

# Kunduz: Is the German army empowered to carry out targeted killings?

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Over the course of the past few weeks, the German government as well as opposition parties have systematically deceived the German population over the real background to the September 4 airstrike near the Afghan city of Kunduz, which killed up to 142 persons.

It has now been established that German army colonel Georg Klein gave the order for the strike with the deliberate intention of killing the large number of people in the vicinity of two hijacked tankers bogged down in a sandbank. The government was aware of this fact from the outset, and the parliamentary opposition parties had been informed by November 3 at the latest. Nevertheless, all of these parties claimed up until last weekend that the bombing was aimed exclusively at the tankers and that the many victims were merely inadvertent “collateral damage.”

On the night of the airstrike, Colonel Klein had written a report which states unequivocally: “On September 4 at 01.51 I decided to destroy with the use of airstrikes two tanker trucks hijacked on the evening of September 3 as well as the INS surrounding the vehicles.” INS is military shorthand for insurgents. Later in his report, Klein is even more explicit and states that he had ordered the bombardment in order to “hit enemies of reconstruction.”

This report lay on the desk of the defence minister at the time, Franz Josef Jung (Christian Democratic Union), just one day later. Nevertheless, Jung repeatedly maintained that the bombing had targeted the two stranded tankers to prevent a possible suicide attack on German field camps situated seven kilometres away. For a long time, Jung stubbornly denied that the attack has resulted in civilian casualties, although a number of reports by journalists, local authorities and the US military demonstrated that this had been the case.

In a government statement given just a few days later, German Chancellor Angela Merkel addressed the airstrike at Kunduz and with unusual sharpness repudiated any criticism of the attack by domestic or foreign authorities.

Then on October 28, NATO presented its own official report signed by General Stanley McChrystal, commander of ISAF (International Security Assistance Force). This report also made absolutely clear that the people assembled around the trucks were the target, not the tankers themselves.

According to the NATO report, Colonel Klein received information shortly after midnight that about 80 Taliban rebels and “several well-known Taliban leaders” were assembled in the vicinity of the tankers. He then gave his order for the attack. “He had targeted persons, not vehicles,” the report states clearly and then criticises: “The deployment of air support to combat large gatherings of people in the absence of any direct threat for one’s own forces is not compatible

with the intentions and instructions of the ISAF commander.”

Jung’s successor as defence minister, Karl-Theodor zu Guttenberg (Christian Social Union), based himself on this report when he defended the airstrike on November 6, one week after taking over his new post. This means that Guttenberg was well aware that the targets of the airstrike were persons. Nevertheless, he affirmed that the strike was “militarily appropriate” and went so far as to declare that there would have “had to have been” an air strike, even if Klein had not made the procedural errors outlined in the NATO report.

As Guttenberg recently announced, leading representatives of all the Bundestag (German parliament) factions were also acquainted with the ISAF report, including a version translated into German. Despite this, the German public was not informed of the true reasons for the massacre in Kunduz.

Only three weeks later did new details emerge. On the basis of a report issued September 9 by German military police, the *Bild* newspaper reported that the German army must have known at a very early stage that civilians had been killed in the attack. Thereupon, Minister Jung, who had been appointed labour minister in the new German cabinet, resigned his post and Guttenberg sacked the German army general inspector, Wolfgang Schneiderhan, and Deputy Defence Minister Peter Wichert, claiming that the two had withheld from him the military police report and other relevant information. Schneiderhan and Wichert deny that this was the case.

Guttenberg then “corrected” his estimation of the air strike and told the German parliament that he accepted that the attack was “militarily inappropriate.” Nevertheless, he stood behind Colonel Klein, claiming that the latter had undoubtedly acted “according to his best knowledge and conscience.” Addressing those members of the army sitting in the gallery and listening to the parliamentary debate, Guttenberg declared he would not “abandon” Klein.

At the end of last week, both *Der Spiegel* and the *Süddeutsche Zeitung* published excerpts from the Klein and NATO reports, which blew large holes in the government-sponsored wall of lies. Guttenberg was finally forced to concede that the airstrike had targeted people and that he had known this since taking office.

There were compelling reasons for the German government’s web of deception regarding the events at Kunduz. The Kunduz massacre represents a turning point in the history of the German army and touches upon the political conception upon which it is based. It raises fundamental legal, political and historical questions, which the government does not want to discuss publicly because it lacks any majority public support for its stance.

There is a widespread abhorrence of militarism and war in modern Germany following the horrors of the Second World War and the

crimes committed by Hitler's Wehrmacht, which was dissolved at the end of the war. A new army, the Bundeswehr, was only established in 1955 in the face of massive public opposition and on the basis of strict parameters regarding its deployment. It was set up as a purely defensive army subordinate to parliamentary control and subject to constant democratic legitimisation.

