TRADING ARMS, BOMBING TOWNS

The lethal connection between the international arms trade
and the use of explosive weapons in populated areas

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Introduction

The First Conference of States Parties of the Arms Trade Treaty concluded its work in Mexico on 27 August. The United Kingdom hosted one of the world's biggest arms fairs the week of 19 September. Austria hosted a meeting of states, UN agencies, and civil society groups geared toward developing a political commitment to end the use of explosive weapons in populated areas on 21–22 September.

Meanwhile, refugees from Syria and other armed conflicts are fleeing their homes in hopes of finding safety and an opportunity to build a new life. Over 111,000 civilians have been killed in Syria in the ongoing conflict.[1] Over 8000 civilians have been killed in Ukraine[2] and over 2200 in Yemen.[3] Gaza may be uninhabitable by 2020.[4] Globally, almost 60 million people have been displaced from their homes. The UN High Commissioner for Refugees has found that since early 2011, the main reason for the acceleration of displacement has been the war in Syria. Every day last year on average 42,500 people became refugees, asylum seekers, or internally displaced, a four-fold increase in just four years.[5]

The connections between the challenges posed or confronted by each of the issues or initiatives above are straightforward. The ATT seeks to control the flow of weapons while the arms fair seeks to spread weapons far and wide. Many of the bombs and other explosive weapons killing civilians in armed conflicts around the world, which should be controlled by international law and moral conscience, are instead sold for profit to those who use them for political gain. Those selling the weapons are complicit in the deaths of civilians; the destruction of their villages, towns, and cities; and the mass displacement that follows. Yet many of these same weapons exporters are now trying to shirk their responsibility to protect the refugees fleeing the explosive violence that they helped facilitate.

This briefing paper explores the potential effects that stricter prohibitions against arms transfers and development of new commitments against the use of explosive weapons in populated weapons could have on reducing humanitarian harm and the drivers of displacement. It calls on governments to take responsibility for their actions, to prioritise human security over war profiteering, and to seek new, preventative solutions to violence and war.
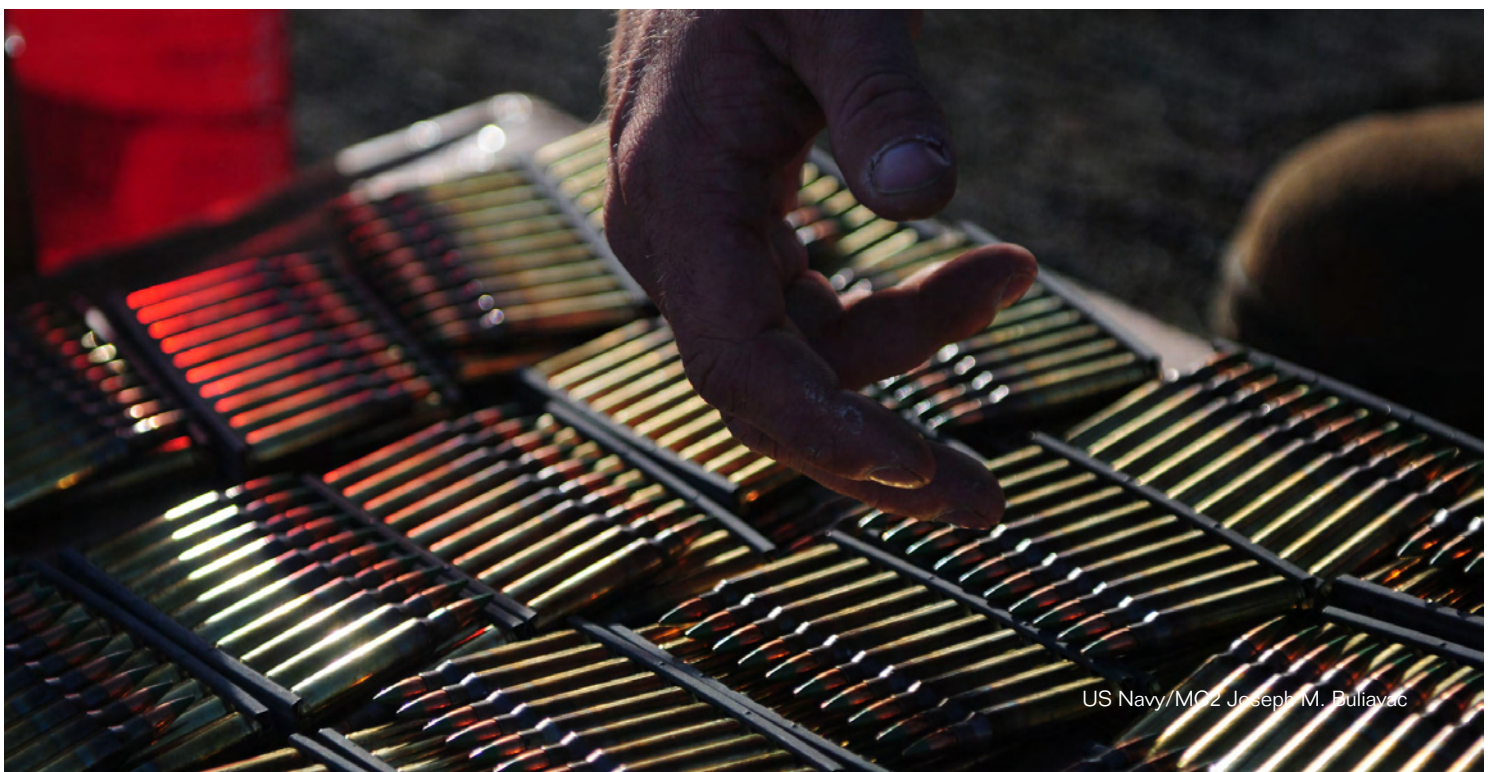
The promises and failures of the Arms Trade Treaty

