

Lost for Words: Responding to the Kunduz Bombings

Written by Faye Donnelly

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FAYE DONNELLY, AUG 5 2016

During January 2016 Médecins Sans Frontières/Doctors Without Borders (MSF) reported in quick succession that three of their hospitals and clinics were attacked in Yemen (MSF, 2016: 10 January; Hawkins, 2016: 19 January). Since then two further airstrikes on a marketplace in Khamis village in northern Hajja Governorate have been confirmed (MSF, 2016: 16 March). Further afield MSF health facilities in Syria, South Sudan and Afghanistan have been targeted. Although the anxious clatter that has arisen in response to these incidents have varied, what unites them is an unyielding fear that the rules of war are being existentially threatened. Perhaps this concern is most vividly evidenced in the commentaries of Dr Joanne Liu, MSF International President, following the bombings of the emergency trauma hospital in Kunduz by Coalition forces [1] on 3 October 2015. Speaking after the attacks in northeast Afghanistan she surmised, “Today we say enough. Even war has rules” (Liu, 2015: 07 October).

Confronted with the death toll of at least 42 people in Kunduz [2], including staff and patients, MSF requested an independent investigation to be conducted by the International Humanitarian Fact-Finding Commission (IHFFC). In principle, this call was powerful. It was also political given that the organisation was specifically created under the 1949 Geneva Conventions to investigate allegations of violations of international humanitarian law (Perren-Klingler 2016). Despite repeated attempts by MSF to hold Coalition forces to account for suspected war crimes in Kunduz, however, no investigations have been conducted under the auspices of the IHFFC due to the lack of consent by the states in question. At first glance this stalemate appears to confirm the realist dictats that ‘might is right’ and ‘talk is cheap’ when it comes to defending the core principles of International Humanitarian Law [3] [IHL].

Without denying that the Kunduz bombings can be viewed through realist lenses, it is important to acknowledge that MSF’s request for an IHFFC investigation may unsettle claims that ‘might is right’ and ‘talk is cheap’ in this context. In this article I want to make an argument that this move has resulted in the construction of contested and conflicting stories about what occurred in Kunduz rather than the imposition of a ‘singular’ or ‘fixed’ narrative by the most powerful actors. At the same time I contend that “lingering a little longer” (Huysmans, 2016: 85) might be extremely beneficial. The added value of both objectives become much clearer when one analyses the two dominant discourses used to frame the Kunduz attacks; as a war crime on the one hand and as a mistake on the other. The goal is not simply to abridge the stories of variously linked stakeholders in this debate. The focus instead falls on how the enactment of these contradictory narratives cultivates ‘trauma time’ (Edkins 2010). From here I try to pay tribute to words that cannot easily be expressed and what Priscilla B. Hayner calls ‘unspeakable truths’ (2011).

Discourses of ‘War Crime(s)’

MSF’s request for an independent investigation [4] by the IHFFC relied heavily on their claims that the Kunduz bombings were tantamount to war crimes. As Dr Liu noted,

This attack cannot be brushed aside as a mere mistake or an inevitable consequence of war. Statements from the Afghanistan government have claimed that Taliban forces were using the hospital to fire on Coalition forces. These statements imply that Afghan and US forces working together decided to raze to the ground a fully functioning hospital, which amounts to an admission of a war crime.

Christopher Stokes, General Director of MSF, repeated,

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under the clear presumption that a war crime has been committed, MSF demands that a full and transparent investigation into the event be conducted by an independent international body” [...] We reiterate that the main hospital building, where medical personnel were caring for patients, was repeatedly and very precisely hit during each aerial raid, while the rest of the compound was left mostly untouched.

A principle tightly interwoven within the tapestry of speech acts^[5] cited above is that the deliberate targeting of any hospital during a conflict is categorically prohibited. This rule finds expression in, and codification under, several strands of IHL which designate hospitals, medical staff and medical units as protected zones.^[6] Different iterations of the laws of war, most notably the First and Fourth 1949 Geneva Conventions, also prohibit any attacks on the wounded, the sick and civilians, as well as and medical personnel, facilities, and transports during armed conflict in absolute terms (Henckaerts and Doswald-Beck 2005). Equally noteworthy is that rules surrounding the operation of hospitals in conflict zones make an appearance in numerous military manuals (Schmitt 2010). In light of such guidelines Dr Liu was correct to uphold that ‘war has rules’.

MSF’s response to the Kunduz bombings were steadily linked to discourses of war crimes on another level. This organisation went to great lengths to (re)emphasise that all parties had regularly been provided with the precise GPS coordinates of this medical facility before the attacks occurred. MSF also documented that their staff inside the burning buildings frantically tried to alert military headquarters in Kabul and Washington D.C. once the bombing commenced (Rasmussen, 2015: 05 November). Both kernels of information were repeatedly used to lambast the US military, NATO and the government of Afghanistan. According to MSF the existence of such prior knowledge only confirmed that the attacks were deliberate and thus tantamount to war crimes. To paraphrase Dr Liu, “until proven otherwise [...] We are working on the presumption of a war crime”. As shown next, the discourses of ‘war crimes’ constructed by MSF and other parties after the Kunduz attacks cast enormous shadows over claims that the attacks were the result of a series of mistakes.

