FINAL REPORT

Pre-Conference Workshop Campaign for Innocent Victims in Conflict
SHOWCASING STATE PRACTICE AND PROGRAMS FOR RECOGNITION OF CIVILIAN HARM IN AFGHANISTAN
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## Acronyms

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<th>Acronym</th>
<th>Full Form</th>
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<tr>
<td>ACAP</td>
<td>Afghan Civilian Assistance Program</td>
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<td>ADA</td>
<td>Afghan Development Association</td>
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<td>AfS</td>
<td>Afghanis</td>
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<td>AGE</td>
<td>Anti-government element</td>
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<td>ANSF</td>
<td>Afghan National Security Forces</td>
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<td>CAT</td>
<td>Convention against Torture</td>
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<td>CCM</td>
<td>Convention on Cluster Munitions</td>
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<td>CIVIC</td>
<td>Campaign for Innocent Victims in Conflict</td>
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<td>FCA</td>
<td>Foreign Claims Act</td>
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<td>ICCPR</td>
<td>International Covenant on Civil and Political Rights</td>
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<td>IDLG</td>
<td>Independent Directorate of Local Governance</td>
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<td>IED</td>
<td>Improvised explosive device</td>
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<td>IHL</td>
<td>International Humanitarian Law</td>
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<td>IHR</td>
<td>International Human Rights Law</td>
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<td>IMF</td>
<td>International Military Forces</td>
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<td>ISAF</td>
<td>International Security Assistance Force</td>
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<td>I-SAPS</td>
<td>Institute of Social and Policy Sciences</td>
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<td>MoD</td>
<td>Ministry of Defence (here, Afghan Ministry of Defence unless otherwise noted)</td>
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<td>MoI</td>
<td>Ministry of the Interior</td>
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<td>MoLSAMD</td>
<td>Ministry of Labor, Social Affairs, Martyrs and the Disabled</td>
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<td>OAA</td>
<td>Office of Administrative Affairs of the President</td>
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<td>OSA</td>
<td>Open Society Afghanistan</td>
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<td>OSF</td>
<td>Open Society Foundation</td>
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<td>POERF</td>
<td>Post-Operations Emergency Relief Fund</td>
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<td>UDHR</td>
<td>Universal Declaration of Human Rights</td>
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<td>UK</td>
<td>United Kingdom</td>
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<td>UN</td>
<td>United Nations</td>
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<td>UNAMA</td>
<td>United Nations Assistance Mission in Afghanistan</td>
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<td>US</td>
<td>United States</td>
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<td>USAID</td>
<td>United States Agency for International Development</td>
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Summary of the project

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<th>PROJECT NUMBER</th>
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<tr>
<td>PROJECT NAME</td>
<td>Showcasing state practice and programs for recognition of civilian harm in Afghanistan</td>
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<tr>
<td>IMPLEMENTING PARTNER</td>
<td>Afghan Development Association (ADA)</td>
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<td>Kabul-Afghanistan</td>
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Background:

This is the final report of “Show casing state practice and program for victim of armed conflict and violence” project, which has been implemented by ADA in Kabul (Pre-Istanbul Conference) and funded by OSF. It’s good to mention that the part of the project which was belonging to Istanbul conference was implemented by CIVIC.

The region encompassing Afghanistan and Pakistan has for many years experienced armed conflict and violence. From internal armed violence amongst political factions, to international armed conflict, to terrorism and counterinsurgency operations, civilians are consistently caught in the crossfire. Each state has its own experience in addressing the consequences of armed conflict for civilian victims, and many have undertaken efforts to minimize harm, and to recognize, dignify and help civilians suffering losses. While programs have been established by the Governments of both Afghanistan and Pakistan to help civilian victims, there is still work to be done to ensure that all civilian victims of violence are recognized and compensated. As far as we know, these two countries, though geographically and culturally close, have not shared their programs, discussed best practices, doubts, or challenges – a loss for civilians who could benefit from the shared insights of their leaders.

The main purpose of the project was conducting of pre-Istanbul conference in Kabul for mobilization and convincing of relevant government official and civil society representative to be ready for a regional roundtable discussion hosted by CIVIC and backed by the Open Society Foundation in Istanbul, focused on Afghanistan and Pakistan.

