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IN THIS ISSUE

- 1 | Editorial: Rhetoric versus reality**
- 3 | News in brief**
- 5 | Words and deeds in implementing the ATT**
- 6 | Event: Launch of *The Arms Trade Treaty: A Practical Guide to National Implementation***
- 7 | Event: Assessing national compliance with the ATT: Liberia, a case study**
- 8 | Event: Yemen: How arms transfers are furthering human suffering**

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The views expressed in this publication are not necessarily those of WILPF or Reaching Critical Will.

EDITORIAL: RHETORIC VERSUS REALITY

Ray Acheson | *Reaching Critical Will of WILPF*

Across issue areas, even just within the disarmament sphere, the framing of "rhetoric versus reality" is all too common. Words do not match up to actions. Reality around the world does not mirror the merry picture painted within the various conference rooms in which give states their official statements. The interventions of the United Kingdom, United States, and Canada—an Arms Trade Treaty (ATT) state party, a signatory, and an aspirant—provided an all-too-excellent example of this phenomenon during Tuesday's general debate.

In its statement, the UK delegation proclaimed it's "unerring commitment" to the ATT. It also called on other states to be ready to "redress practices that fall short of the Treaty's ideals" and to "adjust their approaches" to accept criticism "as appropriate".

Yet, the UK does not appear willing to either accept criticism or redress its practices. It has thus far refused to engage at CSP2 with the mainstream media and civil society critique of its arms exports to Saudi Arabia during its bloody bombardment of Yemen. The UK government has repeatedly claimed that its sales to Saudi Arabia meet its arms exports regulations, even though it has been found by eminent legal scholars to be violating domestic, regional, and international law.¹ One member of the defence committee insisted that the Saudi-led coalition in Yemen is trying to avoid hitting civilians. "They are doing their level best to sort it out," he told BBC Radio 4's Today programme. "I reckon they have made some mistakes and have breached in the past, but I can tell you this ... things have been really tightened up."²

In reality, the bombing in populated areas in Yemen is continuing to result in civilian casualties and the destruction of civilian destruction, leading to death, injury, mass displacement, and extreme food insecurity. Médecins Sans Frontières just announced that it will have to withdraw from six hospitals in northern Yemen after the fourth

airstrike against one of its facilities in less than a year.³ Earlier this month, the coalition hit a potato crisp factory, killing at least 14 workers.⁴ As one humanitarian aid worker explained, "They target every place in Yemen and are killing innocent people. They don't make exceptions, they target even schools and hospitals."⁵

This reality has also not stopped the United States, an ATT signatory, from continuing to supply billions of dollars worth of weapons to the Saudi coalition. The US, in its general debate intervention, quoted the Treaty and suggested it is acting in accordance with its principles. The US delegation also argued that all elements of the object and purpose of the ATT are mutually reinforcing.

In theory this could be true. But the practice of the UK and the US both indicate that states parties and signatories alike are at best interpreting their obligations under the Treaty in a manner inconsistent with all of the Treaty's objects and purposes. Participating in the relentless bombing and bombardment in populated areas in Yemen does not contribute to peace, security, or stability; does not promote "responsible action" by states parties; and above all, does not reduce human suffering. In fact, it massively exacerbates it.

Both the US and the UK highlighted the importance of Treaty universalisation. The UK suggested that on through "true universalization" will the ATT be able to address the challenge and impacts of the arms trade. Once again, however, the UK is undermining its own stated position. As Geoffrey Duke of South Sudan noted, "Authorising arms transfers for use in Yemen is a dangerous precedent for the ATT. It even threatens universalization."

States seeking to join the Treaty cannot possibly view its major proponents as sincere in the current environment. Many major state party exporters are selling weapons to Saudi Arabia and other countries engaged

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Editorial, continued

in human rights abuses at home or abroad. This behaviour risks stripping the Treaty of its credibility. Alternatively, states will join the Treaty recognising that they will never be held accountable for their arms transfers.

