

Afghanistan, Strikes on Drug-Processing Facilities

INTRODUCTORY TEXT: Civilian objects and civilians are protected from direct attack by IHL rules governing the conduct of hostilities. This case discusses a specific incident in which US forces targeted alleged drug traffickers and drug-processing facilities in Farah, Afghanistan, claiming that they constituted legitimate targets. This point is examined in the report prepared by the United Nations Assistance Mission to Afghanistan (UNAMA) and the Office of the United Nations High Commissioner for Human Rights (OHCHR).

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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.

UNAMA-OHCHR, AFGHANISTAN, PROTECTION OF CIVILIANS IN ARMED CONFLICT (2019)

[**Source:** UNAMA-OHCHR, “Afghanistan, Protection of Civilians in Armed Conflict; Special Report: Airstrikes on Alleged Drug-Processing Facilities, Farah, 5 May 2019”, October 2019, available at <https://www.ohchr.org/Documents/Countries/AF/SpecialReportUSforAirstrikesBakwa.pdf> (footnotes omitted)]

EXECUTIVE SUMMARY

[...]

METHODOLOGY

[...]

BACKGROUND

Airstrikes on drug labs

[1] Military operations by international military forces on drug production facilities or “drug labs” began in Afghanistan in 2008, with a change to the operational plan for the International Security Assistance Force (ISAF), authorizing it to act “with the Afghans against facilities and facilitators supporting the insurgency, in the context of counter-narcotics, subject to authorization of respective nations.” In December 2008, the US rules of engagement were expanded to provide its forces similar authority to target drug traffickers in military operations. Approximately 50 alleged drug traffickers were deemed to contribute funds to the insurgency and were put on the joint integrated prioritized target list, referred to as the “kill list”. The change in the ISAF operational plan was opposed by some NATO Member States, with questions raised as to whether targeting traffickers and drug facilities through military action complied with international law. [...] By the end of 2009, US policy appeared to shift away from a focus on airstrikes targeting drug facilities and traffickers.

[2] [...] In November 2017, USFOR-A [US forces-Afghanistan] launched a campaign targeting “Taliban financial networks and revenue streams”, using expanded targeting authorities provided under President Trump’s new South Asia strategy. This campaign started with airstrikes against reported Taliban narcotics production facilities in Helmand province. Afghan security forces also launched similar strikes. [...]

[3] By April 2018, USFOR-A had conducted 75 airstrikes against narcotics production facilities in Afghanistan since the start of the campaign in November 2017. In April 2018 alone, the Afghan and US forces reportedly destroyed a record 29 “Taliban narcotics labs” as the aerial campaign expanded into Nimroz and Farah provinces in the west of the country. By the end of June 2018, USFOR-A announced having destroyed 154 Taliban targets, including “narcotics production, storage and trafficking locations, as well as weapons and explosive caches, headquarters and staging areas”.

[4] UNAMA [United Nations Assistance Mission to Afghanistan] documented a number of airstrikes by both USFOR-A and the Afghan Air Force on reported drug labs, from November 2017 onwards, often conducted at night, and mainly on empty buildings. In some incidents, UNAMA verified civilian casualties. One such incident occurred on 19 November 2017, when at 11 pm, USFOR-A conducted airstrikes on buildings in the area of a bazaar in Musa Qala district, Helmand province, where opium was reportedly being traded. The home of an alleged drug smuggler was hit by an airstrike, killing him and members of his family. UNAMA verified the death of 10 civilians: one man, three women and six children. [...] In the 2017 US Department of

Defense Civilian Casualty report, it explained that Resolute Support investigations “disproved the allegation as surveillance of the house over a significant period of time showed no sign of the presence of a family.”

[...]

[5] The 5 May 2019 airstrike operation in Bakwa district was the first time that UNAMA had received allegations of civilian casualties of such a scale, raising concerns about unprecedented levels of civilian harm resulting from such a type of operation. It indicated a worrying shift in USFOR-A's targeting policy and practice, with this operation being conducted during the day on buildings that were occupied at the time of the airstrikes.

Methamphetamine production in Afghanistan

[...]

