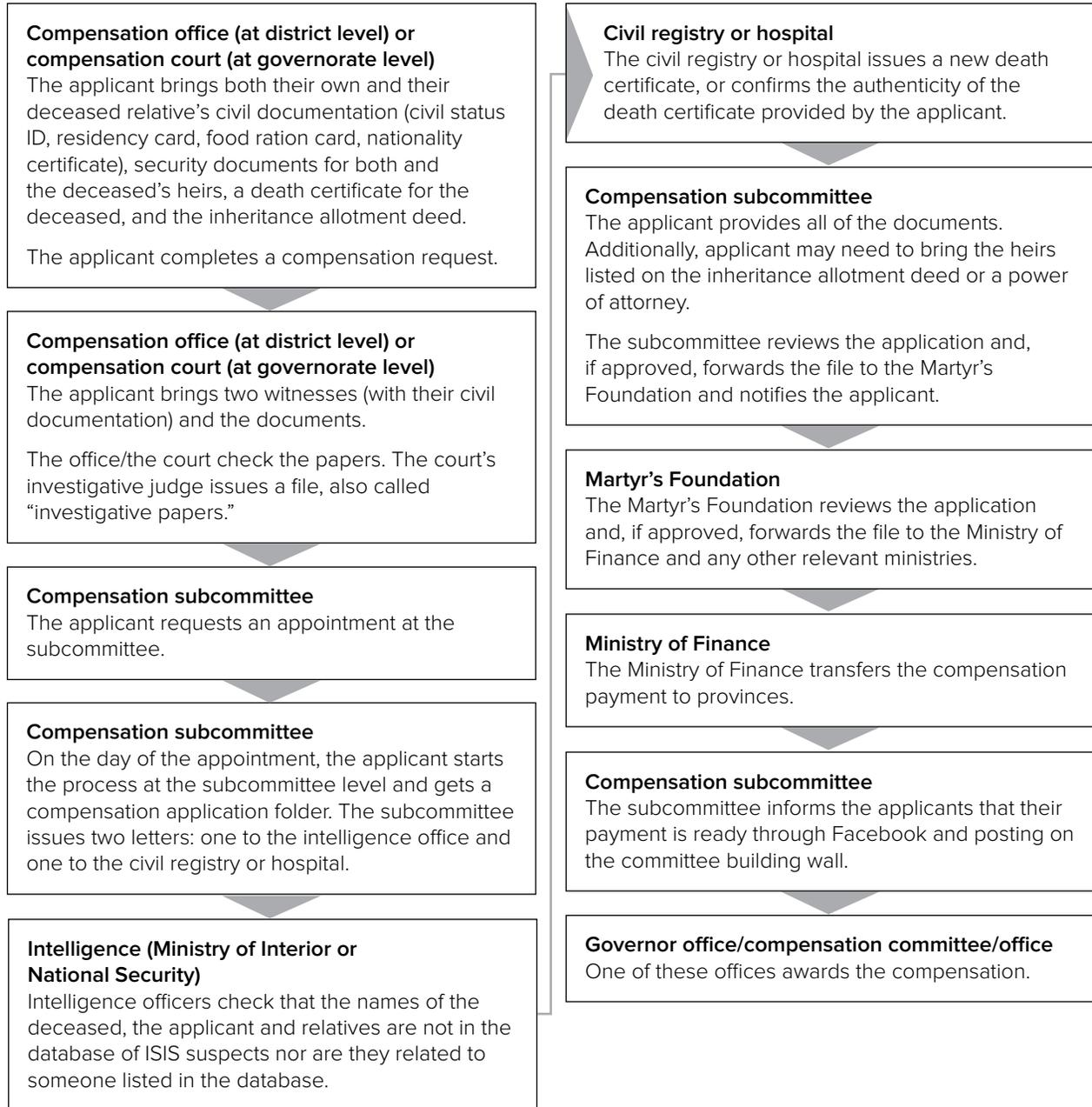
42 "Reparations from the Victims of Conflict in Iraq," Ceasefire Centre for Civil Rights and Minority Rights group international, November 2017, <https://minorityrights.org/wp-content/uploads/2017/11/Reparations-in-Iraq-Ceasefire-November-2017.pdf>.

43 As outlined further below, *mukhtars* are among customary justice actors and act as an official interlocutor between the community, local government administration, and security services.