Canada delivered a hopeful intervention indicating its intention to ratify the Treaty once the relevant parliamentary and legislative procedures have been undertaken. This is a welcome development. Yet in advance of this, the Canadian government has watered down⁶ its arms export regulations and signed the export permits for its biggest arms deal in history—with Saudi Arabia. Even more recently, a Canadian-owned company shipped dozens of armoured personnel carriers to Libya through at least four different brokers, despite being confronted in 2014 by UN investigators who pointed out the sales violated an arms embargo.⁷ Concerns have also been raised about Canadian arms transfers to Nigeria, Colombia, Mexico, Peru, the Philippines, Thailand, and Turkey.⁸

Whether a state party, a signatory, or an aspirant, it's clear there are serious problems with ATT implementation. Wednesday's discussions will focus on this issue, ahead of which the UK mentioned its working paper OP.1 to establish a working group of technical experts on ATT implementation. The group, according to the UK's proposal, should decide itself when it would be public or private. Experts, particularly from industry, may be invited to private meetings.

Unfortunately, this proposal seems to seek to remove the opportunity to discuss Treaty violations from the public view and take such discussions into closed-door meetings that will likely exclude civil society other than arms manufacturers and dealers.

Focused discussions on implementation are necessary. But such deliberations must be public and informed by a wide range of interests, not just those profiting from arms sales.

It seems like there is a growing gap between rhetoric and reality in the ATT. We remain hopeful, as do Norway, Madagascar, Samoa, and many others, about its humanitarian potential. But to fulfill this potential, threats to the Treaty's effectiveness and credibility must be confronted, challenged, and addressed.

As WILPF said in our intervention to the general debate, "We believe in the potential of international law to make a difference. Agreements like the ATT are important to confront the violence and conflict facilitated by the spread of weapons. We hope that states parties meeting this week shoulder their responsibili-

ties, confront challenges that undermine the Treaty's objectives, and advance peace, security, and human rights through their commitments and their actions."

Notes

1. "UK Government breaking the law supplying arms to Saudi Arabia, say leading lawyers," Amnesty International, 17 December 2015, <https://www.amnesty.org/en/latest/news/2015/12/uk-government-breaking-the-law-supplying-arms-to-saudi-arabia>.
2. Emma Graham-Harrison, "UK in denial over Saudi arms sales being used in Yemen, claims Oxfam," *The Guardian*, 23 August 2016, <https://www.theguardian.com/world/2016/aug/23/uk-in-denial-over-saudi-arms-sales-being-used-in-yemen-claims-oxfam>.
3. "Yemen: MSF withdraws its teams from six hospitals in north Yemen," Médecins Sans Frontières, 18 August 2016, <http://www.msf.org.uk/article/yemen-msf-withdraws-its-teams-from-six-hospitals-in-north-yemen>.
4. Saeed Kamali Dehghan, "Saudi-led airstrikes on Yemen food factory kill at least 14 people," *The Guardian*, 9 August 2016, <https://www.theguardian.com/world/2016/aug/09/saudi-led-airstrikes-yemen-food-factory-kill-people>.
5. Saeed Kamali Dehghan, "'Why do they target us?' Yemeni civilians pay the price of escalating crisis," *The Guardian*, 22 August 2016, <https://www.theguardian.com/world/2016/aug/22/why-do-they-target-us-yemeni-civilians-pay-the-price-of-escalating-crisis>.
6. Steven Chase, "Ottawa rewrites mandate for screening arms exports," *The Globe and Mail*, 31 July 2016, <http://www.theglobeandmail.com/news/politics/ottawa-rewrites-mandate-for-screening-arms-exports/article31216740>.
7. Murray Brewster, "Canadian firm shipped armoured cars to lawless Libya despite UN warning," *CBC*, 11 August 2016, <http://www.cbc.ca/news/politics/streit-libya-un-1.3711776>; Murray Brewster, "Liberals put on spot by Streit sales in South Sudan and Libya," *CBC*, 13 August 2016, <http://www.cbc.ca/news/politics/streit-loophole-sajjan-1.3719273>.
8. Stefan Labbé, "Seven human rights violators buying Canadian military goods," *OpenCanada.org*, 18 August 2016, <https://www.opencanada.org/features/seven-human-rights-violators-buying-canadian-military-goods>.



