

The Appraisal of the Government Compensation Scheme for Citizens of Azad Jammu & Kashmir Affected by the October 8 Earthquake



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Relief Information System Earthquake – PAKISTAN (RISEPAK)

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TABLE OF CONTENTS

INTRODUCTION.....	1
I. OVERVIEW OF THE COMPENSATION SCHEME.....	2
II. ELIGIBILITY DETERMINATION AND COMPENSATION DISTRIBUTION PROCESSES.....	3
A. Preliminary Surveys.....	3
B. <i>Istehqaq</i> Process.....	4
C. <i>Qabz-ul-Wasool, Taqseem Ruqoom</i> and the Accounting Process.....	8
III. ISSUES WITH THE COMPENSATION PROCESS.....	9
1. Multiple Deaths within a Family.....	9
2. Identity of the Recipients of Death Compensation.....	9
3. Definition of Household for House Compensation.....	11
4. Determination of the Extent of Damage to Houses.....	12
5. Identity of the Recipients of House Compensation.....	12
6. Compensation for Multiple Houses.....	13
7. Compensation for Destroyed Means of Livelihood.....	13
8. Compensation for Injuries.....	14
9. Other Difficulties.....	14
IV. APPRAISAL OF THE COMPENSATION PROCESS AND RECOMMENDATIONS.....	15
ANNEXURE 1. SUMMARY RESULTS OF RISEPAK WINTER SURVEY.....	18

INTRODUCTION

Within weeks after the devastating 8th October 2005 earthquake that struck the northern areas of Pakistan, the Government of Pakistan (GOP) and the Federal Relief Commission (FRC) on the account of impending winter decided that shelter was the number one priority. In addition to the provision of tents and tin sheet for those who had lost their homes, the GOP, under an expedited process, began to provide monetary compensation for deaths, injuries, and house damage. These categories are not mutually exclusive, meaning thereby that a household may receive compensation under one or more categories as listed, depending upon the nature of loss suffered.

The process of compensation began with deaths, the GOP providing one *lakh* (100,000 PKR or \$1,667) per death but only compensating for one death per family. Those who suffered injuries were given one-time payments of 50,000 PKR (\$833) for permanent disability (including amputation or paralysis), 25,000 PKR (\$417) for fractures, minor amputations such as finger/toes, abdominal injuries or injuries requiring hospitalization of more than two weeks, and 15,000 PKR (\$250) for injuries requiring less than two weeks of hospitalization.* The GOP also announced that it will pay total compensation of one lakh seventy-five thousand (175,000 PKR or \$2,917) for houses damaged by the earthquake, with an initial payment of 25,000 PKR or \$417.† The first phase of compensation for deaths, injuries and house damage has been completed as of March 31, 2006, and a substantial portion of the initially earmarked amount of 20 Billion PKR (\$333 Million) has been distributed to the victims of the earthquake in AJ&K and NWFP.‡

This report reviews the eligibility determination and compensation process in AJ&K and offers policy recommendations for the second phase of the scheme, which began on 7th April 2006.

* For actual breakdown, see http://www.earthquakepakistan.com/Compensation_Policy.htm and Appendix A. This website, maintained by the Federal Relief Commission, fails to provide any statistics on the distribution of compensation or the details of the compensation scheme.

† Initially, compensation for destroyed/damaged houses was set as 25,000 PKR. Subsequently it was decided that a total compensation of 175,000 PKR would be paid for all those structures that meet certain structural requirements. See, for example, <http://www.jang.com.pk/thenews/nov2005-daily/22-11-2005/main/main1.htm>.

‡ See, Ibid. The total amount earmarked for compensation was initially set at 20 Billion PKR but was later increased to 80 Billion PKR.

I. Overview of the Compensation Scheme

Compensation is provided under the Azad Jammu and Kashmir Distressed Persons Relief Act, 1985 and the Azad Jammu and Kashmir Distressed Persons Relief Rules, 1982 to those who have suffered a physical or financial loss in any ‘accident, epidemic, rains, or any other calamity.’[§] In the past, compensation has been paid to the dependants of those who have lost lives in road accidents involving public transportation or have suffered property loss in flash floods during rainy seasons or in landslides. Therefore, the district administrations as well as the people in AJ&K are familiar with and understand the rationale, as well as the process, of compensation.

As per the Schedule attached to the Act, the amount of compensation normally payable for loss of life is 20,000 PKR; for grievous hurt/injury as defined in the §320 of the AJ&K Penal Code of 10,000 PKR; and for property damage it ranges from 3,000 – 5,000 PKR as follows:

<i>Pakka</i> (cement structure) house	complete damage	PKR 20,000 (US\$ 330)
<i>Pakka</i> house	partial damage	PKR 10,000 (US\$ 165)
<i>Katcha</i> (mud) house	complete damage	PKR 10,000 (US\$ 165)
<i>Katcha</i> house	partial damage	PKR 5,000 (US\$ 83)
<i>Pakka</i> shop	complete damage	PKR 5,000 (US\$ 83)
<i>Katcha</i> shop	complete damage	PKR 3,000 (US\$ 50)

The above-stated amounts are the maximum allowed for any category of property damage rather than fixed determinations. Accordingly, compensation may not be paid if the person suffering from property damage ‘has got a sound financial

[§] §2(b)(i) of Azad Jammu and Kashmir Distressed Persons Relief Act, 1985.

position’ and if paid can range from 1% to 10% of the total loss suffered, ‘keeping in view the financial position of the distressed person.’**

After the earthquake, the Government of Pakistan decided to provide compensation and as such the Rules were accordingly amended *via* the **Distressed Persons Relief Rules, 2005** and adopted by the AJ&K Board of Revenue on 24 October 2005.