APPLICATION PROCESS FOR DESTROYED OR DAMAGED HOUSES



APPLICATION PROCESS FOR A DECEASED RELATIVE



CIVILIANS' PERCEPTIONS OF THE COMPENSATION PROCESS

The compensation law is an encouraging sign of the government's desire to assist civilians who have lost so much. However, efforts to effectively acknowledge and provide compensation for civilians' suffering are undermined by flaws in the law's implementation. Most civilians interviewed were either disillusioned with or resented the cumbersome process. They reported that the system is plagued by corruption and that the bureaucratic procedures and onerous evidentiary requirements exclude many people, particularly the most vulnerable. In addition, only a handful of applicants who incurred harm since 2014 have received a payment, often smaller than they expected. Many people explained they decided not to apply for compensation, owing to the time-consuming and costly application process, and their lack of faith that the government will ever allocate funding for approved claims.

Nepotism and Corruption Delegitimize the Process

Civilians, lawyers, and staff working in compensation offices, subcommittees, courts and the central committee shared with CIVIC their frustration with the preferential treatment received by some individuals filing for compensation and the corruption that is prevalent in the system.

Some individuals have "*wasta*" due to their powerful position, their connections with staff involved in the compensation process, or their tribal affiliation.⁴⁴ Those with *wasta* and those who pay bribes benefit from reduced delays, less onerous evidentiary requirements, and/or faster and bigger payments. A lawyer in Anbar explained, "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 had their claims processed faster, even in Baghdad, and have received compensation payments higher than the estimated value, faster than anyone else."⁴⁵

A judge working on compensation claims admitted, "It is well known that the compensation offices and subcommittees and the central committee take bribes to go faster. If a rich and a poor person come, the rich person will receive compensation before the poor person, whose file will be delayed. The tribe will use money or *wasta* to speed up the process."⁴⁶

*"Of course, if you have wasta, the compensation process will be quicker."*⁴⁷
—Compensation court representative in Mosul, September 2018.

Interviewees in both Anbar and Nineveh denounced the influence of local authorities in the compensation process. Local leaders' material support to under-resourced offices and subcommittees can increase their influence.⁴⁸ A staff member in a compensation subcommittee suggested, "There should be a directive to prohibit the entry of provincial council members, military staff, and tribal sheikhs in the compensation subcommittee building because they put pressure on us and they contribute to corruption."⁴⁹

Respondents in Anbar and Nineveh said corruption takes place at multiple stages of the compensation process (e.g., to obtain a security clearance faster or to get a higher estimate from damage assessment experts).⁵⁰ Respondents also reported extortion by local officials when applicants collect their payments. A lawyer explained, "When people collect their checks, they may be blackmailed by some employees. If the beneficiary refuses to pay a bribe, the employees may tell them that the check has not yet arrived or will come up with other excuses."⁵¹

As a result, many civilians have lost faith in the compensation process and are not applying. A civilian woman from Mosul explained, "If you want to apply, you need *wasta*. I don't have *wasta*, I don't believe anyone and I don't trust anyone."⁵² A civilian man from Ramadi expressed the resentment felt by many, saying, "Those who paid bribes to the local authorities will get paid first, when all our problems come from them."⁵³

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

45 CIVIC interview with lawyer, Ramadi, September 2018.

46 CIVIC interview with staff in compensation court, September 2018.

47 CIVIC interview with compensation court representative, Mosul, September 2018.

48 For instance, a tribe leader bought air conditioning for the subcommittee in Anbar.

49 CIVIC interview with staff in the compensation subcommittee, September 2018.

50 CIVIC interviews with civilians, lawyers and subcommittee representatives, Anbar and Nineveh, September 2018.

51 CIVIC interview with lawyer, Ramadi, September 2018.

52 CIVIC interview with civilian who did not file a claim despite losing family members, Mosul, September 2018.

53 CIVIC interview with civilian, Ramadi, September 2018.



A checklist posted on the walls of the subcommittee office in Mosul in October 2018 of the documents required by the subcommittee for the Nineveh province to process applications for property damage or destruction.