NEWS IN BRIEF

Mia Gandenberger, Jessica Lawson, and Josephine Roele | *Reaching Critical Will of WILPF*

The News in Brief is not a comprehensive summary of all statements. It highlights positions on a few critical issues covered in the plenary discussions.

General debate

Miscellaneous

- Serbia highlighted the importance of article 11 on diversion as holding the utmost importance.
- Georgia announced the ATT entered into force for Georgia a few days ago.
- Israel said that it attaches great importance to export control regulations, particularly in light of the fact that the Middle East region is one of the least represented in the ATT.
- Madagascar said that even those not directly impacted by the spread of conventional weapons have the responsibility to stop the irresponsibly arms trade. Sweden's statement had similar sentiments.
- Sweden argued that civil society advocacy should focus on the national level.
- A number of delegations, including Zambia, Fiji, Norway, Macedonia, Samoa, and the Netherlands, highlighted one of the objectives of the Treaty as being "to reduce human suffering" or prevent humanitarian harm.

Universalisation and implementation

- Spain highlighted that some of the main importers and exporters have not yet signed the Treaty.
- Poland noted its disappointment that the number of states who had ratified the Treaty was smaller than the number of states who had voted for the treaty text in 2013.
- Most states expressed a need to promote the Treaty and convince states that have not signed or ratified the Treaty, to do so.
- Almost all states also mentioned the importance of promoting Treaty implementation.
- Serbia, Guinea, Liberia, Ghana and Zambia gave evidence of new laws or prospective new laws intended to comply with ATT obligations.
- Malaysia expressed concerns that obligations of the ATT may be too burdensome on some states, and perhaps we should differentiate between state capacities to be involved in the ATT.
- The UK proposed a working group on implementation as an opportunity for states to discuss and learn from experiences.

- Spain and the US supported the UK's proposition of a working group on implementation.
- The US stated that this group should have a flexible mandate with opportunities for a private format for discussions in order to facilitate and respect a full spectrum of views.

Reporting

- The Philippines, Nigeria, Spain, and Ghana said that reporting templates will help states to comply with the Treaty.
- Serbia, Norway, and Romania underlined that reporting should be transparent or publicly available.
- The Netherlands said that public reporting would be preferable.

CSP3

- Romania, the UK and the Netherlands supported Finland's candidacy for the presidency of CSP3.
- These states also remarked on the need to secure preparations towards CSP3 in the interest of strengthening the internal structures of the ATT.
- Spain and the USA welcomed the French and Italian proposal to set up a troika presidency.

Gender-based violence

- Zambia and Nigeria mentioned the differentiated impact of the poorly regulated arms trade on men, women, and children.
- Nigeria mentioned that irresponsible arms transfers foster gender-based violence.
- Norway welcomed the GBV provision in the ATT.

Assistance and Voluntary Trust Fund (VTF)

- States including Guinea, Malaysia, Macedonia, Norway, Philippines, the UK, and Zambia welcomed the establishment of the Voluntary Trust Fund (VTF) as a step towards ensuring implementation and universalisation.
- Some states, including Fiji, commented on their ability to attend CSP2 precisely because of financial assistance made available to them by other states, highlighting the pertinence of the sponsorship programme.
- Australia, Netherlands, and UK noted that they had already given financial assistance of this sort.
- Zambia called for VTF to help sub-Saharan countries in particular, with the aim of supporting African states in their capacity to ratify or become signatories to the ATT.

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News in brief, continued

- Nigeria and Spain thanked Germany specifically for their efforts towards establishing the VTF.
- Poland and Romania stated readiness to provide assistance in the form of experience and information sharing.
- The representative from the Wassenaar Arrangement also offered available resources, for example a library on the Arrangement's guidelines for risk assessments and export control assessments.
- Some states, such as Paraguay, noted that this type of sharing would be useful for newly ratified states.