Discourses of ‘Mistake(s)’

It is plain that there is a mismatch between the discourses MSF invoked in response to the Kunduz bombings on the one hand and those used by the Coalition forces on the other. From the outset Afghan President, Ashraf Ghani expressed, “deep sorrow over the killing and wounding of civilians”. In the immediate aftermath of the Kunduz bombings, however, it was reported that some Afghan officials viewed the attacks as being warranted. The linchpin holding this second line of argument together was the supposition that the Taliban were using the hospital grounds as a command centre, a thread that has recently resurfaced in the accounts of two unnamed US servicemen’s reports to Congress (Dilanian 2015: 10 December). MSF openly refuted any proposition that Taliban fighters were hiding inside the hospital. As Christopher Stokes commented,

MSF is disgusted by the recent statements coming from some Afghanistan government authorities justifying the attack on its hospital in Kunduz. These statements imply that Afghan and US forces working together decided to raze to the ground a fully functioning hospital with more than 180 staff and patients inside because they claim that members of the Taliban were present. This amounts to an admission of a war crime.

Incorporating the US response to the Kunduz bombings certainly adds another layer of complexity to the Afghan responses. As MSF stressed, the original feedback provided by American officials oscillated quite dramatically as events continued to unfold (Ackerman, 2015: 06 October). Christopher Stokes remarked that, “their description of the attack keeps changing – from collateral damage, to a tragic incident, to now attempting to pass responsibility to the Afghanistan government” (see also Cooper 2015).

In the days that followed it is fair to say that those occupying some of the highest positions of power in this instance tiptoed around whether or not the US had actually authorised these air strikes. Such hesitations are enveloped in the standpoint taken by Defense Secretary Ashton B. Carter. Under scrutiny he emphasised that joint investigations by the US military, NATO and the government of Afghanistan were underway. Withholding any judgement he explained, “if there are people who need to be held accountable, they need to be held accountable on the basis of those facts”.

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In the immediate aftermath of the Kunduz bombings President Barack Obama remarked that, “On behalf of the American people, I extend my deepest condolences to the medical professionals and other civilians killed and injured in the tragic incident at a Doctors Without Borders hospital in Kunduz.” In more tempered tones he stated that, “The Department of Defense has launched a full investigation, and we will await the results of that inquiry before making a definitive judgment as to the circumstances of this tragedy.” Paying close attention to the language at play here is important. In the course of four days there is a profound, albeit subtle, shift in his commentaries.

Days later Obama phoned President Joanne Liu directly to, “apologize and express his condolences for the MSF staff and patients who were killed and injured when a US military airstrike mistakenly struck an MSF field hospital in Kunduz, Afghanistan.” With this second statement, he formally acknowledged and apologised for errors made by the US military. Obama’s move towards a direct apology was largely informed by overt speech acts by the leader of American forces in Afghanistan, General John F. Campbell, who openly told the Senate Armed State Committee that the Kunduz attacks were the result of “a US decision made within the US chain of command.” Further down the line Gen. Campbell reframed the Kunduz bombings as, “tragic, but avoidable accident caused primarily by human error.” The same conclusions have been borne out in the latest investigations conducted by the US military. Reading through the official report released by the Pentagon in April 2016 it is unmistakably clear that this account is framed in the discourses of mistake rather than the discourse of deliberate ‘war crimes’ MSF suggested (France-Presse, 2016: 18 March). In announcing the latter report, Army General Joseph L. Votel, Commander of US Central Command, concluded that MSF’s terminology did not apply in this case, given that, “the label ‘war crimes’ is typically reserved for intentional acts — intentional targeting [of] civilians or intentionally targeting protected objects or locations” (cited in Garamone, 2016: 29 April).

Lost for Words: ‘Trauma Time’ and ‘Unspeakable Truths’

Analysing the competing discourses used to make sense of and respond to the Kunduz bombings illustrates that the nature of these attacks raised a series of fundamental questions. Perhaps the Achilles heel in MSF’s assertion that ‘even war has rules’ is that it is premised on a sanguine idea that the rules of war are crystal clear. In reality, this adage falls apart. Certainly it is significant to insist that ‘war has rules’ and to call for an independent investigation by the IHFFC. However, as Wouter Werner argues, “legal language cannot be reduced to one form of linguistic practice” (2016: 258). As such legal concepts and IHL do not simply emanate from how they are defined but how they are operationalised. It is here that the Kunduz bombings cause grave concern. As intimated in MSF statements, if the rules of war are not used they will eventually lose their meaning, purpose and legitimacy. If the Kunduz bombings signify the crafting of a different set of rules this is equally alarming. As MSF warns this incident may mirror the transformative effect of a particular conception of ‘a new normal’, one in which the bombing of hospitals during conflict are no longer inexcusable or tantamount to a war crime. To quote Dr Liu from MSF’s website,

We have received apologies and condolences, but this is not enough. We are still in the dark about why a well-known hospital full of patients and medical staff was repeatedly bombarded for more than an hour [...] “We need to know if the rules of war have changed, not just for Kunduz, but for the safety of our teams working in frontline hospitals all over the world.

