

## VIOLATING THE ARMS TRADE TREATY

// Arms Exports to Saudi Arabia and the Humanitarian Crisis in Yemen

**There is an ongoing war in Yemen, which is taking place almost without any public or media attention and is causing immense human suffering to the Yemenite people. The parties to the conflict have violated international humanitarian law repeatedly, while the number of civilian casualties continues to rise and millions are facing famine. However, several states continue to export weapons and military equipment to all sides in the conflict. Western arms transfers to Saudi Arabia are of particular concern, because they violate the Arms Trade Treaty – an international treaty strongly endorsed by Western countries and designed to curb arms exports to conflict regions or where human rights abuses are occurring.**



*The Saudi-led coalition carries out airstrikes in Sana'a, Yemen (Foto: © dpa)*

**by Simone Wisotzki**

The armed conflict in Yemen began in 2011, when parts of the Yemenite population rose up against President Ali Abdullah Saleh, who was replaced by Vice-President Abd-Rabbu Mansour Hadi. The conflict escalated after the Shiite Houthi rebels took control of the capital Sana'a in 2014. In March 2015 Hadi fled to Saudi Arabia and the Saudi-led coalition of nine Arab countries commenced its military operations against the Houthi rebels and forces loyal to former President Saleh. These operations include bombing raids and a naval blockade in the Gulf of Aden, which is causing widespread humanitarian suffering in Yemen. In this proxy war both sides in the conflict have frequently violated international humanitarian law (IHL),

yet continue to receive arms, with the Houthis being supplied by Iran despite existing targeted UN sanctions. In the case of the Saudi-led coalition, Western states – among them Germany continue to supply Saudi Arabia with weapons and military equipment. In these cases, supplying arms contributes to violations of IHL and violates core norms of the Arms Trade Treaty (ATT) which came into force at the end of 2014. Western countries which once lobbied for a strict ATT now pay lip service to their former efforts. Their practice of arms supply confirms the suspicions of non-state parties that the ATT imposes a double standard and primarily targets importing states which want to have the arms trade of Western nations regulated. The EU states should uphold the call of the EU Parliament for imposing an arms embargo against Saudi Arabia. Germany should follow the lead of the Netherlands and also unilaterally renounce such arms exports which they have indicated to exert as part of the outcome of the exploratory talks between CDU/CSU and SPD.

### **The humanitarian crisis in Yemen**

The statistics compiled by the United Nations Office for the Coordination of Humanitarian Affairs (UNOCHA) give an overview of the vast humanitarian crisis in Yemen. Seventeen million people are suffering hunger, while seven million people do not know where their next meal will come from. Because the country relies almost completely on commercial food imports, the closure of critical seaports and airports since the beginning of November by the Saudi-led coalition has led to life-threatening consequences for the Yemeni

people. The humanitarian crisis is being exacerbated by the lack of medical supplies: Almost a million people have cholera and more than 2,000 have died from the disease. Critical medical supplies, including vaccines, remain blocked from entry in Djibouti, putting at risk the lives of people, in particular children, who are dying, for example, from rabies or diphtheria.

#### **Violating international humanitarian law**

Mainly through aerial bombardment the coalition has attacked homes, markets, hospitals, schools, civilian industrial factories and mosques. Airstrikes on a crowded funeral ceremony in Yemen's capital Sana'a on 8th October 2016 targeted suspected Houthi leaders who were participating, but killed at least 100 civilians and wounded more than 500. These indiscriminate aerial bombardments violate international humanitarian law. Requirements of proportionality and precautions in attack are not being met. Routinely flying second airstrikes results in more deaths among already-wounded civilians and first-aid personnel, as the Panel of Experts Report of the UN Monitoring Sanction Committee on Yemen reports. In addition, the Houthi rebels and their allies have reportedly indiscriminately shelled residential areas and have fired artillery across the border into Saudi Arabia.

The coalition's aerial and naval blockades are both in breach of international humanitarian law. Airstrikes killing civilians when bombing medical facilities, markets or densely populated areas such as the capital Sana'a are in breach of Article 3 of the Geneva Conventions (common to all four Conventions) and of Article 13 of the Additional Protocol II of 1977. Aerial bombardments of hospitals or humanitarian aid warehouses of

international aid organizations contravene Articles 9 and 11 of Additional Protocol II, which requires that medical and religious personnel should be respected and protected. The aerial and naval blockades imposed by the Saudi-led coalition are in breach of Articles 14 and 18 of the Additional Protocol II, which prohibit the use of starvation of the civilian population as a method of warfare and require the protection of humanitarian activities providing relief to civilians.

#### **The Geneva Conventions**

Article 3 of the Geneva Conventions sets out a general humanitarian principle by which all parties to a non-international armed conflict should abide. Each warring party must treat persons taking no active part in the hostilities humanely in all circumstances. Article 13 of the Additional Protocol II to the Geneva Conventions states that the civilian population and individual civilians shall enjoy general protection against the dangers arising from military operations.