International assistance

- The Facilitator on the VTF presented his report.
- New Zealand, Ghana, Guatemala, El Salvador, Mexico, and Argentina said the selection committee should be comprised of donors and recipients.
- Guatemala, El Salvador, Brazil, Côte D'Ivoire, Argentina, and Mauritius stressed it should also be geographically balanced.
- NZ suggested it should not include more than 15 states and the term should be limited.
- Guatemala thought the meetings of the Committee should be open to representatives of civil society.
- Germany, Switzerland, Sweden, Japan, Côte D'Ivoire, and Nigeria volunteered to be a member of the committee.
- UK thought that the principles of regionality should be taken into consideration in the overall work of the committee.
- Sweden supported the idea that a committee member should not be able to decide on a grant cycle if itself had submitted a proposal.
- Ghana saw a problem with paragraph 7 of the paper, arguing that a member cannot be part of the committee and receive funds. It will propose text.
- El Salvador highlighted an apparent contradiction in paragraphs 6 and 7 of the submitted draft.
- Palau stressed that international assistance is an essential element for signatories to become state parties and implement the Treaty effectively.
- Mexico highlighted the work of a number state entities around the implementation of the treaty, such as the UN Office for Disarmament Affairs, or the regional centers.
- US expressed its concern with the possibility that the VTF could benefit non-state parties.
- UK also thought it should be for states parties.
- Sweden explained that while it agreed with the US on unscrupulously implementing the Treaty, it doesn't see why states parties could not open it up further than that to others that have committed to the ATT.
- The Facilitator of the work took notes of the comments and will convene consultations at 9am on Wednesday morning to agree on the language.
- The European Union and UNMAS shared general remarks on assistance highlighting their work with states parties.
- The Facilitator on the VTF also shared an update on the sponsorship programme. There was agreement that the current set up with UNDP administering the funds would be the best way forward.

Reporting

- The Facilitator on reporting gave an update on the status of state party reporting. He explained that 70% of initial reports and 75% of annual reports had been submitted. 96% of initial and 87% of annual reports are public.
- The Facilitator updated the meeting on his work around the reporting templates. Currently the proposal contains bracketed text on three options.
- Further recommendations/suggestions discussed by the group were the translation of the templates, reminders to be sent out by the Secretariat, and the development of a web based templates of the forms.
- He also highlighted papers to be presented by Sweden on generic advice on different reporting obligations, and a working group on reporting and transparency.
- Guatemala though it was a good idea to set up a working group on reporting. •



WORDS VERSUS DEEDS IN IMPLEMENTING THE ATT

Natalie Goldring | Acronym Institute for Disarmament Diplomacy

Tuesday morning, the United Kingdom representative told the plenary session that it's important to discuss policies that fall short of the "ideals" of the Arms Trade Treaty (ATT), and that states need to accept constructive criticism. Wednesday's discussion of ATT implementation will be most useful if it is consistent with this perspective.

Although quite a few of the interventions thus far have stressed how much the Treaty has accomplished in the brief time since its entry into force, this is still the right time for a frank discussion of the obstacles encountered so far in its implementation. Some have argued that it's too early in the process to do this. But without this discussion, there is a risk that the Treaty will continue to be undermined by transfers that are not consistent with its object and purpose.