The GOP has never clearly articulated its rationales for starting the compensation process. As clearly laid out in this brief, compensation is historically given in the aftermath of natural disasters and affected people claim it as a matter of legal right. At the time of announcing the compensation scheme, the GOP was struggling to provide the affectees with adequate shelter for the winter on account of the shortage of winterized tents and CGI sheets. The apparent rationale for the determination of compensation scheme was that an infusion of cash would allow those who have suffered to supplement their survival and care through the winter.^{††} Other benefits of the compensation were that it would stimulate the local economies or provide the affectees with the means to move their families out of the affected areas. However, since economic rehabilitation was not a high priority agenda item, compensation for destroyed shops and/or other means of livelihood was not included in the first stage of the plan. Rehabilitation of the economy continues to occupy an unduly low position on the GOP’s lists of priorities and thus far no plans have been unveiled to compensate for the affected means of livelihood.

II. Determination of Eligibility and the Process of Distribution

A. Preliminary Surveys

Prior to announcing the compensation plan, the district administrations in AJ&K conducted a preliminary survey immediately after the earthquake to assess the

** Rule 4(3) and (4) of the Azad Jammu and Kashmir Distressed Persons Relief Rules, 1982.

^{††} For a discussion of the advantages of the compensation scheme see, <http://www.refugeesinternational.org/content/article/detail/7555/?PHPSESSID=5ce00f92779c166324e1d>.

number of casualties and the magnitude of the damage. These surveys were conducted by the revenue officials at the lowest level of administration, i.e. the patwaris. According to the district administration, the patwaris conducted assessments in each revenue village and prepared lists of dead or injured (the latter category was problematic as many of the injured were taken to hospitals) and estimated the extent of house damage, including numbers of *pakka* and *katcha* dwellings rendered uninhabitable by the earthquake.^{**} The accuracy of this initial loss and damage assessment is extremely difficult to assess. Furthermore, these surveys could not be made the basis for awarding compensation since they did not identify individuals who may be compensated and only indicated aggregated deaths and the total number of damaged or destroyed houses in each revenue village.

Similar damage assessments were conducted by the army units in AJ&K.^{§§} The army surveys were also not usable for the compensation scheme since these surveys too did not record details of eligible individuals. Further confusion was caused because the army used different geographical/demographic units, *i.e.* settlements and *mohallas*, as base units for their damage assessments, whereas the district administration survey used revenue villages as base units. Since there may be several different settlements and *mohallas* in any given revenue village and there is no way to map the settlements and *mohallas* on the revenue villages, the results of the district administration's survey are difficult to compare to those of the army surveys.

B. *Istehqaq* Process

Under the Azad Jammu and Kashmir Distressed Persons Relief Rules, 1982, the responsibility of determining whether a claimant is eligible to receive compensation is vested in the district administration officials. A *Tehsildar* or *Naib Tehsildar* 'may visit personally the place of distress to make assessment of the actual loss' and submit a detailed report through the Assistant Commissioner to the Board of Officers constituted to supervise the compensation process, of which Board the

^{**} A RISEPAK team consisting of faculty, staff and students of LUMS visited Bagh and Muzaffarabad between November 3 – 9, 2005 and assisted the district administration with compiling the results of this preliminary damage assessment exercise. Files are available with RISEPAK.

^{§§} Files are available with RISEPAK.

Assistant Commissioner is the Chairperson.^{***} The *Tehsildar* or *Naib Tehsildar* concerned is also required to include in the report information regarding the financial position of the distressed person.

However, given the magnitude of the losses caused by the earthquake and the political sensitivity of the compensation process for the present case, the GOP working in consort with the Government of AJ&K modified the eligibility determination process. Under a Notification issued by the Board of Revenue of AJ&K on 29 October 2005, the Government of AJ&K mandated that a three-member Union Council Relief Committees (UCRC) be formed comprising of a gazetted civil official (ranked at Service Grade 17 or 18) as chairperson, a representative of the Pakistan Armed Forces, and a representative of the local Member of the Legislative Assembly of AJ&K (popularly termed as an MLA).^{†††} Patwaris were deputed with the UCRC to assist with their work. During interviews several UCRC members claimed that their UCRC also consulted local political leaders and village elders irrespective of their political allegiances in order to make the process more transparent.^{‡‡‡}

The UCRCs are claimed to have visited every village and ward (lowest urban census unit used by the district administration for jurisdictional purposes) and made factual determinations concerning eligibility for compensation. With regard to compensation for death, the UCRCs had to determine whether death had in fact occurred and relied on medical evidence or testimonies of the local people to the extent that these were judged to be reliable. In terms of compensation for house damage, according to the district administration the UCRC made determinations based upon their own inspections whether the house was completely destroyed or structurally damaged in such a way that it was rendered uninhabitable and irreparable. However, there is no means of verifying that they visited and inspected every house. According to some complainants, sometimes the UCRC called all the village residents to a place of focus and conducted assessments based on oral evidence. When the UCRC determined that compensation ought to be paid in case of death or destruction of house, they were then required to resolve on the recipient of the compensation.

^{***} Rule 3 of the Azad Jammu and Kashmir Distressed Persons Relief Rules, 1982.

^{†††} AJ&K Board of Revenue Notification # BAR/382-97/2005 issued on October 29, 2005.

^{‡‡‡} Interviews conducted by the LUMS-RISEPAK team in Bagh and Muzaffarabad between November 3 and 9, 2005.