Until the reunification of Germany in 1990, any deployments by the German army outside of NATO were deemed unconstitutional. In the course of the 1990s, this ban was gradually watered down and finally dropped. But international deployments by the German army were always depicted as "peace" missions. The ISAF mission in Afghanistan, based on a UN mandate, is also officially defined as a security and reconstruction mission, aimed at assisting the elected government of Afghanistan by establishing a safer security environment. Such parameters are incompatible with the dropping of bombs on a crowd and the targeted killing of opponents.

Defence Secretary Guttenberg has reacted to the collapse of his wall of lies by going on the offensive, giving a series of interviews and appearing on a number of TV talk shows last weekend. He has categorically rejected demands for his resignation. "I will definitely stay, even if a storm is blowing. That is the way I have been educated—and that is the way I will behave," the scion of an aristocratic family told the RTL television station.

In the *Bild am Sonntag*, he called for "more realistic rules" for the German armed forces in Afghanistan. He wants to officially legitimise what previously took place in a legally gray area. Guttenberg told the paper that he had repeatedly pointed out that there were "war-type conditions" in Afghanistan and that in such situations, "the use of weapons against civilians could not be ruled out." He added, "It is difficult for soldiers to understand why they should be confronted with criminal proceedings even though they act within rules of the given mandate."

In response to those politicians from the Social Democratic Party and Greens who have demanded his resignation, Guttenberg countered that they too had known since November 3 that the aim of the airstrike was to eliminate alleged members of the Taliban. The *Süddeutsche Zeitung* noted that Guttenberg was "taking the reds and greens into joint liability." His message to the opposition was: "We are all sitting in the same boat."

Guttenberg has also sought to intimidate his critics by threatening them with angry soldiers. He has resorted to the well-known method of depicting opponents of the war as enemies of the soldiers who risk their lives at war. He told the *Bild am Sonntag* that soldiers needed "full support from the homeland" as well as "protection and legal security."

Last Friday, Guttenberg took the spokespersons of all the parties represented in the parliamentary defence committee for a short visit to the German field camp in Kunduz. The official aim of the visit was to solicit the sympathy of the soldiers for the Committee of Inquiry investigating the events at Kunduz that was to be constituted on Wednesday. According to information published by the army, Guttenberg simultaneously warned against any attempt by the Committee of Inquiry to discredit soldiers. The media were excluded from the meeting.

This type of warning in the name of the army to a democratically elected committee smacks of military dictatorship.

In the German media, a discussion is taking place over the issue of whether the army is permitted to carry out targeted killings. Heribert Prantl, the editor for home affairs of the *Süddeutsche Zeitung* and a

trained lawyer, concludes that both the deliberate targeting of opponents and the sacrifice of civilian lives as a consequence clearly violate existing law. The legal expert of the *taz* newspaper, which is close to the Greens, expresses an opposite point of view. According to Christian Rath, the ISAF mandate agreed on by the Bundestag and ISAF rules of engagement permit the deliberate killing of enemy fighters. Germany's own reservations over existing ISAF rules, which permit the use of deadly force only in the case of protection against an attack, had been quietly dropped by the German army last April.

The conservative FAZ newspaper is of the same opinion: "Germany finds itself in a war-like situation in Afghanistan, which means that the German army is in principle allowed to kill enemy fighters."

Last summer, the government had changed the so-called "pocket map" summarising "the principles for the application of military force" for soldiers. There are a number of indications that this change encouraged Colonel Klein to order the attack in Kunduz. The *Leipziger Volkszeitung* quotes an anonymous source from the army high command in Potsdam who states that Colonel Klein "would have felt positively encouraged by these recent government guidelines to finally hit home hard."

In this respect, the decision by the Federal Prosecutor's Office, which is currently investigating Colonel Klein, will be of great importance. Should the Prosecutor's Office suspend its investigations or a trial end with an acquittal, this would amount to a licence to kill for the German army.

Klein arrived at his decision to kill more than a hundred people on the basis of the narrowest of criteria. According to the information available, he based his decision on the reports by one informant in the vicinity of the trucks, who then passed on his information through two further intermediaries—an interpreter and another agent. This informant is alleged to have assured Klein that only "Taliban" rebels were in the vicinity of the trucks.

This information—if it existed at all—was false. It has since been established that civilians and children were among the victims. The demarcation between "Taliban" and civilians is in any respect completely suspect. According to *Der Spiegel*, which carried out investigations amongst victims of the attack, there is little to differentiate members of the Taliban from ordinary villagers. Increasingly, it is such villagers who are in the forefront of resistance against the occupying forces. The magazine cites the Afghan secret service agent Mohammed Daud Ibrahim, who declares: "The people who we fight at night are brave farmers during the day, they just put their weapons in a cupboard."

The only positive responses to the actions of the German army have come from government representatives with close relations to the corrupt regime of Hamid Karzai.



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