The Arms Trade Treat (ATT) was developed through the UN General Assembly over the course of seven years.[6] It was adopted in 2013 and entered into force on 24 December 2014. The Treaty, the first of its kind, prohibits the sale of weapons if they would violate arms embargoes or other international obligations, or be used to commit genocide, crimes against humanity, breaches of the Geneva Conventions, attacks against civilians or civilian objects, or other war crimes. It also requires that states take into account the risk of the weapons being used to undermine peace and security; violate international humanitarian law or human rights law (including gender-based violence); or commit acts of terrorism or transnational organised crime.

The stated objectives of the Treaty include preventing the diversion of weapons to the illicit market; contributing to international and regional peace, security, and stability; and above all, reducing human suffering. This was the key motivation for states and civil society to call for the regulation of the international arms trade in the first place.

The ATT currently has 73 states parties and 59 signatories,[7] which include many of the world's largest arms exporters and importers. The United States, which is responsible for about 31% of the global arms trade, is a signatory. Germany, France, UK, Spain, Italy, which are #4–8 of the top ten exporters, are all states parties. Ukraine, #9, is also a signatory. Of the top ten importers, only Australia is a state party and Republic of Korea, Singapore, Turkey, UAE, and US are signatories of the Treaty.[8]

Yet throughout the Treaty's negotiations and since its entry into force, there have been countless examples of irresponsible arms transfers. Many of the weapons transferred by states parties, signatories, and non-states parties alike have ended up being used to commit crimes and violate the laws covered by the Treaty. Many of these weapons were on display in London at the arms fair, and many have been used to bomb towns and cities, resulting in the deaths of and damage to civilians.

The use of explosive weapons in populated areas

In **Yemen**, where a coalition led by Saudi Arabia has been conducting air strikes against the Houthis, hundreds of civilians have been killed.[9] The bombs have hit schools, homes, and mosques. Amnesty International has noted, "Five months since the onset of the coalition airstrike campaign, innocent civilians continue to be killed and maimed every day, raising serious concerns about an apparent disregard for civilian life and for fundamental principles of international humanitarian law."[10] In May, the city of Saada was declared a military target, in breach of IHL, and now lies in ruins. A village, Sabr, has been almost completely destroyed. Amongst the rubble researchers have found US-designed and / or manufactured bombs and cluster munitions, as well as components for bombs made by an Italian-based subsidiary of a German company.[11] The United Kingdom has supplied Typhoon jets and other equipment and support to the Saudi military.[12] The US recently approved $46 billion in new agreements with Saudi Arabia[13] and Canada is sending $14.8 billion worth of light armoured vehicles to Saudi Arabia—Canada's largest arms export contract ever.[14]

