

Syria: Attacks on Oil Infrastructure

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N.B. As per the disclaimer, neither the ICRC nor the authors can be identified with the opinions expressed in the Cases and Documents. Some cases even come to solutions that clearly violate IHL. They are nevertheless worthy of discussion, if only to raise a challenge to display more humanity in armed conflicts. **Similarly, in some of the texts used in the case studies, the facts may not always be proven;** nevertheless, they have been selected because they highlight interesting IHL issues and are thus published for didactic purposes.

A. U.S. Steps Up Its Attacks on ISIS-Controlled Oil Fields in Syria

[Source: “U.S. Steps Up Its Attacks on ISIS-Controlled Oil Fields in Syria”, *New York Times*, 12 November 2015. Available at <http://www.nytimes.com/2015/11/13/us/politics/us-steps-up-its-attacks-on-isis-controlled-oil-fields-in-syria.html>]

[1] ERBIL, Iraq — The United States and its allies have sharply increased their airstrikes against the sprawling oil fields that the Islamic State controls in eastern Syria in an effort to disrupt one of the terrorist group’s main sources of revenue, American officials said this week.

[2] For months, the United States has been frustrated by the Islamic State’s ability to keep producing and exporting oil — what Defense Secretary Ashton B. Carter recently called “a critical pillar of the financial infrastructure” of the group — which generates about \$40 million a month, or nearly \$500 million a year, according to Treasury Department estimates.

[3] While the American-led air campaign has conducted periodic airstrikes against oil refineries and other production facilities in eastern Syria that the group controls, the organization’s engineers have been able to quickly repair damage, and keep the oil flowing, American officials said. [...]

[4] But now the administration has decided to increase the attacks and focus on inflicting damage that takes longer to fix or requires specially ordered parts, American officials said.

[5] The first evidence of the new strategy came on Oct. 21, when B-1 bombers and other allied warplanes hit 26 targets in the Omar oil field, one of the two largest oil-production sites in all of Syria. American military analysts estimate the Omar field generates \$1.7 million to \$5.1 million per month for the Islamic State. [...]

[6] The goal of the operation over the next several weeks is to cripple eight major oil fields, about two-thirds of the refineries and other oil-production sites controlled by the Islamic State, also called ISIS or ISIL.

[...]

[7] Instead of putting the group's oil-production capability out of action for days, the new goal is to knock out specific installations for six months to a year, the officials said. This involves targeting fuel oil separators and elements of pumping stations at sites in Islamic State-controlled areas of Deir el-Zour, a city on the Euphrates River near the eastern border with Iraq.

[...]

[8] The new operation is called Tidal Wave II, named after Operation Tidal Wave, the World War II campaign to hit Romania's oil industry and thus hurt Nazi Germany. [...]

[...]

[9] In the air campaign's first three months, for instance, allied warplanes damaged or destroyed more than two dozen smaller mobile refineries and about twice as many collection points where drivers dump their crude oil to be hauled to refineries.

[...]

[10] On the Oct. 21 mission, American aircraft struck Islamic State-controlled oil refineries, command and control centers, and transportation infrastructure in the Omar oil field, which produced about 30,000 barrels a day when it was fully functioning. More recently, the field produced about a third of that or less, analysts said.

[...]

[11] American commanders cautioned that it may take some time to gauge the impact of the new targeting, given the financial reserves the militant group has built up.

[12] Unlike measuring the immediate impact of bombing tanks or soldiers, "it might be longer to feel the effect

of oil fields,” General Brown said.

B. U.S. Warplanes Strike ISIS Oil Trucks in Syria

[Source: “U.S. Warplanes Strike ISIS Oil Trucks in Syria”, *New York Times*, 16 November 2015. Available at <http://www.nytimes.com/2015/11/17/world/middleeast/us-strikes-syria-oil.html>]

[1] ISTANBUL — Intensifying pressure on the Islamic State, United States warplanes for the first time attacked hundreds of trucks on Monday that the extremist group has been using to smuggle the crude oil it has been producing in Syria, American officials said.

[2] According to an initial assessment, 116 trucks were destroyed in the attack, which took place near Deir al-Zour, an area in eastern Syria that is controlled by the Islamic State.

[3] The airstrikes were carried out by four A-10 attack planes and two AC-130 gunships based in Turkey.

[...]

[4] Until Monday, the United States refrained from striking the fleet used to transport oil, believed to include more than 1,000 tanker trucks, because of concerns about causing civilian casualties. As a result, the Islamic State’s distribution system for exporting oil had remained largely intact.

[...]