#### **Supplying arms to warring parties**

While the Houthis are allegedly receiving arms from Iran, the Saudi-led coalition is obtaining military aid from Western states. France authorized arms sales worth €455 million in 2016. The US has been providing targeting intelligence and in-air refueling for attacks led by the Saudi coalition. The UK also provides technical support and precision-guided weapons, and is exchanging information with the Saudi armed forces. The UK has also equipped Saudi Arabia with Torna-

*Yemenis receive food rations by a local charity, Sana'a (© picture alliance/AP Photo)*







Protest against arms sales to Saudi Arabia, London (Campaign Against Arms Trade, <http://bit.ly/2neJZbk>, CC BY-SA 2.0)

do fighter aircraft currently used in the airstrikes. In 2015, the US approved more than \$20 billion and the UK \$4 billion worth of weapons sales. Western diplomats insist that their precision-guided weaponry and the sharing of intelligence with Saudi Arabia should ensure that the rules of war that protect civilians are upheld. The reality on the ground often looks different, as 86 percent of the victims of the bombardments, which have killed more than 5,000 people and injured 9,000, are civilians. Evidence has been found that some of these weapons were used for example in the air raid on the funeral, where a 227kg laser-guided bomb of US origin was dropped. Moreover, Saudi Arabia has repeatedly relied on cluster munitions once exported by the US. According to a confidential report by UN sanctions monitors, remnants of four ballistic missiles fired into Saudi territory by Houthi rebels appear to have been designed by Iran, thus violating a targeted UN arms embargo imposed by the UN in April 2015. These anti-tank guided missiles are covertly shipped along a main supply route from the border with Oman. The Houthi rebels have also planted internationally banned anti-personnel mines.

Germany has continued to export arms and military equipment to Saudi Arabia despite foreign minister Sigmar Gabriel's announcement in 2014 that Germany would stop arming unlawful regimes and revise its arms export policy accordingly. In the third quarter of 2017, Germany licensed arms exports worth €148 million which was three times more than in the same period in 2016. These approvals included patrol ships, military transporters and parts/components for military aircraft. In 2016, the German government licensed €530 million worth of exports mainly involving military helicopters, radar systems and parts/components for fighter jets. The approval of the export of patrol ships

raised public and parliamentary concern given that the ships were intended for border protection purposes, but might also being deployed for the sea blockade preventing humanitarian aid from reaching Yemenite ports.

#### Abiding by the norms of the Arms Trade Treaty

The Arms Trade Treaty (ATT) was negotiated in 2012 and 2013 with the objective of establishing "the highest possible common international standards for regulating or improving the regulation of the international trade in conventional arms" and "to prevent and eradicate the illicit trade in conventional arms and prevent their diversion." One of the fundamental purposes of the ATT is to reduce human suffering, to contribute to international and regional peace, security and stability, and to promote cooperation, transparency and responsible action by States Parties in the international trade in conventional arms, which should also facil-

#### The Arms Trade Treaty provisions

The key provisions of the Treaty's arms transfer criteria are set out in Article 6 and 7.

Article 6 (3) prohibits each State Party from authorizing any transfers of arms, ammunition or parts and components if the State Party has "knowledge at the time of authorization that the arms or items would be used in the commission of genocide, crimes against humanity, grave breaches of the Geneva Conventions of 1949, attacks directed against civilian objects or civilians protected as such, or other war crimes as defined by international agreements to which it is a Party."

The text of the treaty is available at [http://bit.ly/ATT\\_text](http://bit.ly/ATT_text)

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itate building confidence among the member states. The Arms Trade Treaty is a relatively young treaty where states' main efforts have consisted of implementing core treaty provisions such as getting the ATT secretariat to work on or to focus on reporting obligations. This led to some bizarre situations during the Third Conference of States Parties meeting in September 2017 in Geneva. While the 79 participating member states, the 23 signatory states and four observer states focused on technical implementation issues in their deliberations, the Yemenite case of norm violation was only raised in statements made by the international action network of non-governmental organizations, Control Arms, which provided eye-witness testimony to the scale of human suffering in Yemen. Western states, the UK and Germany foremost among them, had once insisted on strong IHL and international human rights law criteria for the ATT. With the ongoing practice of arms exports to Saudi Arabia, they now seem to be paying only lip service to these norms. Such behavior confirms suspicions raised by non-state parties such as India and Pakistan that the ATT is imposing a double standard.

### Taking action and passing a European moratorium on arms exports to Saudi Arabia

Western states, among them some European countries, do not adhere to the norms underlying the Arms Trade Treaty. One possible solution would be a European moratorium on arms exports to Saudi Arabia. The EU Parliament renewed the call for an EU-wide arms embargo against Saudi Arabia at the end of last year which it had first issued in February 2016. So far this

has not led to any action by the Council of the European Union. Nevertheless, some European states have taken the lead: Already in 2015 the Dutch Parliament passed a bill asking the government to ban arms exports to Saudi Arabia in protest against the violation of IHL in Yemen. Germany should follow this example and demonstrate that it is living up to the norms of the Arms Trade Treaty. The naval blockade has to be ended in order to allow humanitarian aid organizations and the United Nations to provide food and medical supplies to the Yemenite people. Most urgently, Yemen needs a cease-fire negotiated between the warring factions that is supported by European states and the US.

### Sources and further reading

- Status of Signature and Ratification of the ATT: [http://bit.ly/UNODA\\_ATT](http://bit.ly/UNODA_ATT)
- UN Security Council Resolution 2140/Reports of the Panel of Experts on Yemen: [http://bit.ly/UN\\_SC\\_Reports](http://bit.ly/UN_SC_Reports)
- International Committee of the Red Cross 2016: Understanding the Arms Trade Treaty from a Humanitarian Perspective, [http://bit.ly/ICRC\\_ATT](http://bit.ly/ICRC_ATT)
- Gemeinsame Konferenz Kirche und Entwicklung 2017: Rüstungsexportbericht 2017 (in German), [http://bit.ly/GKKE\\_REB2017](http://bit.ly/GKKE_REB2017)

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