In **Syria**, 53%[15] of the more than 300,000 deaths since 2011[16] have been caused by the use of explosive weapons. Towns and cities have become targets[17] of the fighting on all sides,[18] resulting in the displacement of more than 12 million people. Beyond immediate deaths and injuries, the damage to infrastructure has been severe. Health facilities in particular have been deliberately targeted.[19] Russia and Iran have supplied many weapons and training to the Syrian government forces, while the United States and many Gulf countries have supplied the Syrian opposition forces with military equipment.[20] The rebels have also acquired weapons from Syrian military stocks and from the black market. US-led air strikes against ISIS have also led to hundreds of civilian deaths in Syria.[21]

In **Ukraine**, where nearly 8000 people have been killed and nearly 1800 injured since April 2014, shelling in residential areas has increased civilian causalities over the past three months.[22] Bus stops, marketplaces, schools, hospitals, and houses have become battlegrounds, with severe damage to civilian infrastructure and transportation as well as the deaths and injuries. Multiple launch rocket systems, including Grads, have been used extensively by both Ukrainian government and opposition forces.[23] Most of the weapons used by both sides were in the Ukrainian inventory before the crisis started.[24] However, Russia has been supplying weapons and allegedly troops to the opposition,[25] while the US has provided training to Ukrainian government forces.[26] Both sides also appear to be getting weapons off the black market.[27]

In **Gaza**, which has suffered three large-scale military assaults over the past six years and eight years of military blockade by Israel, the most recent bombardment in 2014 killed and injured thousands of civilians, displaced another 500,000. The attacks also destroyed or damaged more than 20,000 homes, 148 schools, 15 hospitals, and Gaza's only power plant.[28] A recent UN report has warned that Gaza, one of the most densely populated areas in the world,[29] may be "uninhabitable" by 2020.[30] The weapons came from the United States, including the Hellfire missile used to strike a UN school sheltering civilians,[31] the United Kingdom,[32] Germany,[33] Italy,[34] Canada,[35] and others.

In **Nigeria**, the ongoing conflict between the government and Boko Haram has resulted in thousands of civilian deaths and mass displacement.[36] The use of explosive weapons has increased dramatically since 2011, including due to Boko Haram's use of suicide bombers,[37] roadside bombs,[38] and other types of explosive weapons.[39] The Nigerian government has also used explosive weapons in populated areas in countering the group, including in Niger in February 2015.[40] Boko Haram reportedly gets explosives and other weapons through theft and purchase from local shops.[41] The government has imported weapons from China, Czech Republic, Russia, South Africa, and Ukraine to counter the group.[42]

In **Sudan**, government forces have recently dropped hundreds of bombs in more than 65 locations, leading to civilian deaths and mass displacement.[43] Cluster bombs have been used in South Kordofan. Human Rights Watch documented more than 100 civilian casualties in 2014 and 2015 from aerial bombardment or after the initial attack by unexploded ordnance and other explosive remnants of war.[44] Sudan has also allegedly bombed populated areas in South Sudan, killing civilians and destroying infrastructure there.[45] Sudan has imported many weapons from China, Russia, and Belarus.[46]

In **South Sudan**, where the president recently signed a peace agreement that seeks to end the mayhem and bloodshed that has ravaged the young country for years, the conflict has been fueled with arms from many exporters. In particular, Canada, China, and South Africa have flooded the country with weapons and ammunition.[47] According to a recent UN report, the South Sudanese government spent almost US$30 million last year on machine guns, grenade launchers, and other weapons from China.[48] It also procured Russian armored vehicles and Israeli rifles and attack helicopters. Meanwhile, rebel forces have obtained their weapons largely through theft, battlefield seizures, regional trafficking networks, or directly from neighbouring countries.[49] Ammunition has been largely supplied to the rebels by Sudan. There is evidence of the use of cluster bombs by either government or opposition forces.[50] Both sides in the conflict have destroyed critical infrastructure including homes, medical facilities, churches, and UN bases.[51]