ADA was responsibilities to mobilize and convince the influential official and civil society representative for a desk discussion about the current policies of recognizing, dignifying and helping victims of armed conflict in Afghanistan. Also there were the military leaders work on this issue participated and discussed that how they and their troops address civilian harm-from tracking it, to investigating it and ensuring that amends are made.

Introduction

Over recent decades, South Asia has been experiencing armed conflict, violence and terrorism. The people of Afghanistan have been victims of an on-going armed conflict that has lasted more than three decades. Pakistan, specifically in the last five years, has been facing increased incidents of terrorism and conflict. This has caused huge loss of life and property of the civilians. According to the United Nations Assistance Mission in Afghanistan (UNAMA), more than 1,400
civilians were killed in the first six months of 2011 alone. Both countries have their own experiences in addressing these issues. Besides combating the perpetrators of terrorism and conflict, the government of Afghanistan and Pakistan have tried to address the suffering of their civilian populations, and both have their own experiences in addressing these issues. These efforts range from attempts to minimize harm to programs that identify, dignify, and assist those experiencing pain and loss. Despite progress made by the governments of both countries, there is still much to be done to ensure that the suffering of all civilian victims is recognized and alleviated.

The initial review suggests that these countries have not yet shared their respective experiences in responding to the losses suffered by the civilians. Moreover, until now there has been no focused effort at the regional level for sharing of experience and best practices which can help in designing more efficient and responsive mechanisms of redress for civilian victims. Given this context, and given the cultural and geographic closeness of these two countries, a discussion of lessons learned and the sharing of best practices would undoubtedly benefit those harmed. To facilitate an open, honest discussion of these important topics, the Campaign for Innocent Victims in Conflict (CIVIC), in partnership with the Afghan Development Association (ADA) and the Institute of Social and Policy Sciences (I-SAPS) Pakistan is convening a regionally-focused conference at Istanbul, Turkey on 23-24 January, 2012. With the support of the Open Society Foundation (OSF), this conference will bring together high-level ministry officials and key members of civil society from Pakistan and Afghanistan, along with international experts and practitioners, to discuss each state’s current policies of recognizing, dignifying, and assisting victims of violence.

Prior to the regional conference, pre-conference workshops were organized in Islamabad, Pakistan, and Kabul, Afghanistan. The workshops were designed to familiarize the participants with one another and with the key themes of the regional conference. In addition to sharing the objective of the regional conference, the pre-conference workshop provided necessary background information to the delegates. This included key issues and challenges related to compensating civilian victims for their losses, as well as an overview of relevant laws, policies and programs. The workshop also created a forum in which the participants could voice their own goals for the conference. Finally, the pre-conference workshop offered an opportunity to establish a network of key government and ministerial officials and civil society representative for the establishment and creation of future initiatives supporting civilian victims of conflict and violence in Afghanistan.

Goal and Objective of the Project:

**Goal:**

The major goal of this roundtable is; to alleviate civil casualties in the regional areas in Afghanistan through close coordination and a joint effort of Governments, International forces, experts, National and International Organization representatives.

**Objectives:**

a) reach out to Afghans relevant organizations to casualty with fuller information about civilian casualties and its compensation in the conflict

b) provide them with resources and information on what to do when incidents happen and how to compensation it and discuss about identified topics

These are obviously broad goals and directives. The project will try to reach as broad a segment of civil society as possible, but obviously will only be able to reach a limited
number. Nonetheless, beginning proactive discussions on how to solve the problem and involving Afghan communities in solutions has to start somewhere.

**Activities have been done:**

For achievement of the above objective the following activities have been done:

**Preparation:**

For implementation of the project ADA has prepared and developed an action plan to implement the project properly, select the suitable person and convince them to be ready for the conference.