The UCRCs collected detailed information concerning deaths, injuries and property damage. Upon determining the eligibility for compensation for death, injury or house damage, the UCRCs issued certificates of entitlement called ***Tasdeeq Istehqaq Certificates***, or simply ***Istehqaq Certificates***, on the spot to those held entitled to receive compensation.

In the event that the UCRC missed any bereaved family or residents of a damaged/destroyed house for any reason, those left out had the option of petitioning the concerned UCRC or the area Assistant Commissioner. In case of a petition, the UCRC was obliged to review the case and reach a determination. Tehsil/District administrations in Muzaffarabad and Bagh have claimed that the numbers of such petitions are very small as compared to the total number of beneficiaries.^{§§§} However, since the UCRCs or the Tehsil/District administrations have not officially kept record of petitions it is very difficult to substantiate their claims. In the second stage of the process for house compensation the District administrations have instituted a mechanism for formal redress of grievances: petitions by those claiming to have been unduly held ineligible or who were left out in the first phase of house compensation shall be dealt with by committees led by the Assistant Commissioners and Tehsildars.

After conducting the initial eligibility assessment the UCRCs went back to the villages/wards and first distributed compensation for deaths. The UCRCs set up field offices in a central place in the village/ward having previously announced the date of the distribution. Given the extent of public interest in the compensation exercise, it is reasonable to assume that an overwhelming majority of listed recipients were present at the place of distribution on given days. Compensation was paid in the form of cross cheques as required by the **Distressed Persons Relief Rules, 2005**.^{****} Having completed the process of compensation for deaths, the UCRCs went back for distributing compensation for damaged/destroyed houses in the same way as they had done for death compensation. The only difference in the process for distributing compensation for houses was that in many rural areas, especially the more remote

^{§§§} See Annexure 1 (Results of the RISEPAK Winter Survey) Tables 2-A, 2-B and 2-C. Although the survey was conducted between 9th and 21st January, the coverage of the compensation process appears to be quite extensive.

^{****} Rule 3(a) of the Distressed Persons Relief Rules, 2005. See Annexure 1, Table 5-C.

ones, it was decided that the compensation should be paid in cash rather than through cross cheques.^{††††}

As noted earlier in this report, those who suffered injuries were given one-time payments of 50,000 PKR (\$833) for Category I injuries (permanent disability, including amputation or paralysis), 25,000 PKR (\$417) for Category II injuries (fractures, minor amputations such as finger/toes, abdominal injuries or injuries requiring hospitalization of more than two weeks), and 15, 000 PKR (\$250) for Category III injuries (requiring less than two weeks of hospitalization).^{††††} The process of determining eligibility for injury compensation was different from that stated above for deaths and house damage. Eligibility determinations for grievous injuries and disabilities were first done in various medical camps by the patwaris, with the assistance of the medical staff, and the cheques were distributed on the spot. This was done so as to ensure that those suffering from serious injuries and their families had the financial means to bear the costs of treatment and to take care of themselves. At a later stage, it was decided to resend the UCRCs to the villages/wards in their jurisdictions to distribute *Istehqaq Certificates* for injuries of the three different categories. Medical officers were deputed with the UCRCs to recommend upon the seriousness and categorization of injuries. In Muzaffarabad city, the process was modified further and two medical boards were set up in the city to which the injured persons could submit their claims for adjudication.

It has been widely reported that the process of compensation for injuries does not inspire as much confidence as the processes for determining death or house compensation. This is primarily for two reasons. First, not all of the injured had been in the medical camps during the first phase of the distribution of injury compensation. Second, by the time the second phase was initiated, when the compensation was distributed through the UCRCs, most of the injuries falling under Categories II and III

^{††††} In fact, there is a conflict between Clause 3(a) of Distressed Persons Relief Rules, 2005 and the Notification issued on October 29 by the AJ&K Board of Revenue. The latter provides that compensation for all houses shall be paid in cash but the 2005 Rules state that all payments shall be *via* cross cheques. See Annexure 1, Table 5-A.

^{††††} See FN 1 above. Contrast from the 2005 Rules, according to which there are only two categories of injuries for which compensation is payable: 50,000 PKR (\$833) for disabling injuries and 25,000 PKR (\$417) for grievous injuries.

had been healed with the result that the UCRCs had substantial discretion to decide whether there was sufficient proof of the existence and seriousness of the injury.

C. *Qabz-ul-Wasool, Taqseem Ruqoom and the Accounting Process*

When the UCRCs did their survey to establish entitlements, the UCRCs prepared separate registers of those who were issued *Istehqaq Certificates*. These registers are called *Qabz-ul-Wasool*. The register of compensation for death (*Qabz-ul-Wasool*) noted the names of the deceased, the names, and in most cases the NIC #, of the legal heirs off the deceased (one entry per listing), the relationship of the heir to the deceased, the amount distributed and the cheque numbers. The *Qabz-ul-Wasool* for house damage noted the name and the NIC # of the head of the household, the number of individuals previously living under the roof, the details concerning the house (number of rooms, *katcha* or *pakka*, complete or partial damage) and the amount of compensation. The *Qabz-ul-Wasool* for injuries noted the name and the NIC # of the injured, the nature and category of injury, the amount of compensation and the cross cheque number.

At the time that compensation for deaths, houses and injuries was distributed, the recipients were required to sign and thumb-mark opposite the listing of their names in the *Qabz-ul-Wasool*. The members of the UCRCs also counter-signed the entries in the registers. The accounting processes employed to track and record disbursements of funds to the UCRCs was known as the *Taqseem Ruqoom*. The UCRCs were required to submit *Qabz-ul-Wasool* for compensation distributed that would be matched against the funds withdrawn and to reimburse any funds left undistributed. The reimbursements were recorded on separate forms as and when these were made. Thus far it appears that the accounting for compensation paid to the recipients is comprehensive.