Overall, between 2011 and 2014, Action on Armed Violence has recorded almost 150,000 deaths and injuries from the use of explosive weapons in populated areas. 78% of these were civilian. When explosive weapons were used in populated areas, 90% of the resulting causalities were civilians.[52] As the International Network on Explosive Weapons explains, explosive weapons use blast and fragmentation to kill and injure people in the area where they detonate, as well as to damage objects, buildings and infrastructure. When used in populated areas they tend to cause high levels of harm to individuals and communities. Destruction of infrastructure vital to the civilian population, including water and sanitation, housing, schools, and hospitals, results in a pattern of wider, long term suffering. Victims and survivors of explosive weapons can face long-term challenges of disability, psychological harm, and social and economic exclusion.[53]

Despite all of these examples and evidence, there have been few outcries about how the deaths, injuries, displacement, or destruction caused by the use of explosive weapons in populated areas relate to the ATT, even when states parties or signatories are responsible for the transfers that lead to these deaths and injuries. The fact that ATT states parties and signatories continue to engage in arms transfers that result in human suffering highlights the limitations of the ATT, as well as a critical gap between law and practice. It also highlights the power of the war profiteers.

War profiteering and the arms trade

Commercial interests operating without scruples are a serious driver of arms production and sale. Corporations and governments make billions from the international arms trade. The value of global arms transfers is approaching 100 billion USD annually.[54] And commercial interests often influence transfer policy. "The USA has long seen arms exports as a major foreign policy and security tool, but in recent years exports are increasingly needed to help the US arms industry maintain production levels at a time of decreasing US military expenditure," the Stockholm International Peace Research Institute has found.[55]

The UK, which was one of the countries initially pushing for negotiation of an ATT, is the sixth largest exporter of conventional arms. While it maintains that the ATT reflects a global determination to stop irresponsible transfers, in September it hosted Defence and Security Equipment International, one of the world's largest arms fairs. The event is organised with financial and logistical support from the UK government,[56] which also extended formal invitations to the arms fair to many countries with records of human rights violations[57] and those currently involved in armed conflict, including those using explosive weapons in populated areas. Meanwhile, the UK government has refused to acknowledge the link between the refugee crisis and the flow of weapons to the Middle East—including those from UK transfers—and UK military intervention.[58] About 30,000 people attended the arms fair. Meanwhile, the UK has said it will only take in 20,000 refugees by 2020.

The ATT should be a tool to stop the arms transfers that are facilitating refugee crises. Unfortunately, it suffers from several major loopholes that are being exploited by those seeking to profit from the arms trade. For example, the Treaty's scope is narrow, providing only for consideration of a limited number of weapon systems. Its provisions covering ammunition, munitions, parts, and components are not comprehensive and it does not legally mandate states to increase transparency in the international arms trade. The Treaty does not address concerns that major exporters themselves sometimes use arms to engage in violations of human rights or crimes of aggression.

One of the biggest problems with the ATT is that states can make a ruling that the transfer of weapons would enhance national security. Such a consideration is weighed against the risks of IHL or human rights violations. But time and again we have seen that sending weapons into a conflict zone only undermines security and exacerbates conflict and leads to civilian casualties.

The biggest challenge with the ATT and arms transfer control regimes more broadly is that many states seem to believe that their export assessment standards are adequate and that their arms transfers are in compliance with national and international law. Clearly, higher standards, restrictions, and prohibitions are necessary if the ATT, or any mechanism for regulating the arms trade, is to effectively prevent transfers that lead to death and destruction.

Principles without borders

Some of the world's other largest exporters, such as China and Russia, can argue that they are not bound by the ATT. But that is an unacceptable justification for fueling and profiting from war. Yes, the ATT is legally-binding only upon those states that ratify it. But its principles and objectives must guide behaviour of all states, because its principles and objectives should reflect those of any responsible government.

The ATT, if it is to have any meaning at all, must be used as a tool to illuminate, stigmatise, and prevent arms transfers that are responsible for death and destruction, regardless of who is selling or receiving the weapons. The carnage caused by flows of weapons to regions of conflict or to recipients that use them to bomb, shell, rape, murder, torture, and terrorise does not respect borders. Neither should the Treaty's

principles. They are the principles that must guide our engagement with each other as human beings in this shared world.