[6] Bakwa district, which borders Helmand and Nimroz provinces, is reported to have a large concentration of drug labs, including methamphetamine labs. Most of the labs are “largely owner-operated, ‘mom and pop’-style businesses located in an old compound or in a building abandoned by a tenant farmer or sharecropper”. This is in contrast to the drug labs elsewhere in the country, which are reported to be larger and more specialized or “professional”. The costs and scale of drug production in Bakwa is reported to be “considerably lower” than in other known locations for processing drugs, namely Gandam Raiz and Musa Qala districts in Helmand province.

Law enforcement responses to illicit drug activities in Afghanistan

[7] The Afghan Government has in the past primarily targeted drug labs using law enforcement responses. Between 2003 and 2008, the Afghan Special Narcotics Force (Commando Force 333) under the Ministry of Interior Affairs carried out drug interdiction missions, including in remote areas under Taliban control, with military providing only a supporting role. [...]

[8] Currently, the Counter-Narcotics Police of Afghanistan, with the support of the Special Mission Wing, leads counter-narcotics efforts by law enforcement personnel in Afghanistan.

[...]

FINDINGS

Initial information

[9] On 5 May 2019, from approximately 11am to 1 pm, USFOR-A carried out a series of airstrikes across

multiple areas in Bakwa district, Farah province, which crossed over into Delaram district, Nimroz province. USFOR-A indicated that the airstrikes targeted methamphetamine production facilities, commonly referred to as drug “labs”, that were “controlled and operated exclusively by the Taliban”.

[10] Soon after the incident, allegations of civilian casualties were publicly reported in the media. Sources reported to UNAMA allegations ranging from 40 to 200 civilian casualties. The Ministry of Interior of Afghanistan reported that coalition airstrikes had destroyed 68 “Taliban drug labs”, killed 150 Taliban members and wounded 40 others, destroying thousands of kilograms of drugs, including methamphetamine, in Ashkin, Spin Karez and Paloshai areas of Bakwa district. In the media, the district governor of Bakwa stated that 45 civilians were killed in the operation, many of whom were working in the labs, along with 18 Taliban fighters. Taliban, through its Voice of Jihad website, “categorically reject[ed]” reports that the structures hit in the 5 May operation were Taliban narcotics factories and those killed were Taliban members. Taliban claimed that none of its members were involved in any “work or trade of narcotics” and that all those killed were local farmers and civilians.

[11] [...] According to USFOR-A, “all practicable measures were taken to prevent civilian casualties” and its initial assessments determined that there were no civilian casualties resulting from the airstrikes. It indicated that a number of suspected labs had not been hit specifically due to concerns about civilian casualties. USFOR-A had assessed that all individuals inside the targeted structures were Taliban members and could be legally targeted without having to prove that they were directly participating in hostilities. USFOR-A stated that some of the individuals targeted were working as chemists and logisticians while others were said to be armed guards.

Fact-finding mission and follow up

[12] [...] [L]ocal sources identified a number of impact sites that had been residential homes in which drug processing had not taken place. [...] [T]hey also hit a marketplace with shops, a fuel station, and vehicles. [...]

[13] Since the incident, UNAMA has not been able to corroborate the USFOR-A position that the drug labs targeted during the airstrikes were controlled and operated exclusively by the Taliban. Information received and assessed by UNAMA from multiple credible sources from the area, as well as from the Afghan authorities, including intelligence officials and members of the Afghan national security forces, has indicated that the drug labs were owned and operated by criminal groups with connections to international drug trafficking networks. The owners of the labs and the workers themselves were identified as operating separately from the Taliban. The Taliban does, however, reportedly extract “taxes” from the farmers and the lab owners involved in methamphetamine production [...] The Taliban also reportedly provide security for the transport of drugs out of the country.

[14] [...] UNAMA received specific and detailed information of 145 civilians (89 killed, 52 injured and four undetermined) affected by the airstrikes in Bakwa and Delaram districts of Farah and Nimroz provinces respectively, including 80 children and nine women. Thirty of these alleged civilian casualties were identified as drug lab workers (including four children between the ages of 15 and 17). UNAMA is still in the process of verifying many of these reports. Of the 145 individuals reportedly killed or injured, UNAMA has verified 39 civilian casualties (30 deaths, five injured and four whose status of killed or injured remains undetermined), including 14 children and one woman. Amongst the verified civilian deaths, UNAMA determined that 17 of them – all adult males - were working in the drug labs.