In Muzaffarabad tehsil, for example, all funds were maintained in four separate accounts in the Habib Bank branch in Muzaffarabad city controlled by the Assistant Commissioner. Three of these accounts were used to issue cheques for deaths, houses and injury compensations. The fourth account was used to withdraw cash for distribution of house compensation in rural areas. The UCRCs would request

the Assistant Commissioner to hand over cheques and cash for various amounts depending on the anticipated distributions.

III. Issues with the Compensation Process

1. Multiple Deaths within a Family

There are unfortunately many cases in which multiple deaths occurred within a family/household. Although, the UCRCs appear to have recorded all deaths, including multiple deaths within a family, compensation was paid for only one death per family. Various representatives of the GOP and the FRC have made announcements in the early stages of the compensation process to the effect that compensation shall be paid for all deaths. Thus far it appears that such promises shall not be fulfilled. It is imperative that compensation for all deaths should be paid as soon as possible since the historical application of the relevant laws as well as the promises of GOP and FRC representatives have created legitimate expectations on the part of the public that those families that have suffered multiple deaths shall receive additional compensation.

2. Identity of the Recipients of Death Compensation

The Act and the 1982 Rules state that compensation in case of death shall be distributed to the dependents of the deceased. The 2005 Rules, while clearly identifying the recipients in certain cases – to the wife in case of husband’s death and vice versa; in the joint accounts of adult children in case of both parents’ death; to the father, or the mother if the father is not alive, in case of a single person’s death; to the grandparents of orphaned minors, or in case they are not alive, to the real brother of the deceased for ‘the betterment of the minors’^{§§§§} – also state that compensation would be paid to the legal heirs of the deceased.^{*****} It has been reported by several UCRC members as well as complainants that in many cases the 2005 Rules have been interpreted to mean that compensation has to be treated as if it were the inheritance of

^{§§§§} Clause 4 of the Distressed Persons Relief Rules, 2005.

^{*****} Clause 3 of the Distressed Persons Relief Rules, 2005.

the deceased to be distributed in the same ratios as dictated by the Islamic laws of inheritance.^{††††} Therefore, it appears that in some cases the directives of the 2005 Rules were followed while in others the rules of Islamic inheritance, at least in regards to the proximate relatives of the deceased.

This discrepancy in the application of the rules becomes pertinent in at least three categories of cases. The widows of the deceased would be entitled to receive the entire compensation amount under the 2005 Rules whereas under the Islamic laws of inheritance they would be eligible to receive as little as 1/8th of the total compensation. Likewise, upon the death of a single-parent, or both parents, all the surviving children are entitled to equal shares under the 2005 Rules. In contrast, under Islamic law the surviving female children receive half as much as the male children. In case of a single (unmarried) person's death the mother of the deceased, if the father is not alive, should receive the entire compensation amount as per the 2005 Rules. In contrast, under Islamic law a major share of the compensation would go to the children of the deceased, if any. Since it may be argued that the purpose of compensation for death in a natural disaster is to provide financial support to all of the dependents of the deceased, both the distribution schemes are less than perfect. According to the 2005 Rules, the entire compensation amount is given to one person on behalf of all of the dependants. On the other hand, according to Islamic rules of inheritance, which are being made applicable to compensation in the aftermath of a natural disaster, the money is distributed among a majority of the dependants according to shares which are culturally acceptable in many cases but in which the women dependents appear to be discriminated against. In any case, the biggest problem is that the rules have not been consistently applied and different people in similar positions have been treated differently, resulting in inequity and creating the possibility of disputes.

The Tehsil/District administrations claim that agreements (presumably oral understandings) between the relatives of the deceased were elicited prior to

^{††††} The Islamic laws of inheritance are complicated and require significant knowledge and understanding on the part of the decision-maker, which the military and MLA's representative members of the UCRCs may not have possessed. However, it may be argued that the patwaris deputed with the UCRCs possess sufficient understanding of the Islamic rules of inheritance, since they determine and transfer inheritance shares upon the deaths of registered land owners, and would have guided the UCRC in this regard.

distributing the compensation. Even if that were the case, it is likely that many relatives (especially women) would have accepted a compromise that offered less than what they believed their shares ought to be rather than risking losing everything in a protracted dispute. There are anecdotal reports of some legal disputes arising and reaching the Tehsil/District administrations or the courts. However, given the prevalence of non-litigious social attitudes and a general distrust of legal means of dispute resolution, it is reasonable to expect that many disputes have either been resolved through informal arbitration or mediation or have simply not been resolved at all.

3. Definition of Household for House Compensation

As noted earlier, both the Act and the 1982 Rules gave substantial discretion to the Tehsil/District administrations to determine the amount of compensation for damaged/destroyed housing structures, below a stated maximum amount, depending on the size and type of the structure and the needs and financial position of the residents. However, in the present case, the GOP and FRC fixed the amount of compensation per house (structure) while announcing to the public that compensation would be paid to each household.^{****} It is common practice in the AJ&K for a joint family (more than 1 nuclear families) to reside in one house as well as for multiple households having separate kitchens (*choolahs*) to occupy adjacent and structurally-joined housing structures. See Tables 4-A and 6-A in Annexure 1, which indicate that nearly 10% of the housing structures compensated for in the earthquake affected areas were occupied by multiple households. Whereas, it may be appropriate to treat a joint family as one household, it is not appropriate to treat multiple households under the same roof in the same manner. In the present scheme no distinction was made between the houses compensated for, irrespective of the number of residents or the number of households occupying that structure. This has resulted in significant disparities in the amounts received for residents of a damaged/destroyed house depending on the type of structure that they were living in.^{§§§§} This is also in contravention of the previous compensation practices, which had become widely

^{****} Interviews with district administration officials in Bagh and Muzaffarabad districts.

