

SAUDI ARABIA AND BOMBINGS IN YEMEN

The responsibilities of the Spanish State



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INTRODUCTION

Yemen is currently embroiled in a civil war. Saudi Arabia is actively involved in the war through a military intervention that has meant massive and indiscriminate bombing of not only military objectives but also the civil population. At the Centre d'Estudis per la Pau J.M. Delàs, we consider necessary to analyze the role of the Spanish government in this conflict through weapons sales to Saudi Arabia, and bring to light any wrongdoing.

This document briefly examines the situation that is taking place in Yemen, Saudi Arabia violations of International Law and International Humanitarian Law as a result of the bombings, and the Spanish contribution to the war via arms trades and military cooperation agreements with Saudi authorities.

This report intends to delve deeper than the mere study of this conflict alone, and contemplates several demands and proposals for political action for both the Spanish and the European spheres.

1. GEOPOLITICAL CONTEXT OF THE CONFLICT IN YEMEN

On March 24, 2015, one of the most violent campaigns of massive bombing of the last decade was launched over Yemen: the attack was carried out by an alliance of several countries, led by Saudi Arabia, and targeted the Houthis and loyal forces to the former president Saleh in Yemen, while supporting the deposed president Mansur al-Hadi and his followers.

Under the codename "Operation Decisive Storm", Saudis and their allies initiated a large scale military intervention in the context of the civil war in Yemen. By the spring of 2015 in this fratricidal conflict, Houthi forces - mostly members of the Zaidi branch of Shia Islam from the northwest of the country - had advanced to almost reach Aden, the major city in the south of the country, where the Hadi government was hiding. Saudi Arabia, leading an alliance of about ten Sunni countries - among them, the United Arab Emirates, Egypt, Bahrain, and Jordan - and with the military intelligence and logistical support of the United States¹, the United Kingdom² and Turkey³, decided to prevent the Houthis - considered as a proxy of Iran and backed by it - from consolidating their control over the West and the center of Yemen. This country is considered by Riyadh as its backyard and the coalition launched an offensive by land, sea and air over Yemen, with a contingent of 200 fighter aircrafts, 160.000 troops and around ten warships.

The civil war in Yemen has a mix of internal political tensions and geopolitical tensions within the context of regional confrontation between Saudi Arabia and Iran, which is in turn masked by the sectarian clash of Sunnis and Shias. This conflict is related to the control over strategic regions of the Arabian Peninsula such as the Red Sea Gate – access to the Suez Canal – and the Bab-el-Mandeb

¹ "U.S. boosts support role in Saudi-led airstrikes on Yemen", Los Angeles Times, 2015, available at: <http://www.latimes.com/world/middleeast/la-fg-us-yemen-20150817-story.html>

² "British military allegedly helping Saudi Arabia target locations in Yemen", The Independent, 2015, available at: <http://www.independent.co.uk/news/world/middle-east/british-military-allegedly-helping-saudi-arabia-target-locations-in-yemen-a6801616.html>

³ "Turkey to provide intelligence, logistics to Saudi-led operation in Yemen", Hurriyet Daily News, 2015, available at: <http://www.hurriyetdailynews.com/turkey-to-provide-intelligence-logistics-to-saudi-led-operation-in-yemen.aspx?pageID=238&nID=80246&NewsCatID=510>

strait, where most of the petroleum and the gas from the Persian Gulf is transferred on its journey towards Europe⁴.

The complexity of this situation goes beyond just a dichotomy between Houthis and al-Haidi supporters backed by the Saudi Arabia-led coalition. Other actors also involved in this conflict include: supporters of the former president Ali Abdallah Saleh; the Southern Secessionist Movement; Al-Qaeda in the Arabic Peninsula (AQAP); Ansar al Sharia; and the Islamic State.

This multiplicity of confronted actors in and around Yemen makes it even more difficult to get an overview of the civil war. This is reminiscent of the Syrian conflict. However, the war in Yemen suffers from a blackout in western mass media.

2. BOMBS OVER YEMEN

Bombardments have a double impact on every armed conflict. On the one hand, they cause physical damages to infrastructures necessary for daily life, destroying hospitals, schools, roads, homes, farmlands, etc. On the other hand, living in a state of terror - the constant fear of being bombed - can result in psychological damage as harmful as physical wounds.