**List of the selected department**

For achievement of the objective the responsible person of the project has listed some relevant ministries and civil societies to be part of the conference As: Ministry of Defence, Ministry of Interior, and Ministry of labour, Social Affairs, Martyr and Disable, Ministry of Education, Parliamentarian, Governors, UNAMA, Afghan Human Right Commission and ACBAR. The list has been shared with OSI and CIVIC through e-mail, also a joint meeting has been conducted between ADA, CIVIC and OSI representative to finalise the list. All of three agreed on the list that without ACBAR which replaced by The Office of Administration Affairs of the President (OAA). The participant agreed that the total 12-14 representative should be invited from:

1- MOD One representative
2- MOE One representative
3- MOSAMD One representative
4- MOI One representative
5- IDLG Two Provincial Governor
6- OAA One representative
7- Parliaments Two-Three representative
8- Afghan Human Right Commission One representative
9- UNAMA One representative
10- Two representative from ADA

Also during the meeting all the participants agreed that a joint invitation letter will be prepared and sent to the mentioned ministries and civil societies.

ADA submitted the invitation letter to all the relevant office and conduct meetings with different ministries and civil society’s official to convince them for selecting of proper persons to attend the Pre and in Istanbul Conference. After some meetings relevant persons selected (the list is attached)
Mobilization of the participant:
When the representatives selected ADA has taken action for mobilization of the participants to be ready for Istanbul Conference, therefore, all of them invited for a pre-conference to ADA office to discuss the objective of the Istanbul conference, select the speakers and to make them ready for Istanbul Conference. The Pre-Conference has conducted on 14th December 2011 in Kabul for discussion and preparation of presentations for Istanbul Conference. During the conference different groups have been prepared to work on presentations in different subjects also Mr. Najibullah Amin (OAA) has selected as a general presenter of the Afghan delegation.

Logistic arrangement:
After conducting the Kabul conference and final list of the participants ADA started arrangement of logistic issue of the trip, the following activities have been done:

1- Permission of presidential office for government representatives through Ministry of Foreign Affairs and OAA.
2- Visa from Turkish embassy: ADA has prepared and collect all the relevant documents which were necessary for visa as; application form, travel ticket, accommodation arrangement in Turkey, invitation letter, copy of passport. The documents has been submitted to the embassy and took visa for those participants who need visa.

ADA has also arranged the travel facilities for the Afghan participants to Kabul International Airport, but due the heavy snow fall the trip has been delayed for one day and all participants have travelled through the next day flight without any additional cost.

Additional Pre-Meeting with Participants
ADA Managing Director also provided technical support in the preparation of presentations and was in close contact with all participants especially with government representatives and parliamentarians. According to the plan ADA has asked all participants on Saturday 21st January 2012 for a three hour meeting in ADA office before the trip to Istanbul to review all the presentations which were developed for the Istanbul conference. The meeting conducted successfully and all the presentations has been reviewed and enriched through discussion and feedbacks of the participants. Also during this meeting all the necessary documents and plan which were needed for the trip to Istanbul has been re-checked.

Result:
The result of the project was very successful, very senior representatives from the government ministries/agencies, parliament and civil society organizations attended Pre Kabul and Istanbul Conference (refer to participants list), the participants has strong presentations and actively participated in the discussions.

Kabul Conference:
It was one full day conference which has been conducted in ADA Kabul office on 14th December 2011. The participants were from government ministries/agencies, parliament and civil society organizations. During the conference the participants express their experience and opinion about the compensation for the civil casualties through the armed conflict in Afghanistan. Very
senior representatives participated in the pre-conference, the participants were from Ministry of Labour, Social Affairs, Martyr and Disabled, Ministry of Education, Ministry of Defence, Ministry of Interior, Two Provincial Governors from Independent Directorate of Local Governance (IDLG), Office of the Administrative Affairs of the President, Parliament, UNAMA, Afghan Human Right Commission and Afghan Development Association.

The main topic covered:

1. **The origin and importance of recognizing and assisting with civilian harm:** The opening session explored the recognition of harm on a broad, global level. The focus question was, "How does recognition of harm relate to international law, or to domestic laws and policies in other countries?" This session included a short overview of essential terms and the history of recognition in conflict.

2. **Principles of supporting recognition of victims in conflict:** This session was divided into two parts, international law on protection of civilians and domestic law requirements for compensation. The session began by laying out elements of international law, namely, international humanitarian law (IHL) and international human rights law (IHRL). This included relevant treaties, court decisions, and UN resolutions. The presentation then covered how various counties have treated compensation for victims of conflict and terrorism through their own programs, laws and courts.

3. **Specific practices in Afghanistan:** This session laid out the existing programs for recognizing harm and providing support to victims of violence in Afghanistan. This included both programs run by international military forces (IMF), international governments and the Afghan government.

