



ATT MONITOR

*Civil society perspectives on the
Third Conference of States Parties
to the Arms Trade Treaty
11-15 September 2017*



Reaching Critical Will

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IS THE ARMS TRADE TREATY SAVING LIVES?

Allison Pytlak | *Reaching Critical Will* of WILPF

Four years have passed since the Arms Trade Treaty's (ATT) adoption in 2013. Those of us who were there that day celebrated a long-fought diplomatic achievement brought about through determination, collaboration, and vision. The rapid entry-into-force shortly afterward compounded the feeling that while perhaps imperfect, this would be a treaty that could really achieve something. This would be a treaty that would overcome the negative comments of its detractors. Most significant, this would be a treaty that would actually save lives.

Has it?

This is the single most important question that states must ask themselves as they convene for the Third Conference of States Parties (CSP3) this week. This is the real yardstick against which the effectiveness of the ATT should be measured.

Unfortunately, evidence seems to suggest that no, this treaty has not lived up to its principles and objectives, in particular of reducing human suffering and saving lives. A few states have reversed or are reviewing questionable policies—which is to be commended—but they are a small group. There are otherwise many signs of a “business as usual” approach to arms transfers, even in the face of vociferous efforts of civil society and media to draw attention to the consequences of such actions.

The most-cited example is the ongoing transfers and license approvals to Saudi Arabia by a handful of ATT states parties and signatories, the weapons from which are being used both domestically and in the conflict in Yemen. In both locations, there is ample credible evidence indicating a risk of the arms in question being used to violate human rights. There is also evidence of ongoing transfers

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Photo: West Mosul, August 2017 © AP/Felipe Dana. Editorial continued on next page.

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into war torn South Sudan from ATT signatories and increased sales to some Asian states that have concerning levels of armed violence. Also disturbing is that states parties that are not making these transfers themselves are not asking any questions, either. They equally have a responsibility to protect and uphold the ATT. They must do much more to address behaviour that violates the Treaty or contradicts its goals and objectives.

Of course, implementing the ATT in a way that will reduce human suffering does not happen with the wave of a magic wand. The decisions that are required by articles 6 and 7 of the Treaty need other very practical things to exist first, some of which require time and resources. Here there has been a lot of positive activity since the Treaty's entry-into-force. Trainings, seminars, writing of manuals, guides, and model legislation are excellent examples that we hope to hear more about in national statements at this CSP. The establishment of the Voluntary Trust Fund (VTF) and its operationalisation since last year will hopefully propel new projects to fruition.

But for some states parties, ATT obligations already largely match their existing national policies or regional obligations, as many have stated publicly for

years. Time is not an excuse. The business as usual approach is unacceptable and hypocritical to the sentiments that these countries express in their conference room statements.

There is a concern that, as happened during CSP2, the thematic discussion at this conference will overlook matters of substance and emphasise matters of process. This would mean not adequately addressing why some states are already falling behind on reporting requirements, as one example, or why some have elected to keep their reports private. It would mean not discussing compliance issues, in the context of implementation, and only focusing on procedural issues such as the future status of the working group on implementation. This is not to say that procedural decisions are not important—they are the building blocks on which the ATT functions. What is problematic is to focus solely on these aspects and kick the harder topics down the road for another day. The integrity and credibility of the ATT erodes further each day that this happens.

As CSP3 gets underway, we call on states to ask the question, is the ATT saving lives? Let's have that as our guiding question—and top priority. •

Statements, documents, and analysis of CSP3 are available on the Reaching Critical Will website.

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CONFRONTING EXPLOSIVE VIOLENCE WITH THE ARMS TRADE TREATY

Ray Acheson | *Reaching Critical Will of Women's International League for Peace and Freedom (WILPF)*

The use of explosive weapons in populated areas is a humanitarian catastrophe. It is preventable, by ending this practice and by stopping arms transfers to those that bomb towns and cities. The devastation of towns and cities during war is dangerously becoming a “new normal”—the ongoing or recent bombardment of cities in Syria, Iraq, and Yemen illustrate the problem but are by no means the only examples. Urgent action is needed to protect civilians and end human suffering. UN discussions on explosive violence and on the arms trade provide these opportunities, but states must seize them now.

Civilian harm from explosive violence

Syria: In Raqqa, Syria a US coalition has waged an attack against ISIS since June, but more than 16,000 civilians are trapped between armed factions on the ground and bombardment from US airstrikes and artillery barrages.¹ In addition, as Amnesty International has found, survivors of the bombardment recounted how Russian-backed Syrian government forces also bombarded civilians in villages and camps south of the river, including with internationally banned cluster bombs.² UN High Commissioner for Human Rights Zeid Ra'ad al-Hussein said that his office has documented hundreds of civilian deaths in August alone, due to air strikes and ground-based attacks. “Given the extremely high number of reports of civilian casualties this month and the intensity of the air strikes on Raqqa, coupled with ISIL’s use of civilians as human shields, I am deeply concerned that civilians—who should be protected at all times—are paying an unacceptable price and that forces involved in battling ISIL are losing sight of the ultimate goal of this battle,” Zeid said in a statement, adding concern that “the attacking forces may be failing to abide by the international humanitarian law principles of precautions, distinction, and proportionality.”³ Yet the US coalition rejected a call from the UN for a humanitarian pause in the fighting, arguing they would lose momentum in the battle.⁴