^{§§§§} See Annexure 1, Table 22-D.

understood and accepted in AJ&K, and has caused substantial dissatisfaction amongst the recipients of house compensation.

4. Determination of the Extent of Damage to Houses

Compensation for houses was payable when these were either totally destroyed or rendered uninhabitable and irreparable. This factual determination was left to the UCRCs. In cases where the roof had collapsed there was no cause for confusion. However, where the structure is left standing it was up to the discretion of the UCRC members whether compensation should be paid or not. The Tehsil/District administrations claim that benefit was given to the victims in cases of doubt. It is possible that in marginal cases the standards for determining eligibility may have varied from one UCRC to another. However, in the second phase of the compensation process, the UCRCs have been resurrected with the title of Assessment and Inspection (AI) teams. These AI teams have the same composition as the UCRCs; they have been provided with digital cameras to record the condition of the houses they inspect and shall have access to the expertise of an engineer. The AI teams have been given the performance targets of inspecting of 20 houses per day.

5. Identifying the Recipients of House Compensation

The UCRCs and the Tehsil/District administrations claim that house compensation was generally distributed either to the legal owners or the heads of the households occupying the damaged/destroyed houses.^{*****} The Tehsil/District administrations also claim that, since the purpose of compensation is to provide means for providing shelter to the homeless, compensation was given to the tenants of houses destroyed rather than the legal owners where the house was occupied by the tenants.^{†††††} Similarly, it has been claimed that people who were illegally occupying government or private land were also provided with compensation. However, the 2005 Rules were silent about such situations, which was a serious failing and it is likely that the above practices were not uniformly adopted by all the UCRCs. In the second phase, compensation shall only be given to the legal owners of destroyed

^{*****} Interviews with UCRC members and district administration officials in Bagh and Muzaffarabad districts.

^{†††††} Interviews with UCRC members, conducted in Bagh and Muzaffarabad districts.

houses. In areas where only a portion of the population has landholding, especially in urban or semi-urban locales, the primary purpose of the compensation process, *i.e.* to enable the entire population to rebuild their homes, would be defeated by not compensating the tenants and illegal occupiers. Further, this would result in the permanent displacement of significant segments of the populace from AJ&K to urban centres all over Pakistan.

6. Compensation for Multiple Houses

Compensation has been paid for only one house even where the owner/occupier of the house owned more than one house. This has resulted in some complaints to the administration and demands that additional compensation be paid for each house.

7. Compensation for Destroyed Means of Livelihood

The Schedule to the 1985 Act contemplates that compensation may be paid for destroyed shops. However, no such provision was made in the 2005 Rules, and understandably so, since the first priority was the provision of shelter during the harsh winters of AJ&K. A substantial portion of the population in AJ&K was dependent on agricultural land for their livelihood (see Annexure 1, Table 11-D which indicates that land was a primary source of livelihood for nearly half the population). Many people have permanently or temporarily lost the use of their terraced agricultural land because of landslides. As winter has come to an end, special attention needs to be paid towards re-establishing the economy, it is advisable that compensation should be given for small scale agricultural lands, shops and other clearly identifiable means of livelihood such as cattle, taxis, commercial vehicles, farm machinery, *etc.* which were severely damaged or destroyed in the earthquake.^{*****} This would be a much more suitable means of reinvigorating the local economies, especially as compared to the proposed scheme of giving monthly livelihood support grants to certain

^{*****} See Annexure 1, Tables 7-D, 8-D, 9-D and 11-D, which show that agriculture and various forms of business were an important source of livelihood for the people of AJ&K. Tables 10-D, 12-D, and a comparison between Tables 15-D and 16-D, indicate that these sources of livelihood have been severely affected by the earthquake.

households.^{§§§§§§} The consequence of failure to restore the affectees' means of livelihood would be continuing population displacement and migration to urban centres.

8. Compensation for Injuries

The processes for determining eligibility and distributing compensation for injuries were not as well-established as the processes for death and house compensation. It appears that the coverage was far less comprehensive since many of the injured, especially the ones suffering from the more serious injuries, were moved quickly to Islamabad and other cities in Pakistan. Many of these may have missed out on receiving compensation despite being in very difficult financial positions.

9. Other Difficulties

The citizens of AJ&K appear to have suffered certain other hardships associated with the compensation process. These include difficulties in cashing cheques when compensation was distributed through cross cheques.^{*****} This required the residents of the more remote parts to open bank accounts in stipulated branches in major cities or towns of AJ&K. Those living in the more remote parts had to travel to these cities and towns as well as produce NIC cards to open the accounts. Many people had lost their NIC cards in the earthquake and there were several complaints that the NADRA field offices failed to provide replacement NIC card in due time.^{††††††} In the next stage of house compensation only those people will be provided with the second instalment of PKR 75,000 (USD \$ 1,250) who possess the necessary documentation, including new NIC cards.

Another frequent complaint is that people who had temporarily migrated to places outside AJ&K or had moved to relief camps had to come back or leave some members behind so that they may receive compensation. This created hardships for many families who had to wait anxiously for days since the schedule of the UCRCs

^{§§§§§§} See the statement dated April 19, 2006, on the AJ&K Government website titled – 'Emergency relief is making way for rebuilding damaged houses and restoring livelihoods: WB' – available at http://www.ajk.gov.pk/site/index.php?option=com_content&task=view&id=2867&Itemid=2.