Translation of image:

DOCUMENTS REQUIRED TO PROCESS APPLICATIONS FOR COMPENSATION FOR PROPERTY DAMAGE OR DESTRUCTION

1. Applicant's petition letter to the compensation committee with a stamp proving the fees have been paid.
2. Authenticated investigation papers based on official request from the compensation committee.
3. Real-estate land/property title.
4. Four civil documentation (civil status ID, nationality ID, residency card, and food ration document).
5. Death certificate and inheritance allotment deed if the house owner is deceased.
6. Photos of the house or the property.
7. Civil Defense investigation document.
8. Detailed sketch of the destroyed or damaged property items with prices for each.
9. Rent contract if the person demanding compensation rented the house (furniture only).
10. Notification to the applicant of the committee's decision or recommendation.
11. Applicant's written pledge that s/he did not receive any amount of money as compensation from any official authorities.
12. Lists of and receipts for damaged items.
13. Security clearance form for the owner of the property and for the co-owner if any.
14. Letter from the applicant explaining why s/he is applying for compensation six months after the property was damaged or destroyed.
15. Notarized waiver from the property co-owner(s) for the applicant.
16. Documents from the damage assessment expert to confirm the location of the property, the scale of destruction/damage and the compensation value.
17. The application manila folder.
18. Rent contract for the property (for shops)
19. Support letter from: the mukhtar of the neighborhood, three members of the town council, a local police officer, confirming that the applicant was renting the property (for shops).



An overturned vehicle lies amongst destruction and rubble in west Mosul.

CIVIC/Sahr Muhammedally/June 2017.

“After all the corruption that we see and hear about, I am not asking for compensation because I am not expecting anything from them.”⁵⁴ —Civilian in Ramadi, September 2018.

“Now, because of the widespread corruption and the lengthy procedure, some families are refusing to file a claim.”⁵⁵ —Lawyer in Ramadi, September 2018.

Corruption in Iraq is a source of instability and an impediment to development and investment, as the GOI and international financial institutions have recognized. Iraq’s legal and institutional framework against corruption, such as the Commission of Integrity, while laudable, faces challenges in practice.⁵⁶

Tackling corruption is essential to ensuring payments reach intended recipients and to attracting

donor funding to the compensation scheme and other programs. Attempts to reduce fraud in the compensation process through the multiple steps and verifications by subcommittees, central committee, and Martyr’s Foundation are failing to safeguard against nepotism and corruption. Additional steps should be taken immediately to ensure equal access for all Iraqis to the process and fair treatment within it. Revised application procedures should explain where civilians experiencing harassment or extortion should lodge complaints.

Cumbersome and Lengthy Procedures Exclude the Most Vulnerable

Promptness and accessibility, including for the most vulnerable individuals, are essential components of an accessible, fair, and effective compensation process. In Iraq, the current application process involves multiple

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

55 CIVIC interview with lawyer, Ramadi, September 2018.

56 Iraq’s National Anti-Corruption Strategy 2010-2014, <http://www.track.unodc.org/LegalLibrary/LegalResources/Iraq/Authorities/National%20Anti-Corruption%20Strategy%202010-2014.pdf> and “Briefing on the Republic of Iraq’s National Security Strategy,” 2016, <http://stabilizationandtransition.org/pdfs/IST-1459338696.pdf>. In September 2018, the World Bank Group and the European Union started a technical assistance program focusing on “enhanced oversight and accountability, and fighting corruption.” See “World Bank and European Union support Iraq’s Public Financial Management Systems and Institutions,” World Bank, Press Release, September 16, 2018, <https://www.worldbank.org/en/news/press-release/2018/09/16/world-bank-and-european-union-support-iraqs-public-financial-management-systems-and-institutions>.

checks of documents' authenticity as well as onerous evidentiary requirements, requiring applicants to obtain numerous official documents from multiple government offices. While the compensation law provides clear timelines and deadlines for various phases of the process, in practice the process is much lengthier.⁵⁷

All applicants, as well as their relatives and their witnesses, depending on the type of claim, must provide their civil documents in order to file. However, many families who lived in ISIS-held areas could not obtain GOI-issued documents or lost paperwork during the fighting. ISIS regularly confiscated civil documents and issued their own, which the Iraqi authorities do not recognize. In addition, Iraqi security forces sometimes confiscated families' documents when they fled fighting or arrived in camps for internally displaced persons (IDP camps). The process to obtain new civil documents is lengthy and cumbersome, owing to a largely paper-based system, delays in re-establishing government facilities in previously ISIS-held areas for issuance and replacement of civil documents, and requirements that people apply in their area of origin rather than where they are currently living as displaced persons. People who do not have their civil documents, often the poorest or those still displaced, or who rely on relatives or witnesses who do not have their papers, are unable to apply for compensation.