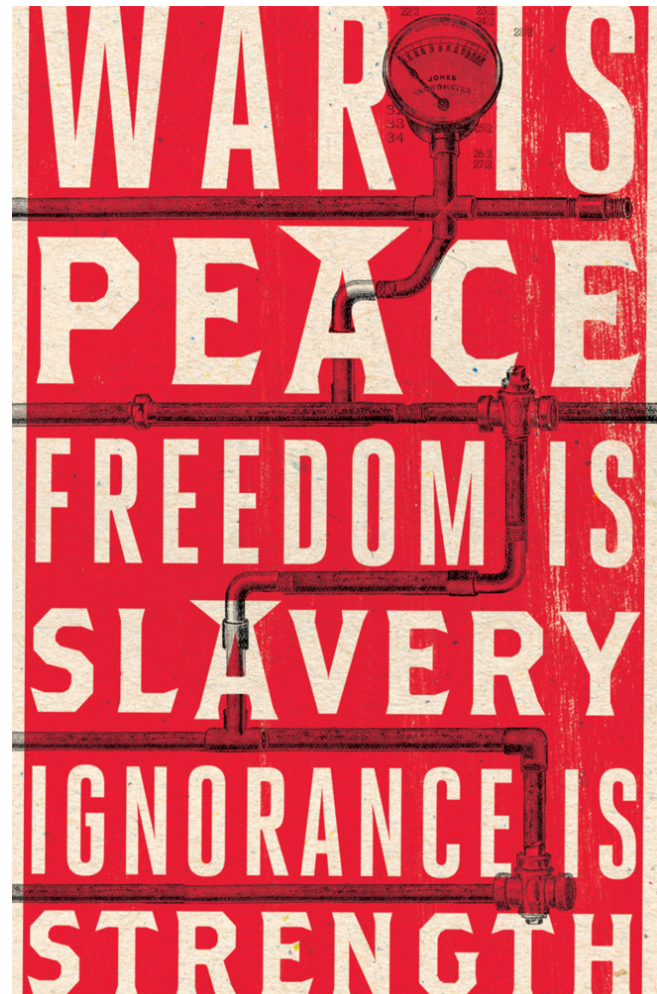
There is some encouraging news. According to Amnesty International, countries such as Austria, Denmark, Netherlands, and Sweden are evaluating ways to make their export control processes more rigorous, for example.

Unfortunately, other governments are continuing to transfer weapons to countries that appear to be violating both international humanitarian and human rights law. One key test of CSP2 is whether it addresses the actual misuse of weapons that is occurring right now. Although the recently proposed US sale of more than 150 M1A2 tanks to Saudi Arabia has received significant public attention, the United States is by no means the only country supplying weapons that may be used to violate international human rights and humanitarian law. And Saudi Arabia is not the only arms recipient that has apparently been violating international humanitarian or human rights law. For example, Amnesty International has documented transfers to Egypt from Bulgaria, the Czech Republic, France, Italy, and the United States, despite the rampant human rights abuses in that country.

As recognized at the time of its adoption, the ATT is not perfect. It would be inappropriate and unrealistic to demand that it be so. But we can improve its ability to respond to changing circumstances. The first step is to analyze and discuss areas where Treaty implementation is not as robust as it should be. In addition, countries can act in ways that are consistent with the Treaty even if they have not ratified it. Although the United States is a signatory to the Treaty but not a state party, the US delegation expressed its continued support for the ATT on Tuesday, going so far as to read the Treaty's object and purpose to the

plenary. It can match words to deeds by halting arms transfers that undermine the Treaty and diminish its effectiveness.

Since the beginning of the discussions of the ATT, the focus has been on reducing human suffering. In the end, that's the true test of this conference, and in fact of the Treaty itself. Are states willing to go beyond the rhetoric to actually change their policies and their actions? Or are they using the Treaty as a smoke-screen in an attempt to obscure business as usual? •



LAUNCH OF THE ATT: A PRACTICAL GUIDE TO NATIONAL IMPLEMENTATION

Jessica Lawson | Reaching Critical Will of WILPF

At this side event, Small Arms Survey and the ATT Network partners [Centre on Conflict, Development and Peacebuilding (CCDP), Geneva Centre for Security Policy (GCSP), the Small Arms Survey, and United Nations Institute for Disarmament Research (UNIDIR)] launched *The Arms Trade Treaty: A Practical Guide to National Implementation*, which forms part of the Small Arms Survey's handbook series. The guide explores and explains the core provisions of the Treaty and offers practical suggestions for their implementation.

Eric Berman from Small Arms Survey chaired the panel, which included Marc Finaud from GCSP, Sarah Parker from Small Arms Survey, and Tom Nijs from the government of Flanders.

Marc Finaud said that this guide is a product of all four organisations having identified a clear need for this kind of tool for governments. He appealed for donors to contribute to the project; a French and Spanish translation is planned.