4. **Discussion of Roles in Area of Recognition and Compensation:** The participants had an opportunity to share their own experience with and reflections on the various compensation programs in Afghanistan.

5. **Conference on showing state practice and programs for recognition of civilian harm in Afghanistan and Pakistan:** The final session briefed the participants on the background, goals and program of the Istanbul conference. This included an introduction to the panels that will be held in Istanbul and the nomination of participants to make presentations.
Program & Proceedings

Welcome Note

Mr. Rahatullah Naeem, Managing/Country Director, ADA and Ms. Rebecca Agule, CIVIC

Mr. Naeem opened the workshop by welcoming the participants to ADA and stating the importance of the issues at hand.

Ms. Agule also welcomed the participants. She expressed her thanks for their commitment to the needs of civilians and for their attendance. She explained that decades of terrorism have deeply impacted Afghan civilians and that these individuals need support and assistance to move forward with their lives. She gave a short overview of the workshop agenda and of the Istanbul conference, noting that the conference will bring together those working on issues related to civilian harm from both sides of Afghanistan/Pakistan border in the hopes of exploring best practices and sharing lessons learned. She then asked that each participant introduce themselves and their role in the government or civil society.

1. The origin and importance of recognizing and assisting with civilian harm

Ms. Agule’s presentation was a short overview of some of the programs and practices that have been developed to assist civilians who have been harmed by conflict or, more generally, who have had their rights violated. She reminded the participants that most of the policies and practices in existence only apply when there has been a violation of some kind, and that this is distinct from the situations where amends (a concept explained shortly thereafter) are applicable, but that they demonstrate a growing respect for victims. She highlighted the fact that those who are collateral damage of a given conflict or incident fall into a gap where they are not protected by the law and do not have access to compensation.

Ms. Agule then provided the participants with key terminology, noting that there are many ways in which harm may be recognized, depending on how someone was harmed, such as whether it was accidental, whether the victim was specifically targeted or whether the incident involved a terrorist act.

- **Compensation** is a legally required and binding payment in response to a violation. Compensation is not just about conflict or human rights violations.
- **Ex gratia-payments are non-legally binding, “out of kindness” payments.** These payments are distinct from compensation, in that it is not legally binding and do not depend on legal fault. In addition, the amounts given are usually too small and fall short of the amount necessary to compensate victims for their losses.
- **Reparations are traditionally payments** by one state to another for violations of international law.
- **Amends are the recognition** by a warring partying that they have harmed someone if the course of combat and follow from the idea that all civilian victims deserve to have their harm recognized. The purpose of making amends is the process of a warring party assisting and recognizing the harm it inadvertently caused during combat operations. Amends are very much about the relationship between the one causing the harm and the victim. Amends may also take many forms, including apologies, dignifying gestures and in-kind assistance, and should not be limited to monetary compensation. CIVIC, one of the organizations hosting this conference; advocates for amends.
Ms. Agule elaborated on the concept of amends, providing several examples of when they would or would not apply. She explained, if the government gives money to victims of a terror attack when the government itself was not responsible for the attack, this is a good practice but it does not qualify as amends since the party causing the harm did not give the money. She also noted the strategic imperative for the government of Afghanistan and the ANSF to make amends and have related programs in place before the handover occurs, as these programs demonstrate a strong commitment to the protection of civilians and to ensuring their dignity.

A brief history of recognition of harm was then given, starting from World War I and World War II and going through the recent NATO air strikes in Libya. Ms. Agule also noted that recognition has been used as a traditional conflict and dispute resolution mechanism in many countries, including Afghanistan, Uganda, Libya, Sudan, Ethiopia and Somalia.

2. Principles of supporting recognition of victims in conflict

Ms. Agule explained that, while there is no international legal obligation to make amends, there are aspects of IHL and IHR that support this concept. The primary goal of IHL is to limit unnecessary suffering and protect humanity, and it is based on the Hague Conventions (1899, 1907) and Geneva Conventions (1949). Particularly relevant to the workshop discussions are Geneva Convention IV: Relative to the Protection of Civilians in Time of War; Common Article III, which covers non-international armed conflict and is included in each of the main Geneva Conventions, and Additional Protocol II (1977), which extends essential aspects of international humanitarian law to internal conflicts.