[5] To reduce the risk of harming civilians, two F-15 warplanes dropped leaflets about an hour before the attack warning drivers to abandon their vehicles, and strafing runs were conducted to reinforce the message.

[6] The area where the trucks assemble in Syria has been closely monitored by reconnaissance drones. As many as 1,000 trucks have been observed there, waiting to receive their cargo of illicit oil.

[7] On Monday, 295 trucks were in the area, and more than a third of them were destroyed, United States officials said. The A-10s dropped two dozen 500-pound bombs and conducted strafing runs with 30-millimeter Gatling guns. The AC-130s attacked with 30-millimeter Gatling guns and 105-millimeter cannons.

[8] The pilots saw several drivers running to a nearby tent and did not attack them, an American official said, and there were no immediate reports of civilian casualties.

[9] Col. Steven H. Warren, the American-led coalition’s spokesman in Baghdad, confirmed that A-10s and

AC-130s had been used in the attack and that 116 tanker trucks had been destroyed.

[...]

C. Here Are the Leaflets We Dropped on Islamic State

[Source: "Here Are the Leaflets We Dropped on Islamic State", *War Is Boring*, 22 January 2016. Available at: <https://warisboring.com/here-are-the-leaflets-we-dropped-on-islamic-state-e30052b932a9>]

[...]

[1] "We assessed that these trucks, while although they are being used for operations that support ISIL, the truck drivers, themselves, probably not members of ISIL," U.S. Army Col. Steve Warren, the top spokesman for the task force in the region, told reporters on Nov. 18, using a common acronym for Islamic State. "They're probably just civilians."

[2] At the press conference, Warren showed a copy of one of the leaflets. "Warning. Airstrikes are coming, oil trucks will be destroyed," the Arabic text states. "Get away from your oil trucks immediately. Do not risk your life."

[3] [...] As it turns out, the leaflet provided to the press was only its front side. Flip it over, and the back side appears to show a burning truck.

[4] "Oil trucks are being destroyed because buying this oil is the lifeblood of Da'ish. Leave the trucks and flee," the Arabic-only message explains. Da'ish is the Arabic acronym for the Islamic State.

[5] A second leaflet seems like it could be targeted at refinery workers and truck drivers. The quality ... isn't great. The low resolution, black-and-white scan makes it hard to determine the background image.

[6] "Oil operations controlled by Da'ish fund terrorism and oppress the people," the second leaflet's front side declares. "The Coalition Forces will continue to attack all Da'ish controlled oil facilities until Da'ish is defeated."

[7] For the reverse side, graphic artists included a map of the region and prominently marked the oil fields in eastern Syria. "Warning! Trucks and oil equipment used to support Da'ish can be targeted by the Coalition."

[8] According to the information we received, a U.S. Central Command cultural adviser reviewed both "products." To be most effective and not unintentionally offensive, the messages would need to use language

and vernacular appropriate to the region.

[9] We don't know how well the warnings worked before either attack. "We did see some civilians run away from their trucks, but for some reason they ducked into a tent that was maybe 100 meters or so away from where these trucks were congregated," Warren said after the Abu Kamal strike.

[10] "You know, because of their proximity to where they were and what they were doing, these civilians were — these truck drivers were absolutely legitimate military targets."

[11] Warren then lauded the A-10 pilots and AC-130 crews for avoiding the tent as they raked the trucks with cannon fire. "Those pilots made a decision, you know, from the cockpit that they could accomplish their mission without striking that tent and without hurting any of those civilians."

[...]

Discussion

I. Classification of the conflict and applicable law

1. (*Document A, para. [1]*)

a. How would you qualify the conflict between the US-led coalition and Islamic State (ISIS)? Did the intervention of the coalition internationalize the pre-existing NIAC between Syria and ISIS? Would the answer be the same for Iraq, where the territorial state consented to a similar intervention? (GC I-IV, Art. 2; P I, Art. 1; P II, Art. 1)

b. How would you argue that aerial attacks by the US-led coalition against ISIS, even without the presence of ground troops, trigger a parallel IAC with Syria? Could it be simply because the attacks hit Syrian soil? The Syrian population? The oil infrastructure? To whom does the oil infrastructure in question currently belong? Is the latter question relevant for IHL? (GC I-IV, Art. 2; P I, Art. 1)

c. Do IHL rules on conduct of hostilities differ depending on the nature of the conflict? If so, what are the differences?