Iraq: The destruction of Raqqa comes shortly after a similar bombardment campaign led by the United States in Mosul, Iraq, which cost thousands of civilians lives, forced mass displacement, and has devastated civilian infrastructure particularly in the western part of the city.⁵ A new report by Amnesty International uncovers the horrifying scale of death, injury and suffering of civilians trapped in the battle for west Mosul.⁶ The report documents how ISIS moved civilians from neighboring villages into the zones of the

battle in west Mosul, trapped them in their homes and prevented them from escaping, using them as human shields. Meanwhile Iraqi and coalition forces failed to take adequate measures to protect civilians, instead subjecting them to a barrage of fire and bombardment from weapons that should never be used in populated areas.

Yemen: Meanwhile, Yemen is suffering from the worst cholera outbreak in the world as result of the bombing by the Saudi Arabian-led coalition. As of mid-August 2017, according to the World Health Organization (WHO), the number of suspected cholera cases reached 500,000 in Yemen.⁷ In July, the International Committee for the Red Cross (ICRC) reported, “Yemen’s cholera outbreak is a direct consequence of a conflict that’s brought the health system to its knees.” The UN’s humanitarian relief coordinator, Stephen O’Brien, warned that “millions of Yemeni civilians—women, children and men—continue to be exposed to unfathomable pain and suffering” due to both famine and the cholera epidemic. It is estimated that more than half of the country’s medical facilities have been destroyed.⁸ In a letter addressed to the UN Human Rights Council, a coalition of 62 NGOs warned that serious violations of international humanitarian and human rights law are being committed with impunity.⁹ “The Saudi Arabia-led coalition has conducted scores of unlawful airstrikes ... that have killed thousands of civilians and hit schools, hospitals, markets, and homes. The Houthi armed group and forces loyal to former president Ali Abdullah Saleh have fired weapons indiscriminately into populated areas in Yemen and southern Saudi Arabia and used explosive weapons with wide-scale effects,” wrote the signatories to the letter. Parties to the conflict are also recruiting child soldiers, preventing the delivery of aid and harassing activists and journalists.¹⁰

Where the weapons come from

Amnesty International has previously found that many of the weapons used by ISIS have been designed or manufactured by more than 25 countries.¹¹ The bulk of these arms and ammunition were seized from Iraqi military stocks. ISIS has also gained access to weapons from other sources, in particular from the capture or sale of Syrian military stocks and arms supplied to armed opposition groups in Syria by countries including Turkey, the Gulf states, and the United States.

Meanwhile, US coalition forces bombing in Iraq and Syria use weapons largely supplied by the United

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Confronting explosive violence, continued

States.¹² The US coalition in both Iraq and Syria also appears to have used white phosphorus-loaded munitions on at least two occasions in Mosul and Raqqa, according to videos posted online and human rights groups.¹³

With weapons provided by the United States, United Kingdom, and others, the Saudi Arabia-led coalition has been bombing Yemen, including civilians and civilian infrastructure, since March 2015. On 20 May, US President Trump announced the sale of \$110 billion in arms to Saudi Arabia.¹⁴ On 13 June, the US Senate narrowly averted a bid by a bipartisan group of senators to block President Trump's \$500 million sale of guided, air-to-ground bombs for use in Yemen by Saudi Arabia. The vote was 53-47 to defeat a resolution of disapproval.¹⁵ Meanwhile, more than £3 billion of arms have been sold to Saudi Arabia from the UK since 2015.¹⁶ Campaign Against Arms Trade has sued the UK government in High Court over its arms sales to Saudi Arabia,¹⁷ but on 10 July the Court handed down a disappointing verdict, sidestepping ruling on the legality of the decision to allow the arms transfers by claiming instead that, ultimately, the Secretary of State was legally entitled to decide whether or not to suspend or cancel arms sales to Saudi Arabia.¹⁸ A lack of transparency dogged the case throughout, with half of the evidence heard during the trial having been provided before a closed court.¹⁹ The court does acknowledge that there is a substantial body of evidence suggesting that the Saudi-led coalition has committed serious breaches of international humanitarian law in Yemen—much of which was presented by civil society groups as part of their testimonies—but argues that such open source material is “only part of the picture”.