[15] In one incident on 5 May in Shagai village of Bakwa district, multiple reliable and credible sources reported that three children were killed when an airstrike impacted their home. After one strike hit close to the house, the father shouted to his family members to run away from the house before a second bomb was dropped on the house. Three young boys, aged between one and a half to seven years old, were unable to escape in time. [...]

[16] In another incident in the same area, multiple reliable and credible sources reported that 12 members of the same extended family were killed and injured when an airstrike hit their house. UNAMA verified seven civilian deaths (including five children) and three injured civilians (including two children). [...]

[17] During the mission to Bakwa district, the fact-finding team visited an impact site where an airstrike on a house resulted in five civilian casualties (three deaths, including two children, and two injured), according to multiple reliable and credible sources. According to witnesses, two aerial strikes were conducted. The first one reportedly damaged the house. A few minutes later when people from the surrounding area gathered to see what had occurred, a second airstrike hit the same location, causing the civilian casualties. [...]

[...]

[18] [...] USFOR-A maintained its position that no civilian casualties resulted from the 5 May operation and no women or children were present or in the vicinity of the structures that were targeted; according to USFOR-A, all personnel working inside the labs were men. According to USFOR-A, its original assessment of zero civilian casualties was based on “security pillar responses, post-strike open source reporting, and a CIVCAS investigation.” USFOR-A stated that as of 13 September, it was “not privy to any security pillar responses or open source reporting alleging CIVCAS”. However, it further stated that, “based on the kinetic nature of the operation and UNAMA's allegation, it is possible there was a CIVCAS. Even with extensive pre-strike pattern of life assessments to mitigate CIVCAS, CIVCAS is conceivable.”

LEGAL FRAMEWORK

[19] The situation in Afghanistan is characterized by a number of non-international armed conflicts between

the Afghan national security forces and international military forces supporting the Government of Afghanistan and various non-State armed opposition groups, as well as between non-State armed opposition groups.

[20] In a non-international armed conflict, article 3 common to the Geneva Conventions establishes minimum standards that parties to a conflict shall respect. Additionally, where applicable, the provisions of Additional Protocol II of 1977, to which Afghanistan is a party, also form part of the governing legal framework. The United States has signed, but not ratified, Additional Protocol II. [...]

[...]

Legality of airstrikes targeting drug labs

[...]

[21] The US has long held the position that economic objects that contribute to “war-supporting” or “war-sustaining” industries are legitimate military targets. The US Department of Defense Law of War Manual states that it may be “imperatively demanded by the necessities of war to seize or destroy enemy property in order to diminish the enemy’s ability to conduct or sustain operations”. Previous ISAF operations against narcotics labs and narcotics are cited as an example of such operations.

[22] According to USFOR-A, and in line with US policy, the 5 May airstrikes targeted methamphetamine labs that were “directly used to fund the Taliban’s warfighting efforts”.

[...]

Legality of airstrikes targeting persons working in drug labs

[...]

[23] The act of manufacturing or processing drugs and the corresponding revenue generated that may be used to finance the war effort of a party to the conflict has only an indirect impact on the military capacity of that party.

[24] UNAMA notes that according to USFOR-A, “comprehensive intelligence confirmed that all personnel inside of the laboratories were Taliban combatants.”⁹² However, USFOR-A also indicated that this did not mean that these individuals were performing a combat function at the time of the operation. USFOR-A clarified that the US imputes the “hostile intent” of a non-state organized armed group to all of its members, regardless if that member is performing a combat function. USFOR-A considered all personnel inside the labs to be targetable on the basis of their purported membership. According to USFOR-A, indications that

someone is a member of a non-state organized armed group include “following directions issued by the group's leaders, performing tasks on behalf of the group similar to those provided in a combat, combat support, or combat service support role.” USFOR-A does not consider it necessary to prove that individuals are directly participating in hostilities in order to consider them to be legitimate targets, nor do they need to have a combat function to be targetable according to US policy.

[...]