‘Trauma Time and Unspeakable Truths’

From the analysis so far, it becomes clear that there is no singular discourse with which to make sense of the Kunduz bombings. So where does this leave us? As Jenny Edkins has already demonstrated, in the wake of traumatic events, states often “move as fast as possible” to impose a “linear narrative of origin” (2010: 107). Our cursory look at the discourse invoked by certain actors to respond to the Kunduz bombings can be read as moves in this direction. Equally, it is possible to frame MSF’s push for an investigation by the IHFFC as a deliberate countermove to resist any ‘linear narrative being imposed’. Returning to Edkins’s account it is plain that,

some people want to try to hold on to the openness that trauma produces. They do not want to forget, or to express the trauma in standard narratives that entail forgetting [...] They see trauma as something that unsettles authority, and that should make settled stories impossible in the future. I have proposed that it might be useful to call this form of

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time that provides an opening for the *political* 'trauma time', as distinct from the linear, narrative time that suits state or sovereign *politics* (2010, 108: *italics in original*).

Once again MSF's actions spring to mind. A resounding message emanating from this organisation's online in memoriam is that the victims "will be tremendously missed and never forgotten." It almost goes without saying that MSF must be championed for its commitments to raising awareness about the tragic loss of life in Kunduz, its repeated attempts to seek answers for what happened and its ambition to ensure that similar 'mistakes' never occur again. Yet if we manage to take a 'critical' step back perhaps more careful consideration should be given to whether the discourse of 'war crime(s)' constructed by MSF in the wake of the Kunduz bombings work to impose another deterministic account. Surely the ending of this story is already fixed: the US military is guilty of war crimes until it is proved otherwise. The presence of this 'predetermined' guilt is an important observation but relatively absent in their calls for an independent investigation. The issue being raised here is that MSF quest for an independent investigation can be read as another attempt to construct a settled story. If we start to look at MSF's discourses of war crimes in this light we also find that their speech acts tend to leave out is the sheer difficulty, "of fairly documenting and representing the 'truth' in the course of a short and intensive period of investigation, when the issues under exploration often remain the most sensitive of the day (Hayner, 2011: 5). Foregrounding 'unspeakable truths' here is a timely reminder that even if the IHFFC receives a green light to conduct an independent investigation in the future, there can be no guarantee that MSF's question of what constitutes a 'war crime' in Kunduz will receive a final answer.

Rather than choreographing another linear ending, this article closes with an invitation for us to start shifting the discourses surrounding the Kunduz bombings towards the construction of 'trauma time'. In this spirit, I incorporate direct excerpts taken from an eyewitness account provided by MSF nurse, Lajos Zoltan Jecs, who was in Kunduz during the attacks [7]. A powerful message his account conveys is that we may never have the words to comprehend or capture what happened there. In ways we still cannot foresee his testimony may also, "make settled stories impossible in the future" (Edkins, 2010: 108).

At first I didn't know what was going on. Over the past week we'd heard bombings and explosions before, but always further away. This one was different – close and loud. At first there was confusion, and dust settling. As we were trying to work out what was happening, there was more bombing [...] We tried to take a look into one of the burning buildings. I cannot describe what was inside. There are no words for how terrible it was. In the Intensive Care Unit six patients were burning in their beds. [...] It was crazy. We had to organise a mass casualty plan in the office, seeing which doctors were alive and available to help. [...] These people are friends, close friends. I have no words to express this. It is unspeakable. [...] What is in my heart since this morning is that this is completely unacceptable. How can this happen? What is the benefit of this? Destroying a hospital and so many lives, for nothing. I cannot find words for this.

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Notes

[1] This umbrella term has been used to describe international actors invested in the construction and implementation of collective security agendas in Afghanistan. This mission coalesces around U.S. military troops, NATO special

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forces (made up of several nationalities) and their Afghan counterparts.

[2] This is the most recent figure rather than the one that was originally reported.

[3] IHL refers to the international rules created by states to limit the effects of armed conflict for humanitarian reasons. It is also known as the law of war or the law of armed conflict. For an introductory overview see the ICRC document entitled 'War and International Law' (accessed 22 March 2016).

[4] They also launched a global campaign to support their request for a transparent investigation under the hashtag #Independentinvestigation.

[5] Within this short article it is impossible for me to do justice to all of the speech acts uttered by various members of MSF. For more information I would encourage readers to explore the extensive accounts provided on their webpage.

[6] For an extensive overview see the lists provided by the International Committee of the Red Cross (ICRC) (access date 27 January 2016).

[7] Due to space limitations it was impossible to document his entire account.

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