^{*****} See Annexure 1, Tables 7-A, 8-A, 7-B, 8-B, 7-C and 8-C.

^{††††††} See Tables 8-A, 8-B and 8-C in Annexure 1.

was not publicized in advance. This mistake is being repeated in the second stage of the house compensation process.

IV. APPRAISAL OF THE COMPENSATION PROCESS AND RECOMMENDATIONS

Given the extent of damage, the urgency, and the structural limitations of government at all levels which were compounded by the destruction to public infrastructure and the loss of manpower suffered by the Tehsil/District administrations, the compensation scheme was generously devised and executed fairly and rather efficiently by the GOP and the local government. The GOP and the Earthquake Reconstruction and Rehabilitation Authority (ERRA) have initiated phase II of the distribution of additional compensation for housing reconstruction as well as cash grants for livelihood support.^{*****} In the second phase the policy for housing has been modified to address the issue of complete versus partial damage to structures. The compensation for houses that have been damaged but are structurally sound has been set as PKR 50,000 (USD \$ 835), for a total compensation of PKR 75,000 (USD \$ 1,250). Owners of houses that have been completely destroyed or have been rendered structurally unsafe and will have to be demolished shall be provided with PKR 75,000 (USD \$ 1,250) in this phase and an additional PKR 75,000 (USD \$ 1,250) in the third phase if they meet the construction designs for earthquake-proof houses approved by ERRA.

We recommend that the following means should be adopted to improve the second round of compensation and avoid the problems faced during the first phase of the process that have been identified in this report:

1. The schemes for additional compensation and cash grants should be implemented in consultation with the Tehsil/District administrations of AJ&K that are better attuned to the specific issues on the ground than any other branch of government or non-governmental institution. This would require a

^{*****} See the statement dated April 19, 2006, on the AJ&K Government website titled – ‘Emergency relief is making way for rebuilding damaged houses and restoring livelihoods: WB’ – available at http://www.ajk.gov.pk/site/index.php?option=com_content&task=view&id=2867&Itemid=2.

sustained long-term effort towards capacity building in the Tehsil/District administrations which have been rendered significantly under-resourced in the aftermath of the earthquake.

2. The quality of data collected by the Tehsil/District administrations should be substantially improved so that additional compensation can be better targeted towards the more vulnerable groups such as families headed by widows or elderly people, families supporting orphaned children, families with large number of dependents, and families with meagre means of livelihood.
3. Compensation should be paid for all deaths, *i.e.* multiple deaths within a family.
4. The rules regarding identification of recipients of death compensation and the division of shares between them should be further clarified. The compensation should be paid to actual dependents, as far as it is possible to determine them, rather than to legal heirs and the division should be on a parity basis rather than according to the 2005 Rules or the Islamic rules of inheritance.
5. House compensation should be paid separately to every household that has been made homeless rather than for each house.
6. The Rules should be modified to state clearly that house compensation shall be paid to the actual occupier of a destroyed/damaged house, whether such occupier is or is not the legal owner of the house. Tenants and illegal occupiers of land should also be compensated.
7. The present practice should be adhered to and no additional compensation should be provided for the loss of multiple houses since the purpose of compensation is not to restore the owners to their previous financial position and reimburse all their losses, and since compensation ought to be paid to the tenants and actual occupiers rather than to the legal owners when the legal owners own multiple houses.

8. Additional compensation for destroyed/damaged houses should be paid in cash rather than through cross cheques, especially in the rural areas, so that people do not have to travel to the cities or towns to access banks.

9. The Government of AJ&K should look into means for expediting the process for eligibility determination and distribution before further compensation is paid. The schedules of the UCRCs should be publicized well in advance.

10. Compensation should also be paid for destroyed means of livelihood, including shops, cattle, taxis, commercial vehicles and farming equipment.

ANNEXURE 1

(RESULTS OF THE RISEPAK WINTER SURVEY)

The Winter Survey was conducted by RISEPAK, in collaboration with the World Bank, with the assistance of faculty and student volunteers from the Lahore University of Management Sciences (LUMS). The Winter Survey was conducted in relief camps and rural areas in Muzaffarabad and Neelum Valley in AJ&K, and Balakot in N.W.F.P. from 9th to 21st January, 2006.

APPENDIX A: HOUSE

TABLE 1-A

HOUSE: Has there been any damage?		
Choice/s	Freq	Percentage
Yes	202	100
Total	202	100

TABLE 2-A

HOUSE: Did you receive compensation?		
Choice/s	Freq	Percentage
No	47	23.3
Yes	155	76.7
Total	202	100

TABLE 3-A

HOUSE: How much did you receive in compensation? (Rs.)		
Choice/s	Freq	Percentage
25,000	155	100
Total	155	100

TABLE 4-A

HOUSE: Who received compensation?		
Choice/s	Freq	Percentage
Head of Family	127	81.9
Head of Joint Family	14	9.0
Other	14	9.0
Total	155	100

TABLE 5-A

HOUSE: What form was the compensation given in?		
Choice/s	Freq	Percentage
Cash	71	45.2
Cheque	86	54.8
Total	157	100

Note: There is an error of +2 in the figure 157 due to surveying/data-entry inaccuracies

TABLE 6-A**HOUSE: What percentage of compensation has your household received**

Choice/s	Freq	Percentage
0	10	6.7
28	1	0.7
50	5	3.3
80	1	0.7
100	133	88.7
Total	150	100