People wishing to apply for compensation for house damage or destruction must also submit a land or property title. Some people may not have such documents, in part due to the high degree of informal property rights in the areas that ISIS later controlled.⁵⁸ The absence of property title particularly affects women, minorities, and poor people. Others have built their homes without legal permission or had homes on unregistered land. People who have lost their titles or need to renew for any other reason may be unable to do so because property records have been altered, damaged, or destroyed by ISIS. Women are at a particular disadvantage as land and properties are usually registered in men's names.

Land and property titles are subject to intense scrutiny by compensation authorities, who are concerned that families may file multiple compensation claims with the same title and that actions by ISIS may result in fraudulent claims; ISIS usurped properties in areas under their control, changed many property records and burnt others.⁵⁹ In order to prevent the loss of ownership of these properties, the Iraq Ministry of Justice locked the land registry and declared all new transfers of ownership and registration of real estate in areas under ISIS control as void. Civilians now have to acquire new property deeds.⁶⁰

Compensation subcommittees in different governorates have different rules regarding property titles. For example, in Nineveh, existing titles must be replaced with a new title dated in 2018, while in Anbar, the subcommittee may require an investigation of the existing title. It takes two to three months to obtain a new or updated title.⁶¹

"We need a new land title to apply for compensation. We know we will have to go to Mosul and it will take weeks. The registry office is crowded, it is very slow. People have to go twice a week to follow up on their application."⁶² —Civilian in Bashiqa, September 2018.

Prior to 2014, efforts were made to simplify the procedure and documentation for property claims by relying on testimonies from customary justice actors.⁶³ In 2018, compensation authorities are not consistently accepting such testimonies, thereby denying people their ability to apply for compensation for damaged or destroyed homes.

People whose relatives were killed by ISIS or during military operations must include a death certificate in their compensation application. If the relative's body cannot be found or identified, the applicant must go to an investigative judge to open a file and to Iraqi

57 Article 6(6), Law 57.

58 For instance, only 10% people in Nineveh had formally registered their residential property with the real estate registry prior to 2014, instead opting for informal alternatives to registering residential property, predominantly making use of informal buyer-seller contracts. See "Housing, Land and Property Issues facing Returnees in Retaken Areas of Iraq," International Organization for Migration, 2016, http://www.globalprotectioncluster.org/_assets/files/field_protection_clusters/Iraq/files/iom-hijra-amina-hlp-return-assessment_final.pdf.

59 CIVIC interviews with lawyers and compensation staff in Anbar and Nineveh, September 2018.

60 See "Housing, Land and Property Issues facing Returnees in Retaken Areas of Iraq," International Organisation for Migration, 2016, http://www.globalprotectioncluster.org/_assets/files/field_protection_clusters/Iraq/files/iom-hijra-amina-hlp-return-assessment_final.pdf.

61 CIVIC interview with central committee representative, September 2018.

62 CIVIC interview with civilian, Bashiqa, September 2018.

63 Customary justice actors include Sheikhs (heads of the tribe or clan), *Mukhtars* (who acts as an official interlocutor between the community, local government administration and security services), *Sunafs* (land specialists) and *Wujaha* (community elders). "Reconstructing Justice in Iraq: Customary Justice and Housing, Land and Property in Anbar and Nineveh," Norwegian Refugee Council, August 2018.

intelligence, who will check if their relative is in the database of ISIS suspects before the file can proceed. Local authorities will then issue letters to Iraqi border authorities to check if the relative has left the country. The applicant may also need to bring witnesses to meet the judge and publish an announcement in a newspaper asking anyone with information to come forward. If no one comes forward within two to four years, the judge will issue a death certificate.⁶⁴

While the death certificate requirement is designed to prevent fraudulent compensation and death claims, it prevents many families from applying for compensation for up to four years, and deprives them of much-needed support, particularly women who lost their husbands who were the primary breadwinner for the family.