But the ATT is not enough. It is the responsibility of all states, organisations, and civil society groups to condemn and prevent arms transfers that violate law, rights, and our collective conscience. It is the responsibility of us all to stop bombing and bombardment in towns, cities, and villages. If we were to truly take up these responsibilities, the arms trade and armed conflict would look substantially different than it does today. Thus the consequences of the arms trade and armed conflict that we see today, including civilian deaths and injuries, refugee flows, grave inequality and poverty, would be substantially reduced.

In this light, it is unfortunate that the 2030 Agenda for Sustainable Development only includes one reference to weapons. Despite its declaration that "There can be no sustainable development without peace and no peace without sustainable development," it only includes a vague goal to "significantly reduce illicit arms flows by 2030."[59] This falls far short of the action necessary to restrict the arms trade and the use of weapons, "without which development and peace are just empty words."[60]

Much more is needed to prevent human suffering caused by the trade and use of arms, including explosive weapons. It's past time to achieve significant change in these areas.

UN Photo/Helena Mulkerns

Principles in practice: moving to end bombing and shelling in populated areas

A group of governments, UN agencies, and civil society organisations met in Vienna on 21–22 September to discuss how to prevent harm from the use of explosive weapons in populated areas. At the end of the meeting, many of the participating governments indicated support for developing a political commitment on this issue. Work on the development of this commitment will be carried out over the coming months.

This outcome is a great step toward reducing human suffering. A commitment to stop bombing and bombardment in populated areas will help facilitate policies and practices that put human lives and wellbeing first. It also draws a firm line about what is acceptable during armed conflict. One of the key messages articulated at the Vienna meeting is that while international humanitarian law (IHL) is relevant to prevent actions that harm civilian populations in conflict, it is on its own insufficient for addressing the problem. Speaking on behalf of the Geneva Academy, legal expert Maya Brehm noted that IHL is general and abstract, leaving it open to a number of interpretations with no specific guidelines or rules for consistent application. States have not been forthcoming about their interpretation of what the law requires and thus which practices would be illegal, and the rules of IHL do not on their own draw a clear boundary against the use of explosive weapons in populated areas. The general agreement at the meeting was that key issue is preventing humanitarian harm and that this should be the basis for a political instrument on the use of explosive weapons in populated areas.[61]

The International Network on Explosive Weapons (INEW) has called on all states to commit to stop the use in populated areas of explosive weapons. In doing so, they will need to review national policy and practice and make changes that will strengthen the protection of civilians. States should also support stronger data-gathering on the use and impact of explosive weapons, including age-, sex-, and disability-disaggregated recording of casualties. They should recognise the rights of survivors, families of those killed or injured, and affected communities, and ensure a response to their short- and long-term needs.[62]

States also need to prevent those that use explosive weapons in populated areas from acquiring arms. Even if a state commits itself to not using such weapons in populated areas, arms transfers they approve may end up being used to bomb civilians. Regardless of whether or not states are party to the ATT, they must not transfer weapons to countries that are bombing or shelling in villages, towns, cities, or other populated areas.

As INEW has argues in its recent publication *A Commitment to Act*, too often the dropping of bombs or firing of rockets or mortars into populated areas is considered inevitable in armed conflict. But experience shows that states and other armed actors can stop the use of certain weapons and by doing so prevent devastating civilian harm. The current pattern of harm from the use of explosive weapons in populated areas is unacceptable. States and others have a responsibility to take action now to prevent human suffering.[63]

Recommendations

- States must implement the ATT with a view to enhancing peace, justice, and human rights, not profits and political manipulation. Each and every arms transfer must be weighed against the risks highlighted in the ATT. To this end, relevant actors should identify and promote indicators that would prevent the sale of weapons. States must not transfer weapons that are at risk of being used to bomb or bombard populated areas.
- The peddling of tools of war, violence, and oppression at international gatherings must stop, as it does not reflect the stated collective ambition of advancing peace and security and reducing human suffering.
- States and other relevant actors should use international platforms to highlight the civilian harm from the use of explosive weapons in populated areas as an urgent humanitarian problem that must be addressed. They should support the development of an international commitment to reduce harm from the use of explosive weapons, including by stopping the use in populated areas of explosive weapons.

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