Note: There is an error of -5 in the figure 150 due to surveying/data-entry inaccuracies

TABLE 7-A**HOUSE: Did you face problems in trying to cash cheque?**

Choice/s	Freq	Percentage
Yes	32	61.5
Have not cashed cheque yet	20	38.5
Total	52	100

TABLE 8-A**HOUSE: Specific problems faced in cashing cheques**

Choice/s	Freq	Percentage
Opening bank account	19	39.6
Travel to city	1	2.1
Lack of ID Card	6	12.5
Other	22	45.8
Total	48	100

Note: There is an error of -4 in the figure 48 due to surveying/data-entry inaccuracies

APPENDIX B: INJURY**TABLE 1-B****INJURY: Has there been any injury?**

Choice/s	Freq	Percentage
No	143	74.5
Yes	49	25.5
Total	192	100

TABLE 2-B**INJURY: Did you receive compensation?**

Choice/s	Freq	Percentage
Yes	6	100
Total	6	100

TABLE 3-B**INJURY: How much did you receive in compensation? (Rs.)**

Choice/s	Freq	Percentage
25,000	3	75.0
50,000	1	25.0

Total 4 100
 Note: There is an error of -2 in the figure 4 due to surveying/data-entry inaccuracies

TABLE 4-B
INJURY: Who received compensation?

Choice/s	Freq	Percentage
Head of Family	2	50.0
Other	2	50.0
Total	4	100

TABLE 5-B
INJURY: What form was the compensation given in?

Choice/s	Freq	Percentage
Cash	0	0
Cheque	4	100
Total	4	100

TABLE 6-B
INJURY: What percentage of compensation has your household received

Choice/s	Freq	Percentage
100	3	100
Total	3	100

Note: An entry is missing in this figure of 3 due to surveying/data-entry inaccuracies

TABLE 7-B
INJURY: Did you face problems in trying to cash cheque?

Choice/s	Freq	Percentage
Yes	1	25.0
Have not cashed cheque yet	3	75.0
Total	4	100

TABLE 8-B
INJURY: Specific problems faced in cashing cheques

Choice/s	Freq	Percentage
Travel to city	1	33.3
Lack of ID Card	1	33.3
Other	1	33.3
Total	3	100

APPENDIX C: DEATH

TABLE 1-C
DEATH: Has there been any death?

Choice/s	Freq	Percentage
No	152	79.6
Yes	39	20.4
Total	191	100

TABLE 2-C		
DEATH: Did you receive compensation?		
Choice/s	Freq	Percentage
Yes	32	100
Total	32	100

TABLE 3-C		
DEATH: How much did you receive in compensation? (Rs.)		
Choice/s	Freq	Percentage
100,000	32	100
Total	32	100

TABLE 4-C		
DEATH: Who received compensation?		
Choice/s	Freq	Percentage
Head of Family	25	80.6
Head of Joint Family	2	6.5
Other	4	12.9
Total	31	100

Note: There is an error of -1 in the figure 31 due to surveying/data-entry inaccuracies

TABLE 5-C		
DEATH: What form was the compensation given in?		
Choice/s	Freq	Percentage
Cheque	32	100
Total	32	100

TABLE 6-C		
DEATH: What percentage of compensation has your household received		
Choice/s	Freq	Percentage
0	4	13.8
100	25	86.2
Total	29	100

Note: There is an error of -3 in the figure 29 due to surveying/data-entry inaccuracies

TABLE 7-C		
DEATH: Did you face problems in trying to cash cheque?		
Choice/s	Freq	Percentage
No	6	20.7
Yes	16	55.2
Have not cashed cheque yet	7	24.1
Total	29	100

Note: There is an error of -3 in the figure 29 due to surveying/data-entry inaccuracies

TABLE 8-C**DEATH: Specific problems faced in cashing cheques**

Choice/s	Freq	Percentage
Opening bank account	3	18.8
Travel to city	0	0.0
Lack of ID Card	2	12.5
Other	11	68.8
Total	16	100

APPENDIX D**TABLE 1-D****Have you spent any of the compensation money you received?**

Choice/s	Freq	Percentage
No	22	11.6
Yes	89	46.8
Did not receive compensation	31	16.3
Have not cashed compensation	48	25.3
Total	190	100

TABLE 2-D**What percentage of compensation has been spent?**

Choice/s	Freq	Percentage
None	10	10.3
Upto 25%	9	9.3
Upto 50%	7	7.2
Upto 75%	9	9.3
Upto 100%	62	63.9
Total	97	100

TABLE 3-D**What was the compensation money spent on?**

Choice/s	Freq	Percentage
Clothes	4	4.5
Food	20	22.7
Fuel	10	11.4
Loan Settlement	17	19.3
Marriage Preparations	2	2.3
Medicines	3	3.4
Removing Rubbles	5	5.7
Shelter and Metal Sheets	20	22.7
Transportation	7	8.0
Total	88	100

Note: There is an error of -9 in this figure of 88 due to surveying/data-entry inaccuracies

TABLE 4-D		
Which existing institutions do you take your grievances to?		
Choice/s	Freq	Percentage
Army	37	44.0
Biradiri/elder	26	31.0
Govt. institution	21	25.0
Total	84	100.0

TABLE 5-D		
Which institution has helped you the most?		
Choice/s	Freq	Percentage
Army	76	41.5
NGOs	39	21.3
iNGOs	29	15.8
Other	17	9.3
Private Groups	15	8.2
Civil Administration	5	2.7
Pakistani Government	2	1.1
Total	183	100.0