Sarah Parker, editor and co-author of the guidebook provided an overview of the new handbook, which was authored by six contributors. The handbook provides states with guidelines for measures they should take—something that was intentionally left out of the ATT text.

Tom Nijs explained that from a legal point of view, the flexibility provided for by the non-prescriptive language in certain articles of the Treaty is both a positive and a negative. Language in Article 9 on Transit and Trans-shipment, for example, such as “shall take appropriate measures to regulate” and “where necessary and feasible,” is ambiguous.

This publication helps to guide some of the questions that may arise for states regarding their responsibilities. Rather than taking a position on definitional issues, such as “overriding risk,” the publication presents the differing definitions.

The publication can be downloaded from the Small Arms Survey website, www.smallarmssurvey.org.



EVENT: ASSESSING NATIONAL COMPLIANCE WITH THE ATT: LIBERIA

Josephine Roele | *Reaching Critical Will* of WILPF

As this CSP develops, the relevance of international assistance as a means to strengthening implementation cannot be overstated. Today's afternoon plenary session focused on the matter of international assistance in the form of a Voluntary Trust Fund, and in the same spirit, this side event spotlighted a collaborative project on ATT compliance in Liberia.

Funded by UNSCAR and the government of Norway, Saferworld has compiled two briefing documents for governments seeking to strengthen their compliance with the ATT. *Implementing the ATT: Essential elements of an effective arms transfer control system* informs states on the "development of the requisite legislative, regulatory and administrative infrastructure that forms the basis of a national arms control system." Its annex includes a "Matrix of essential and desirable provisions for ATT implementation" delineating a state's commitments according to the ATT.

The second document, *Ensuring effective implementation of the Arms Trade Treaty: a national assessment methodology*, equips a state with flexible guidelines for an implementation plan tailored according to a state's needs. The idea is that with national ownership at the core of an implementation plan, the sustainability of resulting legislation and relevant government structures is ensured. This means identifying areas of weakness and prioritising accordingly. As put by Roy Isbister, co-author of Saferworld's national assessment methodology, the methodology is a roadmap for going where the answers take you, rather than a "one

size fits all" approach to ATT implementation. Context and informed judgment are key.

Setting the context for Liberia, James Fromayan (LiNCSA: Liberia National Commission on Small Arms) and Michael Yorwah (LANSA: Liberia Action Network on Small Arms) commented on the prevalence of small arms and decades of internal conflict. Fromayan highlighted the need to prioritise among the many aspects of implementation to which an ATT state party must comply. Yorwah pointed to the state's lack of familiarity with the international arms trade as an obstacle to successful implementation—without a solid understanding at the outset of ATT ratification, how can a state expect to implement this Treaty effectively?

In partnering with Saferworld on the *Assessment Report on Liberia's Compliance with the ATT*, Liberia was able to call on assistance in the form of international expertise and financial capacity to fulfil its implementation obligations as a ratifying state. Isbister commented on the Liberian government's wholesale commitment to ATT implementation as a crucial factor in the success of this project. This level of collaboration permits the thorough and detailed research necessary to identifying implementation gaps and how to fill them.

Going forward, Fromayan and Yorwah hoped that speaking of Liberia's experiences in implementation would prove valuable to other states, especially those African states that have yet to sign the ATT. •



ATT MONITOR

EVENT: YEMEN: HOW ARMS TRANSFERS ARE FURTHERING HUMAN SUFFERING

Daan Kayser | PAX

In January of this year a UN report highlighted “widespread and systematic” targeting of Yemeni civilians and civilian infrastructure by the Saudi Arabia-led coalition. MSF has had to stop its important work in Yemen due to the bombing of its medical facilities. Still many arms transfers to Saudi Arabia and coalition partners have continued.

To not let this clear violation of the ATT go unspoken Control Arms, Campaign Against Arms Trade, Oxfam GB, and PAX organized a side event on arms transfers to Yemen. The aim was to look at the ongoing transfer of military equipment by ATT states parties and signatories to members of the Saudi-led coalition operating in Yemen, raising serious concerns about possible violations of their legal obligations under the ATT.

