

Kunduz airstrike: an independent investigation must be opened

- [english] - Region - Asia - Afghanistan -



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(Paris, New York) FIDH, CCR and Armanshahr/OPEN ASIA strongly condemn the airstrike by U.S. forces on a Medecins sans Frontières (MSF) hospital in Kunduz, Afghanistan this Saturday, which killed at least 12 staff members and 10 patients, and injured scores more with death tolls expected to rise. FIDH echoes the calls by MSF for an independent investigation into the attack as a potential war crime, and in the absence of a swift and genuine investigation, urges the International Criminal Court (ICC) to consider this act as part of its ongoing preliminary examination into the situation in Afghanistan, to hold those responsible for violations of international humanitarian law accountable.

"Hospitals caring for the sick and wounded and humanitarian personnel are afforded the highest protection under the laws of armed conflict. An attack of this gravity on a well-known hospital whose location was repeatedly provided to Coalition forces is a truly despicable act. Those responsible should immediately be investigated and held accountable for what could very well amount to a war crime, stemming from the violation of the fundamental principles of distinction and proportionality under international humanitarian law,"

Guissou Jahangiri, Armanshahr/OPEN ASIA

Though Afghan authorities tried to justify the attack, claiming that Taliban were present in the hospital, our organisations recall that MSF is a humanitarian organisation providing services to all people without distinction, and that there cannot be any justification of this attack which may amount to a war crime.

The United States, as the attacker, has the primary responsibility for both the investigation and prosecution of those individuals responsible, including both the commanders who ordered the attack or were negligent in the oversight of the attack and the individuals who carried out the attack, and the payment of compensation to the victims.

War crimes and crimes against humanity perpetrated in Afghanistan are also subject to the jurisdiction of the International Criminal Court (ICC). The ICC has already opened a preliminary examination into the situation in Afghanistan, and since 2007 it has been considering its jurisdiction over alleged crimes committed, included by both by the Taliban and U.S. troops.

"Unless swift and transparent steps are taken by the United States to investigate this potential crime and to hold those with any responsibility for illegal actions to account, the ICC should move forward with its own investigation into the devastating bombing of Kunduz hospital. Attacks against places of refuge in times of conflict simply cannot be tolerated by the international community,"

Katie Gallagher, FIDH Vice President and CCR Senior staff attorney

Our organisations convey their sincere condolences to the families and loved ones of the victims killed in the attack and to our colleagues from MSF, killed while providing medical assistance in Afghanistan.

Background

MSF's hospital is the only hospital in the north-eastern region of Afghanistan. For four years it has been providing free high level life- and limb-saving trauma care. From 2:08 am until 3:15 am, MSF's trauma hospital in Kunduz was hit by a series of aerial bombing raids at approximately 15 minute intervals.

Afghanistan ratified the Rome Statute on 10 February 2003. The ICC therefore has jurisdiction over Rome Statute crimes committed on the territory of Afghanistan or by its nationals from 1 May 2003 onwards. The Office of the Prosecutor opened a [preliminary examination](#) into the situation in Afghanistan in 2007. Based on the information it has received so far, the OTP considers that there is a reasonable basis to believe that war crimes and crimes against humanity have been committed in Afghanistan, and is now assessing any relevant national legal proceedings underway, in order to determine if the ICC should proceed to open a full investigation.

PS:FIDH

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