The Hague Convention of 1907, all four of the Geneva Conventions, and Additional Protocol I to the Geneva Conventions all include an obligation for state parties to make “full reparation” for harm caused by breaches of the Conventions. However, this refers to “state-to-state” reparations, meaning that individuals harmed are not generally eligible for reparations in the same way under these instruments. However, Ms. Agule explained, some domestic courts, such as those in Japan and Germany, have interpreted IHL obligations as requiring individual compensation. Also increasingly, special tribunals and arbitral mechanisms related to certain incidents and conflicts have specifically carved out mandates for recommending and administering compensation for violations of laws of war, including the Rome Statute of the International Criminal Court and the United Nations Claims Commissions, which arbitrated claims of Kuwaiti citizens against the government of Iraq following the Gulf War. Some peace treaties, such as the Dayton Accords, and weapons conventions, such as the Convention on Cluster Munitions, have also begun to recognize the role of individual compensation. Ms. Agule reminded the participants that these are rights violations-based mechanisms, so the focus for this discussion is how they support the idea of recognizing harm generally, rather than the type of harm caused.

Ms. Agule then moved on to discuss IHR, which developed parallel to and concurrent with IHL. Key elements of IHR include the key founding human rights instruments, namely the UN Charter (1945) and the Universal Declaration of Human Rights (UDHR, 1948), both of which emphasize the dignity of humanity. Additional instruments, such as the International Covenant on Civil and Political Rights (ICCPR), and the Convention Against Torture (CAT), have frequently urged states to pay compensation for violations of the provisions of these human rights treaties. There have been instances in which domestic courts have found an obligation to provide compensation when there has been a violation of IHR or constitutionally protected rights. She used the Ashwani Gupta case of India – where the High Court of Delhi found that the government’s failure to provide a secure environment was a violation of citizen’s right to life, and awarded Ashwani Gupta, a 19-year old who was injured during a 1997 bomb blast in Delhi Rs. 260,000 in compensation. Compensation mechanisms are often part of a government’s response to prolonged or intense conflict, such as in Nepal and Rwanda.
Ms. Agule paused to take questions from the participants.

Mr. Mohebullah Samim asked whether amends cover property damage. Ms. Agule explained that, as amends are based on a victim-centric approach, they take into account what is preferential to the victims. This can include property damage or even community harm. For example, if a drone strikes a home, even if no one is home and no one is hurt, it could still be a situation where amends apply.

Engr. Kamal Safi asked about the forms that amends may take. Chris Rogers reemphasized that amends can take different forms, depending on the needs of the victims and the situation – medical assistance, apology, and livelihood.

Mr. Wasil NoorMuhmand clarified that the Ministry of Labor, Social Affairs, Martyrs and the Disabled, which is responsible for making payments, is making ex gratia payments, not making amends. This accounts, he said, for the legal aspects of the programs and the payment amounts.

Engr. Safi said that the people of Afghanistan have suffered from war for 32 years and emphasized that the conference needs to look at the practical situation in Afghanistan, which is very different from what is on paper. He cited budgetary and strategic frustrations that hinder the main objective of serving the victims.

Mr. Najib Amin asked whether amends apply retroactively. He said that while there is a link between the transition and amends, many civilians were harmed over the past decade. How are they being linked in? Mr. Chris Rogers responded, reminding the participants of the difficulties in looking at retroactive cases, including the practical challenges of examining incidents that occurred over a decade ago. He explained some of the other challenges moving forward, for example, as ISAF draws down, they will be less involved with combat operations, and Afghan forces are more at the front. So the question becomes, what will the Afghan government do, what programs will it put in place. Both process and structure must be considered, Mr. Rogers said, and questions must be asked about who and what interests are involved.

3. Specific Practices in Afghanistan

Ms. Agule

The presentation then moved on to specific practices in Afghanistan. Relevant programs run by the government of Afghanistan include:

- The President’s Fund - provides 100,000 Afghanis (Afs) to families of the deceased and 50,000 Afghanis to those injured in conflict.