2. What is the law applicable to the conflict? If the US were bound by the Additional Protocol II, would the latter apply to it? (GC I-IV, Art. 2; P I, Art. 1; P II, Art. 1)

II. Attacks on oil fields

3. (*Document A, paras [2] and [5]*)

a. How would you define a military target? Is everything that is not a military target necessarily a civilian object? Are the two elements of the definition provided in Art. 52 (2) of Additional Protocol I cumulative? (P I, Art. 52(2); CIHL, Rule 8)

b. What sorts of objects make an effective contribution to military action by their nature? By their location? Purpose? Use? Do you agree that the oil infrastructure taken as a whole, or particular components of it, makes an effective contribution to military action under any one of the four categories mentioned previously? Could an economic asset which merely allows a party to finance the continuation of the conflict make an effective contribution to military action? If its contribution to military action is indirect, does it still constitute a legitimate military objective? (P I, Art. 52(2); CIHL, Rule 8)

c. May economic incapacitation offer a legitimate military advantage? Is there a difference between destroying a factory that produces weapons or ammunition and a factory producing furniture, the profits from which are then used to buy arms? Do you agree that the destruction of oil fields offered a definite military advantage in the present case? (P I, Art. 52(2); CIHL, Rule 8)

4. (*Document A, paras [3] - [4], [6] - [7], [9] - [12]*)

a. Do you think that the attacks in question were proportionate? What elements need to be compared to answer this question? What important information is missing in the present case? (P I, Art. 51; CIHL, Rules 14 and 18)

b. Should the indirect effect of the attacks on civilian population and civilian infrastructure be taken into account? The time it takes to repair a particular installation? The difficulty of repairing it? (P I, Art. 51; CIHL, Rules 14 and 18)

c. Should proportionality be assessed separately for each target? If so, would you consider proportionate the attacks on fuel oil separators? Pumping stations? Small mobile refineries? Oil collection points? (P I, Art. 51; CIHL, Rules 14 and 18)

III. Attacks on trucks

5. (*Document B, para. [1]; Document C, para. [1]*)

a. Are the trucks in question military objectives? If so, is it because of their nature, location, purpose or use? What if the trucks are also used by the drivers for private purposes? What definite military advantage does the destruction of the trucks offer? (P I, Art. 52(2); CIHL, Rule 8)

b. (*Document B, para. [6] in fine*) Does the illicit nature of the extraction and export of the oil play any role in the assessment of whether the trucks are a legitimate target? Would anything change if ISIS were entitled to carry out this activity under Syrian law?

6. (*Document B, para. [4]*)

a. Why did the US choose not to conduct air strikes against these trucks earlier in the campaign? What civilian casualties did they fear? Did they consider the truck drivers to be civilians? (*Document C, paras [1], [10] - [11]*) Is their qualification of the truck drivers consistent? (P I, Art. 51; CIHL, Rule 5)

b. (*Document C, paras [1], [10] - [11]*) What could make the truck drivers legitimate targets under IHL? What does the notion of direct participation in hostilities involve? Were the truck drivers directly participating in hostilities at the time of the attack? Could they be considered as having a continuous combat function? (P I, Art. 51(3); CIHL, Rule 6; ICRC, Interpretive Guidance on the Notion of Direct Participation in Hostilities, May 2009)

c. (*Document C, para. [10]*) What does Col. Warren imply when he says that, "because of their proximity to where they were and what they were doing, these civilians were — these truck drivers were absolutely legitimate military targets"? Does "what they were doing" refer to their direct participation in hostilities? Does "where they were" mean that they voluntarily chose to stay near a military objective? Will the qualification of the truck drivers under IHL change in this latter case? (P I, Art. 51(3); CIHL, Rules 6 and 97; ICRC, Interpretive Guidance on the Notion of Direct Participation in Hostilities, May 2009, Part II, Section V(2)(e))

IV. Precautionary measures

7. (*Document B, paras [5] - [7]; Document C, paras [2] - [8]*)

a. What precautionary measures did the US take before attacking the oil trucks in the present case? Were they effective? How do you assess the effectiveness of an advance warning? Was a warning necessary even

if (as the US claimed) the drivers were legitimate targets? (P I, Art. 57; CIHL, Rules 15 and 20)

b. Do you think the language contained in the two warning leaflets was clear enough? Is it relevant that the images reproduced were grainy and of poor quality? Was it necessary or useful to include information on the broader context of the operation? On the terrorist nature of ISIS? Looking beyond the present case, may political propaganda be included in such leaflets? (P I, Art. 57; CIHL, Rules 15 and 20)

c. (*Document C, para. [9]*) Does giving a warning that is usually effective absolve the attacking party of checking whether it has been effective in a particular attack? What must the attacking party do if the warning has not been effective? (P I, Art. 57; CIHL, Rules 15 and 20)