This complicated compensation procedure is not only ineffective at preventing fraud through corruption, it also leads to the exclusion of many people, often the most vulnerable, from a source of vital support. Combined with the compensation institutional structures' lack of capacity, it results in significant delays. In Mosul, applicants who have already gone through the court process must wait five to six months for an appointment with the subcommittee in order to continue their application process. At the time of writing, sixteen months since Mosul—a city of 1.5 million inhabitants who suffered thousands of civilian casualties and property damage—was declared fully retaken from ISIS, the subcommittee has finalized and sent for approval only 1,000 property claims to the central committee and 425 claims to the Martyr's Foundation for deaths incurred between 2014 and 2016.⁶⁵

Each applicant for any type of claim must obtain a security clearance from the Ministry of Interior (MOI) or National Security intelligence for their file to move forward. This clearance is in addition to previous security checks they may have undergone to return to their home or to renew their civil documents, and is often required for the applicant's immediate family as well, including children above ten years old.⁶⁶

Compensation authorities explained this requirement is designed to ensure that no relative of a suspected

“My nephew and his family were brought by ISIS to the Old City in Mosul and they were all killed there; the house collapsed on them. We cannot have a death certificate because the Old City is totally destroyed and we can't recognize the house and get their bodies back.”

—*Civilian, Mosul, September 2018*

64 This provision is under Iraq's Personal Status Law, Juvenile Care Law, and Civil Status Law. The Juvenile Care law allows judges to reduce the time the person is required to have been missing to two years in exceptional circumstances, including times of conflict. Application of this provision is inconsistent; compensation judges and lawyers in Anbar, Nineveh, and staff in the Martyr's Foundation reported periods of two and four years.

65 CIVIC interview with compensation subcommittee representative, Mosul, September 2018.

66 This requirement applies to applicants who require a death certificate. CIVIC interview with staff at compensation office, September 2018.

ISIS member receives compensation.⁶⁷ The process takes three to four months, on average, in both Anbar and Nineveh. Lawyers who have provided legal assistance to people whose name or whose relative's name were in the database of ISIS suspects have been threatened by security forces and, as a result, stopped representing their clients.⁶⁸ Anyone related to someone listed in the database of ISIS suspects will not obtain the security clearance.⁶⁹ Excluding families of suspected ISIS members from eligibility for compensation solely because of their familial tie constitutes a form of collective punishment. Notably, the compensation law only excludes people with judicial decisions against them under the counterterrorism law number 3 of 2005, not on the basis of relation to a suspected ISIS member.⁷⁰

People who have suffered and lost so much under ISIS control and during military operations against ISIS urgently need support to rebuild their lives. Delays in the process and inability to apply due to onerous evidentiary requirements have a significant impact on civilians' ability to move forward with their lives. As a civilian in Fallujah told CIVIC, "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."⁷¹

Another civilian in Mosul explained, "We need money now to rebuild our house. We are living in a damaged house and cannot afford to repair it or live anywhere else."⁷²

Civilians expressed resentment towards the government for such a complex procedure. A civilian in Ramadi told CIVIC, "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?"⁷³

Access: Financial and Geographical Impediments

The application process requires people to incur significant costs to gather the paperwork and pay their lawyer, if they hire one. People filing claims for house damage or destruction in Anbar and Nineveh must pay between IQD 50,000 to 250,000 (USD 40 to 200) for the damage assessment expert to come to their house to estimate the damage and value of their property.⁷⁴ Prior to 2014, the government paid these experts but it has since stopped due to the high number of claims. In Ramadi, a lawyer estimated the total cost for an applicant between IQD 350,000 and 1 million (USD 300 to 900) if someone had a lawyer.⁷⁵ Some people have to go into debt; as one civilian stated, "The whole process cost me IQD 420,000 [USD 350], I had to borrow money to pay for this."⁷⁶ Several respondents called for reducing fees in processing paperwork.

*"The expert will have to come to estimate the price of our house and of damages. We will have to pay him and it is very expensive so that's a problem for us."*⁷⁷
—Civilian in Bashiqa, September 2018.

The government's decision to open compensation offices in some districts in order to facilitate applicants' access to the process is a positive demonstration of its intent to restore public services in retaken areas. There are also plans to enable people to collect their payments from these offices rather than governors' offices.⁷⁸ However, offices are not mandated to finalize the entire application, and applicants are required to travel on multiple occasions to governorates' capitals—sometimes along with their witnesses—to access the subcommittees, obtain the multiple documents required, follow up regularly on their applications, and collect their payments. Frequent movements increase

67 CIVIC phone interview with Martyr's Foundation representative, September 2018. According to this representative, the Prime Minister's office instructed the Martyr's Foundation to ensure that any application without a security clearance be sent back to subcommittees. Some officials stated previously that only individuals whose names are in the database of ISIS suspects should be barred from obtaining a security clearance, however in practice, any close relative of someone listed in the database will also be unable to obtain it.