- Ministry of Martyrs and the Disabled (MoLSAMD) funds - monthly pension-like support program that has existed since the Taliban period of government. Children of those killed in conflict are eligible for a monthly allowance of 500 Afghanis. The Fund for the Disabled is similar, with payments being made to those injured during the conflict.

- Afghan National Security Forces (ANSF) Recognition Practices – less formal than the other programs of the Afghan government and does not involve monetary compensation. Following a civilian casualty, cultural and community affairs officers attached to ANSF units may offer condolences and apologies at a traditional Jirga, often presenting some form of in-kind offering (often, a goat) as a token of respect.

For the last 10 years, Ms. Agule continued, international forces have occasionally provided compensation for unintended civilian casualties. This has become more a more regular practice over the last few years, with most of the countries contributing forces to the International Security Assistance Force (ISAF) developing some means of providing ex gratia payments to civilians harmed by troop activities and it has become a more regular practice. She explained that, while ISAF has not implemented a comprehensive system of recognition or compensation,
examples of practices by those countries most active in this area may be helpful in understanding the general purpose of these practices. Program examples include:

- The Post-Operations Emergency Relief Fund (POERF, previously known as Post-Operations Humanitarian Relief Fund) is a common fund managed by ISAF headquarters. Created in early 2007 to repair property damage caused by ISAF troop operations, POERF is prohibited from providing individual compensation or other ex gratia-payments, so its mandate is limited to rebuilding damaged infrastructure or to providing emergency relief or other in-kind, non-monetary aid to civilians.

- Australia, Canada, The Netherlands, Norway, and Poland all have systems to provide payments or compensation, usually ex gratia, when their forces cause civilian harm or property damage.

- The United Kingdom (UK) makes ex gratia payments for civilian property damage, injury, and death caused by its forces in Afghanistan, most of whom are based in Helmand Province, with a small number operating out of Kandahar. The UK Ministry of Defense (MOD) offers compensation when it would be considered "legally liable" under UK law for damage or harm caused to civilians, aka for ‘negligent actions’

- The United States (US) has three similar mechanisms for ex gratia payments – solatia, condolence and battle damages. The US also funds the Afghan Civilian Assistance Program (ACAP) through the United States Agency for International Development (USAID). ACAP covers both direct and indirect losses and can provide a range of types of assistance, including developing a local business, supplementing an existing business, providing literacy or vocational training for children or adults in the family, rebuilding or constructing shelter, or medical treatment. Finally, the Foreign Claims Act (FCA) allows foreign citizens to foreign citizens can make a formal claim for compensation for harm resulting from non-combat activities of US troops abroad. However, non-combat activity has a very narrow definition and so it does not often cover escalation of force incidents or other cases of accidental harm to Afghan civilians.

4. Discussion of Roles in Area of Recognition and Compensation

   Ms. Agule and all Participants

Ms. Agule asked each participant to speak to his or her own experience and role in the area of recognition and compensation.

- Mr. Amin, OAA, takes care of almost all coordination of policy levels of all organizations in the government, as well as the Council of Ministers’ weekly meetings, and cross-ministerial issues. He noted that new definitions are being introduced at policy level, for example defining “victims of war”. He explained that the President’s Fund, through which 100,000AFs are paid family members after deaths by ISAF/NATO and by anti-government elements (AGE) and improvised explosive devices (IED). This was originally an informal, ex gratia program, but the President took it seriously, evaluated legal aspects, and established the President’s Fund. Mr. Amin said that the President’s Fund has distributed 659million AFs over 3 years, from 2007-2010, and 266million Af 2011. The OAA has the responsibility to facilitate policy organizations, along with the MoD and the Ministry of the Interior (MoI).

- Mr. Safi, Governor of Kapisa, spoke about the President’s Fund mentioned by Mr. Amin. Mr. Safi said that there have been 10 incidents in last six months; one was in Tagab district where people were coming to visit a hajj pilgrim upon his return which resulted in the deaths of 7 people. The verifications for the President’s Fund are done through the provinces, and then the funds are released. Efforts must also be made for prevention, because full amends cannot ever be made for harm.
Mr. Samim, Governor of Paktika said that in his province, the President’s representatives have first-hand authority to respond to incidents. In the last 18 months there has been only one incident where there has been harm. In this instance, a young boy was killed in cross fire. Money was given to the family by both ISAF and government forces, and the family was appreciative of this money. He provided another example where a roadside bomb resulted in 22 deaths. Compensation was made through the President’s Fund. Mr. Samim noted that there are cases where the Taliban or AGEs pay more than the amount paid by the government, but there are not examples of this in Paktika. Coordination in Paktika has been more about prevention, not compensation, which has lead to the decrease in casualties. Mr. Samim suggested that there needs to be a discussion of the practical aspects of these policies, such as when key documents are destroyed or it cannot be determined who actually owns the property that was damaged.