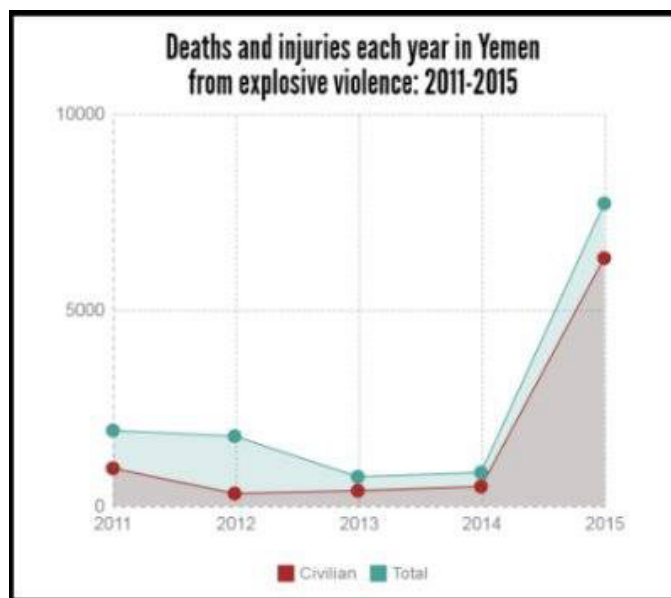
Penny Lawrence from Oxfam, which has been working in Yemen for decades, spoke of the devastating impact of the conflict on the lives of civilians, as homes, schools, hospitals, humanitarian convoys, and mosques have been targeted. She spoke of Noor, who used to run a medical clinic in Saada Governorate, in north Yemen, that was destroyed. Noor said, “The skies of Saada are raining fire on us every day. We are alive, but only until we die—senselessly—like the thousands that already beat us there.” In a survey Oxfam conducted of 1000 displaced persons, 76% stated they had fled due to the airstrikes. There are now three million displaced Yemenis and over 21 million people in need of humanitarian assistance. Various states parties and signatories of the ATT continue to sell arms to the Saudi-led coalition that is undertaking the aerial bombing of Yemen. Confusingly the UK, which gives aid to those in need in Yemen, is also exporting arms that are being used in Yemen.

Rob Perkins from the ATT Monitor told the audience that 19 states parties and three signatories authorised or transferred weapons to Saudi Arabia in 2015, some of which are potentially in violation of obligations under the ATT. The total reported value of licenses and announced sales to Saudi Arabia in 2015 by states parties and signatories to the ATT was more than US\$25 billion. France, for example, has received applications for 219 licenses to Saudi Arabia, including for 115 armored vehicles and 745 precision rifles. The UK issued licenses for 1 billion dollars of bombs and 1 billion dollars in aircrafts and parts. New arms sales from the US include 18,000 aircraft bombs with a value of 1 billion dollars. Some states, including the Netherlands, Spain, and Belgium have taken positive steps to prevent ATT violations with additional restrictions on exports to Saudi Arabia. Switzerland has blocked arms exports to all parties of the Yemen conflict. The EU parliament called for a full arms

embargo to Saudi Arabia due to the many international humanitarian law (IHL) violations. These positive examples clearly show that there is hope for the ATT.

Ann Feltham from Campaign Against Arms Trade (CAAT) spoke of the long history of UK arms deals with the Saudis. She said it seems to be more a case of arms export promotion than arms export controls. The UK has confirmed the use of British Paveway bombs used in Yemen and that it speeded up their delivery during the conflict. CAAT has started a legal case against the UK decision to keep arming Saudi Arabia. In June 2016 the High Court ruled that there will be a three-day hearing on the case before February 2017. If CAAT wins the legal case, this would be an important precedent that the UK must abide by its own criteria and has to follow its legal obligations under the EU Common Position and the ATT.

Some say patience is needed to give states time to adapt their policies. I wonder if the civilians in Yemen would agree. We must not forget that stalling will only cause more civilian casualties. •



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