Afghan Hospital Bombing: MSF Demands Investigation Under Geneva Conventions

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Médecins sans Frontières has called for an independent inquiry under the Geneva conventions into a US airstrike on a hospital in northern [Afghanistan](http://www.theguardian.com/world/afghanistan) that killed at least 22 people.

The medical charity said the investigation, which can be set up at the request of a single state under the conventions, would gather facts and evidence from the US, Nato and Afghanistan.

“If we let this go, we are basically giving a blank cheque to any countries at war,” Joanne Liu, MSF international president said, calling on the relatively obscure international humanitarian fact-finding commission (IHFFC), to open the investigation.

It would be a first step, aimed to establish facts about the incident and the chain of command that led to the strike, MSF said. Only then would it decide whether to bring criminal charges for loss of life and damage.

The Geneva conventions are a set of treaties regarding humanitarian issues of civilians and combatants in wartime.

MSF’s call for an investigation was supported on Wednesday by the International Committee of the Red Cross (ICRC), which said it would welcome any impartial probe into what happened in Kunduz.

“We have always been supportive of the IHFFC. If it can help to clarify the facts surrounding this tragic incident which led to the deaths of medical staff and patients in a health care facility, which should be protected under the laws of armed conflict, that would be a positive development,” said Helen Durham, the ICRC’s director of international law and policy.

However it was unclear on Wednesday how far the request could go. Since it was first established in 1991, the IHFFC has never once been on a fact-finding mission because it has never secured the agreement of the warring parties involved in any incident it has sought to investigate.

The IHFFC’s president, Gisela Perren-Klingler, told the Guardian she had received MSF’s request for an investigation on Tuesday night and had already been in touch with the US and Afghan governments, offering the commission’s services.

But she added: “We have activated ourselves but we cannot go on mission without being asked in by a member state, and MSF is not a state.”

Perren-Klingler, a Swiss doctor specialising in the treatment of psychological trauma from conflict, said the commission had also been in touch with some of America’s Nato allies to seek support for its request, and would seek to build support in public opinion. “What we are saying is that we are the only permanent, independent, commission for international humanitarian law. Our report will be confidential and goes to both governments concerned. We are not an accountability mechanism, so we are different from the ICC [International Criminal Court].”

The IHFFC’s fifteen members, who include diplomats, military officers, medical doctors and legal academics, have full time jobs in their countries of origin around the world, and their involvement - if a mission ever went ahead - would depend on their availability.

MSF’s appeal followed an admission by the US that American special operations forces – not their Afghan allies – called in the deadly airstrike on the MSF hospital in Kunduz.

Gen John Campbell, the commander of the US and Nato war in Afghanistan, [reiterated before a Senate panel](http://www.theguardian.com/us-news/2015/oct/06/doctors-without-borders-airstrike-afghanistan-us-account-changes-again) that Afghan forces had requested US air cover after being engaged in a “tenacious fight” to retake Kunduz from the Taliban.

But, modifying the account he gave [at a press conference on Monday](http://www.theguardian.com/us-news/2015/oct/05/us-general-afghan-forces-called-in-doctors-without-borders-airstrike), Campbell said those Afghan forces had not directly communicated with the US pilots of an AC-130 gunship overhead. “Even though the Afghans request that support, it still has to go through a rigorous US procedure to enable fires to go on the ground. We had a special operations unit that was in close vicinity that was talking to the aircraft that delivered those fires,” Campbell told the Senate armed services committee on Tuesday morning.

The airstrike on the hospital was among the worst and most visible cases of civilian deaths caused by US forces during the 14-year war that Barack Obama declared all but over. It killed 12 MSF staff as well as 10 patients who had sought medical treatment after the [Taliban](http://www.theguardian.com/world/taliban) overran Kunduz last weekend. Three children died in the airstrike, which came in multiple waves and burned patients alive in their beds.

As is routine practice for MSF in conflict areas, it had communicated the exact location of the hospital to all parties in the conflict. MSF said the bombing took place despite the fact that it had provided the GPS coordinates of the trauma hospital to coalition and Afghan military and civilian officials as recently as Tuesday 29 September, to avoid the hospital being hit.