Mr. Kamal Safi, Parliamentarian, began by thanking his colleagues for organizing program and noting that he is looking forward to having improved policies in place to respond to these issues. He is not satisfied with the current programs and recommends a broader approach, where all related programs could come under one larger program. He hopes that, based on the conversations today and again in Istanbul, they will be able to draft a law that will come to Parliament formalizing and legalizing compensation. Finally, he said monetary compensation is good for quick fixes, but that we still need a long term solution, such as job placement, idea of positive discrimination so that there is priority given to war victims, or a quota of employees that must be war victims.

Ms. Rangina Kargar, Parliamentarian, focused on the differentiation between war victims and victims of day-to-day accidents. She said that there are not specific criteria in place for the money being paid to war victims, so people are getting different, inconsistent amounts. She also highlighted the plight of women, who are the ones who have to suffer. Even when the casualty is a man, the woman must deal with the aftermath and the gender aspect must be taken into account.

Mr. Muhmand, MoLSAMD says that his ministry oversees current compensation programs and is also responsible for employment of the victims. There are now 38 centers across the country, trainings 47,000 people in vocational trainings. One of the main challenges is the lack of laws and procedures in certain areas, especially related to victims of wars and how to identify and compensate them. There is also a lack of coordination, which means different figures from different organizations related to same victims. Mr. Muhmand said other problems include an insufficient or total lack of employment opportunities, medical support and livelihood assistance. For example, 100,000Afs does not even cover the victim’s burial, so how could this assist family for the rest of their life? There needs to be a better assessment of victims’ needs and skills to determine what to provide the family. Mr. Muhmand recommended the establishment of a commission to include all stakeholders—civilian, military, provincial, civil society. This commission would evaluate the programs and amend the current ones or put into place new ones. Centralized statistics would help to conduct victim survey to determine how many victims are there, how many survivors, what harm have they suffered, what are their needs.

Mr. Esmatullah Haidary, ADA, offered the civil society perspective. He explained that in looking at all aspects of civilian harm, one must consider humanitarian assistance, emergency response, reconstruction, rehabilitations, and development. Development is generally the last phase, but with the challenges of humanitarian assistance, there is less focus on reconstructions, and even less in development.

Chris Rogers, OSF, explained that OSF has conducted a fair amount of research into the ISAF programs, and that there are potentially important lessons to be learned from what ISAF and ISAF nations have done. Every nation has own programs, and some even some
have multiple programs, paying different amounts in different places, with amounts further varying for injury and property. These inconsistencies major problems in terms of inconsistent policy, and it also feels unjust to victims that people are being compensated different amounts. The lessons to be learned from ISAF programs include:

- standardization – what is compensated must be treated equally, whether the harm be death, injury or property damage
- equal access – compensation should not depend on an individual’s connections, and vulnerable groups – women, widows, people who have hard time accesses government officials, compensation programs – need to be kept in mind
- identification of issues – need clear simple easily applied standards, clear thresholds of evidence,
- compensation not just about money – also demonstrating respect, recognizing losses, expressing regret – how provide amends can be just as important as substance of amends;
- limited resources – each country must make decisions regarding where they want to allocate money. How do you decide what to do with the limited resources that you have?

- **Mr. Abdul Malik Rahmani**, ADA, provided background on the ADA programs that relate to the prevention of civilian casualties. Currently there are six programs in six provinces bringing together ISAF and locals on prevention. Those same stakeholders recently attended an ADA conference in Kabul. But even if there are programs on prevention, there will always been civilian casualties and this conference will discuss how to handle those.

- **Ms. Wazhma Rahimzay**, OSA, introduced herself and explained that she is in charge of operations and human rights with OSA.