Neither of these impacts discriminates between combatants and civilians, or between military and vital structures, and they will bring serious consequences which will take several years of recovery. Deliberate attacks against civilians and other non-military goods and structures are considered war crimes according to International Human Rights Law⁵.

In Yemen, the bombings by the Saudi-led alliance worsen the terrible humanitarian situation created as a result of the armed conflict. Since the beginning of the intervention, in March 2015, more than 32,000 people lost their lives or have been wounded, and there are more than one million displaced people. According to data from December 2015 from OCHA (Office for the Coordination of Humanitarian Affairs), at least 80% of the population is in need of some kind of humanitarian protection⁶.

The nature of heavy bombardment makes looking for shelter in the face of attacks an impossible task for the civil population. Bombings not only cause casualties but also damage infrastructures and resources needed for the future recovery of the country. The population will be burdened with great reconstruction costs, both in economic terms as well culture and health ones. We must not forget that physical and psychological traumas will also require serious and long-term recuperation.

This also applies to the people's way of life. Many families have lost their homes and their income, which means that several sectors of the society are facing a state of extreme precarity, and are dependent on international humanitarian relief. The situation will take years, if not decades, to be resolved.

⁴ "Why the US fully supports the Saudi-led intervention in Yemen", The National, 2015, available at:

<http://www.thenational.ae/world/middle-east/why-the-us-fully-supports-the-saudi-led-intervention-in-yemen>

⁵ "War Crimes under the Rome Statute of the International Criminal Court and their source in International Humanitarian Law" ICRC, available at: <https://www.icrc.org/en/document/war-crimes-under-rome-statute-international-criminal-court-and-their-source-international>

⁶ Country Profile; Yemen, OCHA, 2016, available at: <http://www.unocha.org/yemen>

Education is one of the pillars that suffer the most during the war because of the impossibility to attend school. This situation is made worse when school buildings are affected by the bombings. According to UNICEF, up to 1.000 schools are now inoperative due to bombardments. As reported by Amnesty International⁷, 34% of children have missed school since March 2015. Fear of the bombardment means that families do not send their children to school. While some attendance issues arise from this fear, for others, classes are cancelled because schools have been demolished.

For this generation, the consequences of the interruption of the academic cycle will last a lifetime. Not only will they face difficulties in terms of school reconstruction, and making up for lost time in the academic context, but these children will also need material and psychological support to reintegrate school, and overcome the traumas they have experienced during the war.

Bombings have also a severe impact on food security in the country, in its economy and in occupation, since the continuous bombings leave the land strewn with explosives, making agriculture difficult. In Yemen, agriculture is an important sector of the economy, constituting between 15% and 20% of the GDP. This sector that employs half of the active population is already facing several climate threats such as drought. While the conflict is active, production of food remains paralysed, even for subsistence. At the end of January 2016, the FAO warned that more than 14 million people in Yemen are in a situation of food insecurity⁸.

Not only people and ways of life are destroyed; it is also worth highlighting damages to cultural and historical heritage that are a result of a strategy of war which seeks to annihilate the enemy by eliminating identity, history, symbols and idiosyncrasy. This results not only in demoralizing the combatants, but also the civilian population. Although this strategy of cultural destruction is also carried out by land troops, as was the case in Iraq during the first months of the American occupation or in Palestine, where symbols like olive trees were burned by the Israeli army, the bombing has been the main factor accelerating this cultural destruction. In July 2015, coalition bombardment destroyed part of the historical heritage in Sana'a, the Yemeni capital. In addition, 6 people have been killed because of the collapse of historical buildings⁹.

It is worth mentioning the kind of weapons used in this conflict. As reported by Human Rights Watch¹⁰ and Amnesty International, it is likely that the coalition is using cluster bombs. These bombs are made up of thousands of smaller bombs which are scattered over a large area when dropped. Many of these smaller explosives do not explode upon impact and remain active for more than 40 years, which makes them highly dangerous to civilians. Moreover, removal of these bombs requires great human and economic resources. Cluster bombs were forbidden by the Convention on Cluster Munitions, to which Saudi Arabia is not a signatory, despite the fact that the international community considers that this kind of weapons violates International Human Rights Laws.