CONCLUSION

[25] Based on its fact-finding and legal analysis, UNAMA and OHCHR have determined that both the sites and individuals targeted in the USFOR-A airstrikes on 5 May 2019 in Bakwa district of Farah province and Delaram district of Nimroz province were civilian and, as such, should have been protected from attack.

[...]

[26] UNAMA was not able to corroborate the position of USFOR-A that the locations targeted by the airstrikes constituted legitimate military targets. UNAMA found that the civilian structures that were allegedly used as drug labs and were hit during the airstrikes did not have a sufficient nexus to the Taliban's war-fighting operations to warrant their classification as military objectives. The targeting of the drug labs did not offer a definite military advantage to USFOR-A as the damage caused was mainly financial in nature. Moreover, some of the targeted structures did not appear to have any connections to drug-processing activities, including residential homes.

[...]

[27] Beyond the impact of the 5 May operation alone, UNAMA is gravely concerned about the possible wider implications of the US position on targeting war-sustaining objects. [...]

[28] The extreme and wide-ranging harm to the population in Afghanistan and the broader region caused by the illicit drug industry is well documented, and in particular the growing threat posed by the methamphetamine industry, including adverse health, environmental and societal impacts. However, the appropriate – and legal – response to illicit drug activity is through law enforcement, rather than through military operations. UNAMA notes that United Nations Security Council resolutions on Afghanistan address the illicit drug industry through trade embargoes and asset freezes, rather than through the military targeting of revenue-generating objects.

[29] In a report submitted to the Human Rights Council in September 2018, the United Nations High Commissioner for Human Rights noted “some alarming tendencies towards a deeper militarization of the responses by States to counter drug-related crimes”. She cautioned that “excessive use of force is more

likely to occur when military or special security forces are involved in drug operations” and that “such approaches have disproportionately affected vulnerable groups and has repeatedly resulted in serious human rights violations.”

[...]

RECOMMENDATIONS

[30] [...] UNAMA urges USFOR-A to:

- Conduct an independent and transparent investigation to examine the impact on civilians from the 5 May operation and to make public the findings as well as measures taken to ensure accountability, including the appropriate redress provided to victims and their family members;
- [...]

DISCUSSION

I. Classification of the conflict and applicable law

1. (*Paras [19]-[20]*)

- a) How would you classify the conflict in Afghanistan between the Taliban and the United States in 2019? And between the Government of Afghanistan and the Taliban?
- b) Are these one and the same conflict or are they two separate ones? Are the United States and the Afghan Government co-belligerents? Can a state be engaged in an extraterritorial non-international armed conflict? What is the role of the territorial state's consent in this determination?
- c) Is Additional Protocol II applicable to the conflict between the Afghan Government and the Taliban? What is the relevance of the fact that the US signed, but not ratified AP II? Does AP II apply to extraterritorial NIACs? (GC I-IV, Art. 3; P II, Art. 1)

II. Qualification of the persons

2. (*Paras [10]- [11]*)

- a) Since the US claims to be targeting the Taliban, under IHL, may members of the Taliban be lawfully

targeted? Are they combatants, fighters or civilians? Do they fall under any of the categories of Art. 4(A) of Convention III? May all members of an organised armed group involved in a NIAC be targeted at all times? (**See also** ICRC Interpretive Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law)

b) (*Para. [24]*) Do you think that USFOR-A's argument, according to which the people working in the drug labs were targetable purely on the basis of their alleged membership to the Taliban, is supported by IHL? Is this the case irrespective of whether they were directly participating in hostilities or of whether they had a combat function (**See also** ICRC Interpretive Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law)? Do you agree with the criteria used by USFOR-A to determine membership in an armed group?

c) (*Para. [24]*) Do you agree with USFOR-A's argument that to be targetable the people in the drug labs did not have to perform a "combat function" but that it was sufficient that they were members of the Taliban? What is the meaning of "continuous combat function" under IHL? Would the people in the drug labs be targetable if they were performing a combat function? To be targetable, must they have performed their function at the time of the attack?

d) Do you agree with the conclusion of UNAMA that the targeting of persons based on their membership in an armed group while they are not directly participating in hostilities is impermissible and unlawful? (P I, Art. 51 (3); ICRC Interpretive Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law)

