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The President of the United States Barack Obama
The White House
1600 Pennsylvania Ave.
Washington, DC 20500

CC: Secretary of State John Kerry
CC: Secretary of Defense Aston B. Carter

6 October 2015

Dear Mr. President:

As part of our transparent dialogue with the United States government, we would like to inform you of the upcoming request by Doctors Without Borders/Médecins Sans Frontières (MSF) to the signatory Member States of the International Humanitarian Fact-Finding Commission (IHFFC) to activate the Commission to independently investigate the attack on the MSF Hospital in Kunduz, Afghanistan on October 3rd, 2015.

For your information, I have attached the letter to the Member States of the IHFFC, signed by MSF International President Dr. Joanne Liu. This letter will be sent to all 70 signatory countries of the IHFFC.

In keeping with your commitment to the transparency and thoroughness of the investigation into the bombing of our hospital in Kunduz, MSF respectfully requests the United States government to accept and support the Commission's inquiry into this attack.

Tomorrow, October 7th, MSF International President Dr. Joanne Liu will publicly request an investigation by the IHFFC. This will take place at 10:00 CET in Geneva, Switzerland.

Sincerely,

Jason Cone
Executive Director
Doctors Without Borders/Médecins Sans Frontières (MSF)



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October 6th, 2015

Your Excellency,

We, at the international medical aid organisation Médecins Sans Frontières/Doctors Without Borders (MSF), are writing to you as a signatory to Article 90 of the First Protocol additional to the Geneva Conventions. We are calling on all States who have recognised the competence of the International Humanitarian Fact-Finding Commission (IHFFC) to activate the Commission to independently investigate the attack on the MSF hospital in Kunduz, Afghanistan.

From 2:08 AM until 3:15 AM local time on Saturday October 3, MSF's trauma hospital in Kunduz was hit by a series of aerial bombing raids at approximately 15 minute intervals, carried out by US armed forces. This was despite the fact that the GPS coordinates of the hospital were shared with all parties to the conflict. The central MSF hospital building, housing the intensive care unit, emergency rooms, and physiotherapy ward, was repeatedly hit very precisely during each aerial raid, while surrounding buildings were left mostly untouched. MSF immediately alerted both the Afghan and Coalition military leadership that our hospital had been hit by an airstrike, yet the attack continued for a further 30 minutes. Twelve MSF staff and 10 patients were killed.

The bombing of the hospital is a grave violation of international humanitarian law that may amount to a war crime. Furthermore, hospitals, patients, and medical personnel are all explicitly protected by the Geneva Conventions.

The facts and circumstances of this attack must be investigated independently and impartially, particularly given regular discrepancies in the US and Afghan accounts of what happened in the days following the attack. The US, NATO and Afghan military investigations have already been launched, but as parties to the conflict, they cannot adequately and impartially investigate their own actions in one coherent and comprehensive overview. While MSF acknowledges the importance of such internal investigations, MSF's objective is of a different nature: it is about establishing facts and defending medical humanitarian space.

The 1977 Additional Protocol 1 to the Geneva Conventions set up the International Humanitarian Fact-Finding Commission (IHFFC) precisely for the purpose of independently investigating violations of humanitarian law such as this attack. In 1996, the IHFFC also announced its willingness to inquire into non-international conflicts (under which the current war in Afghanistan may arguably fall), in addition to its competence for international armed conflicts.

Any of the 70 countries that have ratified the IHFFC can request an inquiry into a violation, even if it is not involved in the conflict. Additionally, countries such as the US and Afghanistan, that have not ratified the Commission can request and accept an inquiry on a case-by-case basis.

MSF requests that you, as a signatory to the IHFFC, refer this case for investigation to the Commission. MSF also urges the USA and Afghanistan governments to accept the Commission's inquiry into this attack. If this assault does not activate the Commission, then what will? This decision will be a defining test of your State's commitment to respect and ensure respect of international humanitarian law.

The credibility of an IHFFC investigation will not simply establish the facts, but will more importantly reaffirm that the targeting of a hospital under any circumstances is an unacceptable violation of humanitarian law that amounts to a war crime.

Tomorrow, October 7, MSF will publicly request an investigation by the IHFFC and ask signatory States to support our efforts to establish the truth and to reassert the protected status of hospitals in conflict.

This attack was an assault on humanitarian action at its core. Without your support, the very foundations of international humanitarian law are further endangered and risk the collective ability of humanitarian organisations to work in conflict zones. We look forward to receiving your support.

Sincerely,



Joanne Liu, International President, on behalf of Médecins Sans Frontières



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To: Secretary of Defense Ashton Carter

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From: Jason Cone, Executive Director of MSF USA

Date: 6 October 2015

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