⁷ "Bombing of schools by Saudi Arabia-led coalition a flagrant attack on future of Yemen's children" Amnesty International, December, 2015, available at:

<https://www.amnesty.org/en/latest/news/2015/12/bombing-of-schools-by-saudi-arabia-led-coalition-in-yemen/>

⁸ "FAO warns of rapidly deteriorating food security in Yemen" FAO, January, 2016, available at: <http://www.fao.org/news/story/en/item/380653/icode/>

⁹ "La guerra en Yemen golpea el patrimonio histórico de Saná" El País, June, 2015, available in Spanish at: http://internacional.elpais.com/internacional/2015/06/12/actualidad/1434110208_241263.html

¹⁰ Saudi Arabia is dropping cluster bombs in residential areas, available at:

<https://www.hrw.org/news/2016/01/07/yemen-coalition-drops-cluster-bombs-capital-0>

It is obvious that several International Law and International Human Rights Law violations have been committed in Yemen. It is essential to understand, locate and analyse these violations in order to demand accountability and discover if Spanish weapons may be contributing to this humanitarian tragedy in Yemen.

3. EXPORT OF ARMS TO SAUDI ARABIA AND AGREEMENTS OF UNDERSTANDING

Cooperation agreements in matters of defence are usually a prerequisite for the acquisition of arms; the purchasing country does not buy a weapons system unless a political and military alliance exists with the selling government, which guarantees adequate technological transfer, support for the life cycle of the weapon and the supply of replacement parts in case of any eventuality or formation. Ultimately, the buyer requires commitments to cooperation and political agreements between the two governments. Aside from these cooperation agreements, finance agreements can also be established, which accompany the contracts for the acquisition of military equipment which is going to take place.



Two Royal Saudi Air Force/BAE Systems Eurofighter Typhoons

Over the last few years Spain has signed military cooperation agreements with Saudi Arabia. Specifically, a cooperation agreement in matters of defence between both countries (2008) and a technical agreement for the training of Royal Saudi Air Force personnel in Eurofighter combat aircrafts by Spanish Air Force personnel (2010).

In 2011 the Joint Committee statute was signed, a memorandum of understanding between the Spanish National Security Office and the Saudi Ministry of Defence; and also a memorandum of understanding of Saudi Arabia's association to the MOU of the Eurofighter Programme. Finally, at the end of 2014 a strategic dialogue group was formed, which works for the development of all bilateral matters in the field of Defence. Saudi Arabia is also included in the Cooperation in Military Teaching Programme.

With regard to Saudi Arabia's acquisition of Spanish defence equipment, the acquisition of various weapons systems is currently being negotiated. The construction of five Avante 2200 corvettes is being negotiated with Navantia, and outside of this construction contract another contract is being negotiated which would include control systems, complete life cycle, and trainings in the use of equipment. These corvettes could be used to strengthen the naval siege to which Saudi Arabia has been submitting Yemen since March 2015. At the Maritime Defence Exhibition celebrated in Doha at the end of that month, Navantia announced that it was negotiating a contract for the construction of six warships for the Saudi Navy.

With Santa Bárbara Sistemas, General Dynamics is open to the possible sale of 250-270 (a figure which could increase to 600-800) Leopard tanks, valued at €3 billion, in addition to the sale of the corresponding ammunition.

The British multinational BAE Systems has publicly announced an agreement with Saudi Arabia to sell the country seventy-two Eurofighter combat aircrafts valued at €5.34 billion.¹¹ These planes are made by the Eurofighter consortium of which the Spanish aircraft manufacturer EADS CASA is part.



Within the last five years, Spain has sold five in-flight refueling aircrafts, as well as artillery ammunition, bombs, torpedoes, missiles, aircraft replacement parts and other equipment to Riyadh. The February 2016 SIPRI report highlights Saudi Arabia as the second principal importer of arms in the world, and its acquisitions over the 2011-15 period have increased by 275% compared to its acquisitions from 2006-11. Saudi Arabia is the principal importer of arms in the Middle East; its acquisitions have represented 27% of the weapons which enter this region. 46% of the weapons it acquired from 2011-2015 came from the United States, 30% from the United Kingdom and 5.9% from Spain¹².