TABLE 6-D		
Which institution do you trust the most?		
Choice/s	Freq	Percentage
Army	67	42.4
NGO	34	21.5
Other	16	10.1
iNGOs	14	8.9
Private Groups	13	8.2
Pakistani Government	8	5.1
Civil Administration	6	3.8
Total	158	100.0

TABLE 7-D		
General Source of Livelihood in your village before the earthquake?		
Choice/s	Freq	Percentage
Govt. Grants	4	1.3
Agri/Farming	89	29.9
Cattle/Livestock	17	5.7
Labor	74	24.8
Business	16	5.4
Public Sector	9	3.0
Skilled Labor	20	6.7
Education/Teaching	4	1.3
Furniture Industry	3	1.0
Overseas Remittances	4	1.3
Working in other cities	28	9.4
Other Services	3	1.0
Army Jobs	4	1.3
Land Owner	20	6.7
Tourist Industry	1	0.3

Forestry	1	0.3
Retired Army	1	0.3
Total	298	100.0

Note: This table has been compiled by creating categories from open-ended questions and then tallying them, which accounts for the error of 100 in the total of 298. However, this table has been retained in spite of the errors since it effectively illustrates livelihood sources before the earthquake

TABLE 8-D

Does any member of the household own a business?		
Choice/s	Freq	Percentage
Husband	23	62.2
Son(s)	5	13.5
Other	9	24.3
Total	37	100.0

TABLE 9-D

If any member of the household owns a business, what kind?		
Choice/s	Freq	Percentage
Shop	22	62.9
Car/Taxi	1	2.9
Other	12	34.3
Total	35	100.0

Note: There is an error of -2 in this figure of 35

TABLE 10-D

Has your business been affected by the Earthquake?		
Choice/s	Freq	Percentage
Yes	32	100.0
Total	32	100.0

Note: There is an error of -5 in this figure of 32

TABLE 11-D

How did you earn a living before the Earthquake? First Source		
Choice/s	Freq	Percentage
Land	49	26.6
Labour	79	42.9
Other	56	30.4
Total	184	100.0

TABLE 12-D

Has this source of living been affected by the earthquake?		
Choice/s	Freq	Percentage
Yes	146	100.0
Total	146	100.0

TABLE 13-D

What are the 3 most important winter needs? Rated Highest		
Choice/s	Freq	Percentage
Shelter	73	36.7
Food	18	9.0
Medicine	1	0.5
Blankets/Beddings	32	16.1
Clothing	16	8.0
Heat	50	25.1
Cash	9	4.5
Total	199	100.0

TABLE 14-D

What are your post winter needs?		
Choice/s	Freq	Percentage
Shelter/Material for Shelter	110	28.9
Food	39	10.3
Water	35	9.2
Cash	29	7.6
Jobs	25	6.6
Fans	20	5.3
Clothing (for children specially)	19	5.0
Cattle/livestock	15	3.9
Electricity	10	2.6
Gas	8	2.1
Beds	7	1.8
Land	7	1.8
Furniture	6	1.6
Sewing Machines	5	1.3
Education/Schools	5	1.3
Agri Equipment	5	1.3
Cooking Utensils	5	1.3
Wood	4	1.1
Security	4	1.1
Hospital	4	1.1
Cleared Land	4	1.1
Fridges	4	1.1
Medicines	3	0.8
Roads	3	0.8
Vegetables	3	0.8
Water-Tanks	1	0.3
Total	380	100.0

Note: This table has been compiled by creating categories from open-ended questions and then tallying them, which accounts for the error of 200 in the total of 380. However, this table has been retained in spite of the errors since it effectively illustrates the items required by the Earthquake affectees post winter

TABLE 15-D		
Agricultural equipment owned before earthquake		
Choice/s	No	Yes
Plough	47	153
Tractor	197	2
Tubewell	180	19
Machine	180	19
Cattle	49	150
Goats	63	136
Chicken	23	176
Other	63	135
Total	802	790

TABLE 16-D		
Agricultural equipment owned after earthquake?		
Choice/s	No	Yes
Plough	190	10
Tractor	198	1
Tubewell	198	1
Machine	196	3
Other	177	22
Cattle	167	32
Goats	170	29
Chicken	147	52
Total	1443	150

TABLE 17-D		
Do you own any land?		
Choice/s	Freq	Percentage
Yes	163	100
Total	163	100

TABLE 18-D		
How much land do you own? (Kanals)		
Choice/s	Freq	Percentage
0.1 to 10	111	70.3
11 to 20	25	15.8
21 to 30	10	6.3
31 to 40	2	1.3
41 to 50	6	3.8
51 - 120	4	2.5
Total	158	100

Note: There is an error of -5 in this figure of 158 due to surveying/data-entry inaccuracies

TABLE 19-D		
Do you have a deed for your land?		
Choice/s	Freq	Percentage
Yes	127	100.0
Total	127	100

TABLE 20-D

How did you obtain land?		
Choice/s	Freq	Percentage
Bought the land	17	10.3
Given by Government	4	2.4
Inherited	144	87.3
Total	165	100.0

Note: There is an error of -2 in this figure of 165 due to surveying/data-entry errors

TABLE 21-D

What kind of house were you living in before Earthquake?		
Choice/s	Freq	Percentage
Permanent	80	40.6
Semi-permanent	117	59.4
Total	197	100.0

TABLE 22-D

How many people were living under your roof?		
Choice/s	Freq	Percentage
0	11	5.6
1 to 5	59	29.8
6 to 10	86	43.4
11 to 15	31	15.7
16 to 20	7	3.5
20 - 25	4	2.0
Total	198	100.0