International action: ending the use of explosive weapons in populated areas

Urgent action is needed at the international level to stop the use of explosive weapons in populated areas, which invariably results in civilian casualties and destroys cities and towns. Unfortunately, such action has been slow to manifest. At the end of August, the International Committee of the Red Cross (ICRC) and the Mission of Germany to the UN in Geneva hosted a workshop on this issue.²⁰ Speakers from the ICRC, other international and civil society groups, as well as government representatives, provided information on the humanitarian effects of this horrific practice and on political and diplomatic processes aimed at stopping it.²¹ The last meeting on this topic was hosted

by the Austrian government in October 2016 in New York, at which participants considered the development of a political commitment to end the use of explosive weapons in populated areas in order to mitigate humanitarian harm and protect civilians. In November last year, states discussed the possibility of considering this issue at future meetings of the Convention on Certain Conventional Weapons.²² Unfortunately, in the meantime devastation has continued in several countries including Iraq, Syria, and Yemen, where the use of these weapons in towns and cities has resulted in civilian casualties, mass displacement, destruction of health, water, and sanitation infrastructure, and more.

The leading civil society coalition working on this issue, the International Network on Explosive Weapons (INEW), gathered in Geneva the day after the ICRC/Germany meeting to discuss how to best take forward relevant initiatives. Partner organisations from around the world discussed local and regional contexts and opportunities to make real change at the international level. While recent campaigns such as the World Humanitarian Day's focus on civilians not being a target in conflict have helped bring attention to this issue,²³ states must decide to stop violating international humanitarian law and human rights and cease their bombardments of towns and cities—as well as their supply of weapons to those that engage in such behaviour. Campaigning against explosive violence will continue next week at the Third Conference of States Parties to the Arms Trade Treaty. Governments must stop selling weapons to those that use them in populated areas, and must stop participating in military operations that bomb cities and towns.

International action: stopping arms transfers that lead to explosive violence

From 9–11 September, arms producers and war profiteers from around the globe have gathered for the world's largest arms fair. In response, activists from around the UK and other countries have gathered to impede the fair in every way possible. They have blockaded the roads, preventing the weapons from being able to access the exhibition spaces. They have hung off bridges, danced, sung, and prayed, created art, and raised awareness around the world about the arms fair and its contributions to global violence.

The arms fair precedes the Third Conference of States Parties to the Arms Trade Treaty (ATT), which will take place 11–15 September in Geneva. This is an oppor-



Confronting explosive violence, continued

tunity to review the implementation of the Treaty, which was developed to prevent human suffering and human rights violations. Unfortunately, more than two years after the Treaty entered into force, these aspirations remain unfulfilled and several states parties—including some of key champions such as the United Kingdom—are violating its provisions. At the last ATT Conference of States Parties in 2016, governments refused to talk about this situation or any other arms transfers that may be in violation of the Treaty. States parties must do better at next week's meeting. The only way for the Treaty to be effectively implemented is for its states parties to condemn violations and end arms transfers that result in human suffering.

ATT states parties and signatories must condemn arms transfers that are facilitating human suffering or the violation of human rights or international humanitarian law. The Treaty stipulates that the risk of such consequences should prevent arms transfers from being approved, yet many exports go ahead despite ample evidence of the harms they create. Thus in addition to calling out these transfers, states parties and signatories need to discuss how to challenge actions that arguably violate the Treaty. There is already a working group on treaty implementation, but this body has not taken on an investigatory or action-oriented role in regards to circumstances where arms transfers are facilitating humanitarian catastrophe as described above. The CSP should discuss and take decisions on these serious issues. •

Notes

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upcoming side event 12/09/17

ARMS TRANSFERS: A HUMAN RIGHTS PERSPECTIVE



Photo: Flickr

**Centre International de Conférences
Genève (CICG)**

Room 5, Rue de Varembé 17, 1211 Geneva

12 September 2017 (13h15 - 14h45)

Refreshments will be provided. translation EN-FR-SP.

This event is open to the public.



Photo: Flickr

About the Event

Presentation of the OHCHR report:

"Impact of arms transfers on the enjoyment of human rights"

The human rights situation in the Democratic Republic of the Congo (DRC) recently launched a report on the impact of arms transfers on the enjoyment of human rights. The aim of the report is provide States and other relevant stakeholders with elements to assess the relationship between arms transfers and human rights law.

This side event is an opportunity to present and discuss the findings of the report with a view to raising awareness about the applicability of the international human rights law framework to the ATT. The discussion also aims to identify synergies between the work of the Human Rights Council, the OHCHR and the ATT bodies and mechanisms in the field of arms transfers and human rights.

Speakers

Welcoming remarks: **Minister Maria Antonia Masana**,
*Alternate Permanent Representative of Peru Mining on
Human Rights in Eastern DRC*

Opening remarks: **Ambassador Sabrina Dallafior**,
*Permanent Representative of Switzerland to the
Conference on Disarmament*

• **Peggy Hicks**,
Director of the Thematic Engagement, Special Procedures
and Right to Development Division, *OHCHR*

• **Rasha Abdul Rahim**,
Advocate/Adviser on Arms Control, Security Trade &
Human Rights, *Amnesty International*

• **Marco Sassòli**,
Professor of International Law, Department of International
Law and International Organization, *University of Geneva*

Co-moderators: **Carlos Sibille Rivera** (Permanent
Mission of Peru, PhD Candidate University of Geneva) /
Allison Pytlak (WILPF)

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