68 CIVIC interviews with two staff members from two NGOs providing legal assistance in Anbar and Nineveh, September 2018.

69 CIVIC interviews with lawyers, compensation staff, and NGOs staff, Erbil, September 2018.

70 Article 17, law 20.

71 CIVIC interview with civilian, Fallujah, September 2018.

72 CIVIC interview with a civilian, Bashiqa, September 2018.

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

74 CIVIC interview with a lawyer, Ramadi, and with a damage assessment expert, Mosul, September 2018.

75 CIVIC interview with a lawyer, Ramadi, September 2018.

76 CIVIC interview with a civilian, Heet, September 2018.

77 CIVIC interview with civilian, Bashiqa, September 2018.

78 CIVIC interview with a compensation subcommittee representative, Anbar, September 2018.

security risks and transport costs for those living far from governorate cities.⁷⁹

The costly procedures and frequent requirements to travel are deterring people from applying for compensation. Women are particularly affected by these obstacles. As a mother in Fallujah told CIVIC, “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, and paying a lawyer is expensive and I cannot afford it.”⁸⁰ For single women, who often bear the burden of care for children or may not feel comfortable travelling far from home for cultural reasons or due to protection risks associated with movement, such regular travel is a deterrent. As a civilian woman in Garmah in Anbar, who lost her house and whose husband is missing, told CIVIC, “Women, wherever they go, will be subject to harassment and exploitation.”⁸¹

“If a woman needs a death certificate for her missing husband who died during ISIS control, she will need to pay IQD 50,000 [USD 40] to publish an advert in the newspaper, and will need a car to go to Mosul to the newspaper office. Few women are able to afford this.”⁸²
–Compensation office staff in Nineveh, September 2018.

Unpaid Claims and Inadequate Assistance

The success of a compensation scheme relies on an accessible, fair, and effective procedure, but also on the allocation of financial resources to make it viable.

Two central committee representatives told CIVIC that the 2017 and 2018 national budgets had no money allocated for the implementation of the compensation law.⁸³ They told CIVIC how much money they recommended to be paid to approve claims, but were

unable to tell CIVIC how much money has actually been transferred and paid to applicants in 2017 and 2018. CIVIC found that only a handful of people in Anbar whose homes had been destroyed or damaged since 2014 have received small payments, while, as of September 2018, no one in Nineveh has received any payment.⁸⁴

“We are a rich country and all of this ruin is due to the government, so they should pay us.”⁸⁵ –Civilian in Ramadi, September 2018.

“Until now, no one has received any money for compensation for losses since 2014. We hope they will be paid in the future but, so far, no one has been paid.”⁸⁶
–Subcommittee representative in Mosul, September 2018.

A Martyr’s Foundation representative told CIVIC that no money has been disbursed by the central government to the Foundation to pay for claims in 2018, nor has any applicant for death or injury incurred since 2014 received a grant payment compensation so far. This is because the Ministry of Finance has not issued the instructions necessary to clarify the payment processes, including whether payments should be sent via the Martyr’s Foundation or directly to provinces.⁸⁷ According to that Foundation representative, some applicants have benefited from pension payments. CIVIC, however, did not find publicly available data on the total amounts disbursed as pensions as a result of compensation claims. Based on CIVIC interviews and research, CIVIC concluded that there is no consolidated, official, publicly-available information from the GOI on the amounts allocated in its 2017 and 2018 budgets for compensation payments, or the total amount actually transferred and disbursed to applicants in 2017 and 2018.⁸⁸ CIVIC could not determine if the absence of such information is due to the lack of databases and organized recordkeeping, to the multiplicity of institutions involved in various forms of payments, or to other factors.

79 Offices and subcommittees only update applicants via Facebook and posters on the building walls, requiring people to come regularly for updates. They also announce publicly the names of people who should come collect their payments, which may expose these individuals to extortion when they collect the money.