- **Sayed Musa Zafar** explained that he is responsible for child protection and specifically works on the child victims of war. Through his work he has learned that, even after the challenge of identifying victims, there are legal and policy level and assessment challenges. Sometimes a victim will get compensation from five sources, something they will not get anything. There are also discrepancies in amount and type of payments. Public awareness is also an issue, as many people do not know where to go to get assistance. He questioned the 100,000Afs amount that victims receive, asking what this number is based on, what criteria was used to reach it. He compared this to more traditional Afghan systems that would pay much more. Money is also an issue between the victims and the international community. While 100,000Afs is not the amount to actually compensate for the harm, this is what the government pays, so this is what the international community feels it must pay.

- **M.G. Afzal Aman**, MoD, agreed with much of what had been said by other colleagues. If on one side is the victim, on the other side is the cause of the harm. There must be policies for compensate of physical and material harm, as well as apologies. There have been martyrs and war victims for the last three decades, not just the last few years. There is also the challenge of indirect victims, and this makes the picture very broad. Defense forces are not only the cause of civilian harm, but it must be kept in mind the soldiers are also often victims, as they are fighting to defend land from terrorism. Soldiers should not be looked at as being born the give their lives, and it must be considered where soldiers come from – their families are facing problems, property being damaged. That also needs to be part of the compensation plan for soldiers and families. Mr. Aman also cited the problem of inconsistent data, where different organizations have different numbers at different levels. Now that we are in the transition phase, there needs to be more military-civil engagement, including prevention of casualties through better risk assessment; consultations with community elders and district administrators; and pre-assessment of insurgent locations.
There needs to be public awareness and public support of programs so that civilians are not harmed. Now ANSF is taking more of a lead role. For example, almost 40% of night raids are being led by the ANSF.

Assignment and Discussion of Agenda Items for Istanbul

*Mr. Naeem | Ms. Agule*

Ms. Agule explained the various panels to be held in Istanbul and, along with Mr. Naeem, explained the role of those to be speaking on those panels. Ms. Agule emphasized the importance of preparation prior to the Istanbul conference and offered her assistance to all participants, including those preparing panel presentations.

Please see Appendix III for these assignments.

Logistics for Istanbul

*Ms. Agule*

Ms. Agule provided the participants with key logistical information for the Istanbul conference, including visa, flight and hotel information. Participants were kindly asked to follow up with her directly with any questions.

Participants

The following individuals were in attendance:

1. Ms. Rebecca Agule, CIVIC
2. M.G. Afzal Aman, Operations Director, Ministry of Defense (MoD)
3. M.G. Sayed Amanullah Sadat, Deputy Commander of Border Police, Ministry of Interior Affairs (MoIA)
4. Mr. Najibullah Amin, Cabinet Deputy Secretary and Deputy Director General, Office of Administrative Affairs (OAA) of the President
5. Mr. Wasi Noor Muhmand, Deputy Minister of Social Affairs, Ministry of Labor, Martyrs and the Disabled (MoSALMD)
6. Mr. Asif Nang, Deputy Ministr of Technical Vocational Education Training, Ministry of Education (MoE)
7. Mr. Mohebullah Samim, Governor, Paktika Province, Independent Directorate of Local Governance (IDLG)
8. Mr. Mehrabuddin Safi, Governor, Kapisa Province, Independent Directorate of Local Governance (IDLG)
9. Ms. Rangina Kargar, Parliamentarian, Member of National Economy, NGOs, Rural Development, Agriculture and Livestock Committee of National Assembly (Lower House), Afghanistan
10. Engr. Kamal Safi, Parliamentarian, Executive Secretary of Finance, Budget and Banking Committee, National Assembly (Lower House), Afghanistan
11. Mr. Said Musa Zafar, UNAMA, Child Protection
12. Mr. Nader Nadery, Chairman, Free and Fair Election Foundation, Afghanistan (FFEFA)
13. Ms. Wazhma Rahimzay, Open Society Afghanistan (OSA)
14. Mr. Chris Rogers, Program Officer, Open Society Foundation (OSF)
15. Mr. Rahatullah Naeem, Country/Managing Director, ADA
16. Mr. Esmatullah Haidary, Deputy Managing Director, ADA
17. Mr. Abdul Malik Rahmani, Capacity Building Program, ADA