3. (*Para. [10]*)

a) What about the people working in the drug labs? What is their status according to the US? And what is their status according to UNAMA? Would your answer change if you took the statements in which the Taliban denied that the drug lab workers were members of their armed group to be true?

b) What is the meaning of "direct participation in hostilities"? Could you argue that working in the drug labs amounted to direct participation in hostilities? Would this answer be different for those working as chemist or logicians and those working as armed guards? (P I, Art. 51 (3); P II, Art. 13 (3); CIHL, Rule 6; **See also** ICRC Interpretive Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law)

c) Could the children also working in the drug labs be seen as directly participating in hostilities? If they were, would these children be lawfully targetable under IHL? (P I, Arts 52 and 77 (2); P II, Art. 4 (3) (c); CIHL, Rule 137)

III. Conduct of Hostilities: Targeting of the drug labs

4. What IHL principles govern targeting? What is a legitimate target? How would you define the notion of military objective? What about civilian objects? Are the criteria discussed above which make a person targetable the same as those which make an object targetable? (P I, Arts 48 and 52 (1)-(2); P II 13 (1); CIHL, Rules 8-10)

5. (*Paras [2]; [6]; [9]-[10]; [13]; [21]-[23]; [26]-[27]*)

a) Are drug labs military objectives in an armed conflict? If their profits are used to fund the war effort? Are there any circumstances that would allow attacks against a drug lab? (P I, Art. 51 (4)-(5); CIHL Rule 10)

b) What is the basis for the USFOR-A's determination of the drug labs as legitimate military targets? Is the policy found in the US Department of Defense Law of War Manual, which establishes that economic objects that contribute to "war-supporting" or "war-sustaining" industries constitute legitimate military targets supported by IHL? (P I, Art. 52(2); CIHL, Rule 8)

c) (*Para. [13]*) Does the UNAMA-OHCHR Report accept the US's argument that drug labs were military objectives? Does it matter according to UNAMA and according to you that "the drug labs were owned and operated by criminal groups with connections to international drug trafficking networks" which operated separately from the Taliban? What if the drug labs were owned by the Taliban?

d) (*Paras [6] and [13]*) Does the fact that the Taliban extract "taxes" from the drug labs in Bakwa and provide transport and security render them legitimate targets? What is the UNAMA position? Is the fact that the revenue from the drug labs in Bakwa was "considerably lower" than in other known locations for processing drugs relevant in this assessment?

e) (*Paras [23] and [26]*) What do you make of UNAMA's statement that the revenue from the drug labs could only have an "indirect impact on military capacity"? What would amount to a "direct impact"? Does an object need to provide a "direct impact" on military capacity in order to become a military objective? How do you interpret UNAMA's statement in para. 28 according to which there was not a "sufficient nexus" between the drug labs the Taliban's war-fighting operations to warrant their classification as military objectives? What "nexus" are they talking about?

f) (*Para. [29]*) Why do you think UNAMA is "gravely concerned about the possible wider implications of the US position on targeting war-sustaining objects"? What objects would be "war-sustaining" and therefore military objectives in your country according to this interpretation?

IV. Conduct of Hostilities: Killing of civilians and damage to civilian property

6. (Paras [4]-[5]; [9]-[10]; [14]-[18])

a) The UNAMA-OHCHR Report references multiple incidents in which civilians were killed during the strikes. If those persons were indeed civilians, did this necessarily violate IHL? (P I, Art. 51; CIHL Rules 6-12)

b) (Para. [4]) Was the targeting of the house of an alleged drug smuggler, which led to the death of him and his entire family, lawful under IHL? If it was not, under what circumstances could it be? Was the alleged drug smuggler a legitimate military target? Could the buildings in the bazaars be targeted?

c) (Para. [14]) On 5 May 2019, USFOR-A carried out a series of airstrikes across multiple areas in Bakwa district, against what they claimed to be Taliban drug labs. Assuming that the labs were military objectives, is the number of civilian casualties (145 people killed and injured) proportionate according to IHL? Should they be assessed individually or as a whole? (P I, Art. 51 (5); CIHL, Rule 14)

d) UNAMA received allegations that amongst the civilians killed or injured there were also women and children. What is the status of women and children under IHL? Do they enjoy special protection under the rules on the conduct of hostilities? In the proportionality evaluation? (P I, Arts 70 (1) and 76 (1); CIHL, Rules 134-135)