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

81 CIVIC interview with civilian, Garmah, September 2018.

82 CIVIC interview with compensation office staff, Nineveh, September 2018.

83 CIVIC interviews with two central committee representative, Baghdad, May 2018 and Erbil, September 2018.

84 CIVIC interviews with compensation subcommittees staff in Anbar and Nineveh, September 2018.

85 CIVIC interview with civilian, Ramadi, September 2018.

86 CIVIC interview with subcommittee representative, Mosul, September 2018.

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

88 According to media reports, the government had paid 370 billion Iraqi dinars for compensation under law 20/57 as of January 2013. There is no updated information since. Al-Monitor. 17th April 2013. “Iraq pays \$300 million to Terror Victims”, <http://www.almonitor.com/pulse/originals/2013/04/iraq-terrorism-compensation-victims.html#ixzz4GkGpb2ri>

Civilians interviewed by CIVIC resent not having received any payment. A mukhtar in Fallujah said, “The government is not serious about compensation.”⁸⁹ Some people have lost all faith in the government’s willingness to provide for them, as expressed by a civilian in Heet who stated, “I haven’t filed a claim because I have no confidence in the government to pay me.”⁹⁰

Some people did not apply for compensation because they do not trust the government and the subcommittee. But I am applying. I almost finalized the application process. We hope, but we are not sure. We hope, but we are hopeless.”⁹¹
–Civilian in Mosul, September 2018.

Not only have very few people received payments for property damage, but the amounts that have or will be paid have been considerably lower than damage assessment experts’ estimate of house and damage value.⁹² Subcommittee and central committee representatives confirmed to CIVIC that the subcommittee judge will consistently recommend that applicants be compensated for 50% of the amount suggested by the expert, a practice, which seems to be based on the Ministry of Finance guidelines on compensation claims.⁹³ In addition, the central committee has been further reducing the amounts suggested by the subcommittee,⁹⁴ due to limited financial resources to pay compensation claims.⁹⁵ A subcommittee judge confirmed that, “The subcommittee will recommend that 50% of the house value be paid, then the central committee will reduce it to 25%.”⁹⁶ Applicants do not understand the

reasons for such modifications and have expressed deep resentment. A civilian from Heet explained how he felt, “My house was estimated at IQD 75 million [USD 63,000], but the committee decided to allocate only 17 million [USD 14,250]. This is totally unfair and unjustified.”⁹⁷ Due to the bureaucratic burden and their immediate need for financial assistance, few civilians seem to use the appeals process even when they are dissatisfied with the committee’s decisions.

“When we learned about the compensation law, we were happy. But when we went through the process, we were shocked by how much we had to spend to file a claim. It cost me 275,000 IQD [USD 230]. Now I am told I will only receive 10% of the value of my house. If that is true, I swear I will not take this money.”⁹⁸ –Civilian in Fallujah, September 2018.

89 CIVIC interview with a Mukhtar, Fallujah, September 2018.

90 CIVIC interview with a civilian whose house was destroyed, Heet, September 2018.

91 CIVIC interview with a civilian, Mosul, September 2018.

92 CIVIC also found that damage assessment experts do not seem to follow consistent guidelines to estimate house and damage value, some basing it on value pre-2014, others on the period during ISIS control or current period. CIVIC interviews with experts in Anbar and Nineveh and with NGO providing legal assistance in Nineveh, September 2018.

93 Article 15, Law 20, provides that the Ministry of Finance shall issue guidelines, based on the central committee recommendations, on how to claim for compensation. The template form for subcommittee recommendations to the central committee in the ‘Compensation guidelines’ reads: “the subcommittee has found that [...] the value of the damage incurred to the estate that requires compensation is ... that makes up 50% of the estimated amount based on article 4(g) of compensation claim guidelines number 1 (2010) [...]”

94 Article 5, Law 57, provides that the central committee may “approve recommendations issued by subcommittees related to compensation of properties, or modify or cancel them after the period of objection set out in article 7 of this law.”

95 CIVIC interview with central committee representative, Erbil, September 2018.

96 CIVIC interview with a compensation subcommittee representative, Anbar, September 2018.

97 CIVIC interview with a civilian who filed a claim, Heet, September 2018.

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

CONCLUSION

The Iraqi compensation law is meant to acknowledge the suffering of civilians and help them rebuild after their loss. However, the opportunity afforded by the law to rebuild the social contract between the GOI and its citizens, who have lost so much, and to contribute positively to socio-economic recovery, social cohesion, and sustainable returns, is at risk of being lost if the program is not improved.

The process is at a crossroads. Many people still hope and expect the government to provide for its citizens. Others believe that they will not receive compensation, as they feel the government wishes to punish them for their perceived support of ISIS or to prevent them from returning to their areas of origin.⁹⁹ Some are already concerned that the compensation process' exclusion of the most vulnerable to the benefit of the most powerful will only fuel feelings of resentment and disenfranchisement and perpetuate the cycle of violence. A civilian woman from Mosul summarized the challenges of the process and its potential impact, "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?"¹⁰⁰

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.
- Institute a public awareness campaign to ensure all civilians are aware of the law and the application process, including eligibility criteria, evidentiary requirements, benefits, and the appeal process. The campaign should target civilians who often have the least access to this information (e.g. displaced persons and women), should be clear about timelines, not give civilians unrealistic expectations, and enable them to make informed decisions.

- Enhance oversight of payments and ensure accountability for allegations of corruption and cronyism by:
 - Requesting the Commission of Integrity or another appropriate government agency to conduct regular audits of the compensation process at the central and governorate levels; and
 - Establishing a safe and accessible complaint and feedback mechanism to enable civilians and compensation staff experiencing or witnessing corruption and cronyism to report these incidents without risk of retribution.

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

- Provide adequate resources to compensation offices and subcommittees. This should include:
 - Appointing additional competent staff in compensation offices and subcommittees;
 - Appointing additional judges to review compensation claims at the governorate and district levels;
 - Providing trainings to staff involved in the compensation process, including on the compensation law, evidentiary requirements, electronic databases, and recordkeeping;
 - Providing logistical support to compensation offices and subcommittees, including computers, filing systems, and fuel for cars; and
 - Ensuring that office and subcommittee buildings have adequate facilities for women and men to wait and request information in a safe and dignified environment.

99 CIVIC interviews with NGO providing legal assistance on compensation, and with a Mosul resident, Erbil, July and September 2018, respectively.

100 CIVIC interview with civilian, Mosul, July 2018.



*Destroyed houses in west Mosul following the fighting between the ISF and ISIS.
CIVIC/Sahr Muhammedally/August 2017.*

- Improve civilians' access to the compensation process by:
 - Establishing immediately and sending mobile compensation teams that include women staff to IDP camps and to towns in districts where compensation offices are not operational in order to provide information and enable eligible individuals to file compensation claims; and
 - Opening sufficiently-resourced compensation offices in every district in retaken areas as soon as possible.
- Alleviate the burden of gathering documents from applicants by appointing experienced staff in subcommittees responsible for coordinating and following up directly with relevant directorates.
- Resume paying damage assessment experts for their visits to and reports on damaged and destroyed houses.
- Facilitate applicants' access to the documents required to complete an application, including by:
 - Allowing people to renew their civil documents in their area of residence and of displacement;
 - Dispatching mobile courts and mobile teams for civil documentation to all districts;
 - Opening sufficiently-resourced offices for relevant authorities and directorates in all districts as soon as possible; and
 - Improving electronic sharing of files between administrative courts and offices through an online data system.

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

- Review evidentiary requirements that put an excessive burden on applicants.
- Adopt simplified, faster, and consistent processes (e.g., moving to electronic communications, allowing provision of official documentation between administrative authorities, reducing the number of verifications required by multiple compensation authorities on documentation authenticity).

- Establish a hotline that applicants can call for updates. In the interim, ensure that subcommittee staff call applicants on a monthly basis to update them on their applications;
- Issue guidelines on assessments of property damage and value to ensure consistency and transparency and ensure they are implemented by damage assessment experts.
- 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.
- Provide information to applicants on the rationale for amounts allocated for damage to property by subcommittees and the central committee and ensure the appeal process is accessible, fair, and effective for those who disagree with the committees' decisions.

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.
- Develop effective, accessible, and safe payments collection methods for eligible applicants.

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.
- Provide technical support to the GOI to ensure a more accessible, fair, and effective compensation process, including through implementing the above recommendations.
- Encourage the GOI to publish detailed statistics on the number, types, and dates of claims received, processed, accepted, and paid out, per governorate.
- Fund the United Nations' humanitarian appeal for Iraq, including legal assistance programs, and support the GOI's reconstruction efforts.

To Civil Society Organizations, including National and International Non-Governmental Organizations:

- Continue efforts to provide information and legal assistance to eligible applicants to file compensation claims.
- Support efforts to monitor the use of compensation funds to ensure they are used to meet needs.



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