V. Conduct of Hostilities: Issue of precautions

7. (Paras [4]; [11])

a) (Para. [4]) Is it relevant for the legal assessment of the attack against the alleged drug smuggler's house that it took place at night? Would it be different had it been conducted during the day? Assuming that the drug smuggler was a legitimate target, would the fact that he was asleep at the time of attack have any impact on your analysis? (**See also** ICRC Interpretive Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law; ICRC Expert Meeting: The Use of Force in Armed Conflict)

b) (Para. [4]) What is the relevance of the 2017 US Department of Defense Civilian Casualty report according to which surveillance of the house over a significant period of time showed no sign of the presence of a family"? Do you think this indicates that USFOR-A respected the IHL principle of precautions? What other precautions could USFOR-A have taken? Were they feasible? Had it been able to take more measures, did IHL oblige it to do so? (P I, Arts 57 (1)-(3); CIHL, Rule 15)

8. (Paras [4]; [9]; [11]) Could the fact that the attacks against the drug labs in Bakwa were conducted between 11am and 1pm be taken as a precaution in attack? What about the attacks taking place from 2017 to 2019 which were usually carried out at night against empty buildings? If USFOR-A did not target certain labs on 5 May 2019 due to the known presence of civilians, was this required by IHL? Does it constitute a

feasible precaution taken during the strikes? (P I, Arts 57 (1)-(3); CIHL, Rule 15)

9. (Para. [16]) UNAMA also investigated an alleged attack in which USFOR-A dropped two bombs one a few minutes after another, the first causing damage to a civilian house and the second directly hitting it and causing civilian casualties. What does the dropping of two separate bombs say about the precautions taken by USFOR-A? Should they have dropped the second bomb? (GC I-IV, Art. 3; P II, Arts 7 and 8; P I, Arts 51 (5) (b) and 57 (1); CIHL, Rule 15)

VI. Paradigms: Conduct of Hostilities and Law Enforcement

10. (Para. [30]) Do you agree with the UNAMA-OHCHR Report that “the appropriate – and legal – response to illicit drug activity is through law enforcement, rather than through military operations”?

11. Does IHL provide rules on law enforcement? Is this not rather an IHRL issue? Do USFOR-A and UNAMA disagree about the applicable rules or about the facts? On what legal issues, if any, do they disagree? Is IHL applicable to law enforcement operations? If they are undertaken in the context of an armed conflict? Is the notion of “nexus” relevant to determine whether a particular operation is governed by the conduct of hostilities or law enforcement paradigm?

12. How do you determine whether the conduct of hostilities paradigm or the law enforcement paradigm applies in the context of use of force against drug labs and persons involved in their running them? Would your answer to this question change if the drug labs had been run by the Taliban?

13. What constraints does the conduct of hostilities paradigm place on the use of lethal force? How do these constraints differ from those under the law enforcement paradigm? May the armed forces only target civilians directly participating in hostilities in case of imminent threat to human life and only after exhausting less lethal means? (ICRC Interpretive Guidance on the Notion of Direct Participation in Hostilities under International Humanitarian Law, Section IX)

14. To determine whether a use of force is subject to the law enforcement paradigm or the conduct of hostilities paradigm, does it matter whether lethal force is used by the military or the police? Does it matter where lethal force is used? What about the status of the person who is targeted? If the target is a civilian, does law enforcement always apply except if they were directly participating in hostilities at the time of the attack?

VII. Obligation to Investigate

15. (Para. [32])

a) Do you agree with the Recommendation given by UNAMA, namely, that USFOR-A must conduct an

independent and transparent investigation into the strikes against the drug labs? Is this merely a “recommendation” or is USFOR-A under an international obligation to do so? Does IHL oblige belligerent parties to conduct an investigation following an attack? What is your answer under international human rights law? If your answer differs, which prevails? (GC IV, Art. 147; P I, Art. 85; CIHL Rule 158)

b) Under IHL, does the US have to provide redress to the civilians affected by the attacks? If yes, does it owe it to all or only to those unlawfully affected? (CIHL Rule 150)