¹¹ "BAE confirms an agreement on the price of 72 Eurofighters for Saudi Arabia", Infodefensa, 2016, available at: <http://www.infodefensa.com/es/2014/02/21/noticia-confirma-acuerdo-precio-eurofighter-typhon-arabia-saudi.html>

¹² "Trends in International Arms Transfers, 2015", SIPRI, 2016, available at: <http://books.sipri.org/files/FS/SIPRIFS1602.pdf>

4. SPANISH RESPONSIBILITY IN THE EXPORT OF ARMS TO SAUDI ARABIA

The export of defence material is regulated by the Law 53/2007 on the arms trade, which includes the criteria established in the European Union Common Position 944/2008 (Article 8), and internationally regulated by the Arms Trade Treaty.

Box 1. The eight criteria of the Common Position 2008/944/PESC

Criteria 1. Respect for Member States' international obligations and commitments, in particular the sanctions adopted by the United Nations Security Council or the European Union, agreements on non-proliferation and other subjects, as well as other international obligations (such as arms embargoes)

Criteria 2. Respect for human rights in the country of final destination and respect for International Humanitarian Law by that country;

Criteria 3. Internal situation in the country of final destination, in relation to the existence of tensions or armed conflicts.

Criteria 4. Preservation of regional peace, security and stability.

Criteria 5. National security of Member States and of territories whose external relations are the responsibility of a Member State, as well as that of friendly and allied countries.

Criteria 6. Behaviour of the purchasing country before the international community, in particular with regard to its attitude to terrorism, the nature of its alliances and its respect for international law.

Criteria 7. Existence of risk that the military technology or equipment will be diverted within the purchasing country or be re-exported under undesirable conditions.

Criteria 8. Compatibility of the military technology or equipment exported with the economic and technical capacity of the recipient country, taking into account that States should meet their legitimate security and defence needs with minimal diversion of human and economic resources for armaments.

Own elaboration based on Art. 8.c) of Law 53/2007, of 28th December, on the control of foreign trade of defense material and dual-use, which shows the eight criteria of the Common Position

As established by the national legislation, the export of defence material is subjected to government control through an inter-ministerial body, known as the Inter-ministerial Regulatory Board on External Trade in Defence Material and Dual-Use (Spanish acronym JIMDDU), which must authorise, deny or revoke authorisation given to applications for the export of arms submitted by Spanish businesses, based on the application of the criteria established by the legislative framework mentioned above. However, the minutes of the meetings of the aforementioned body, in which the authorisation or denial of each application is discussed and decided, are not public as they are classified as state secrets.

For years, Centre Delàs has denounced the secrecy and lack of transparency in the authorisation and export of arms; the current government's position of driving a policy of developing arms exports, whose purpose is none other than to boost or strengthen the national industrial fabric of defence;

and the use of the export of defence material as an instrument of foreign policy. All of that means that strategic, political and economic criteria are prioritised to a more humanitarian character, like conflict prevention or the defence of human rights and respect of the international humanitarian law by the receiving countries.

In this context, the export of Spanish arms to Saudi Arabia is a particularly worrying example, given the current nature of Saudi participation, and the coalition it leads, in the bombings in Yemen.

In the Delàs Study Centre for Peace's Report 27¹³ we noted that the exports supplied by Spain to Saudi Arabia could be violating the International Arms Trade Treaty and Spain and Europe's own legislation in regard to the arms trade. This is due to the fact that, as we have seen, in Yemen international humanitarian law is being violated and serious abuses of human rights are being committed (by all parties in the conflict: Houthis, coalition and other combatants). Furthermore, the exported arms could contribute to an aggravation of the regional situation by having an impact on existing conflicts or contributing to increase the instability of the region, not forgetting that they could be diverted to other parties who are also in conflict, like those involved in the war in Syria.

The sale of arms by the United Kingdom to Saudi Arabia represents a violation of British, European and International law, according to a recent investigation led by British lawyers at the request of CAAT (a prominent British organisation that works against the arms trade)¹⁴, who - in a letter addressed to the British government - cite Article 2 of the Common Position as a legal basis. This article establishes that Member States "must deny an arms licence if there is a clear risk that the military technology or equipment to be exported might be used to commit serious violations of international humanitarian law" (944/2008/PESC, art. 2.2.c). This investigation is relevant insofar as the criteria and European legislation to which it makes reference are also applicable in Spain and in the other EU Member States which have exported arms to Saudi Arabia and the coalition, which would support the claim that the Spanish export of arms could also constitute a violation of national, European and international law; however, we will have to wait for the results of said initiative.

In this same way, the European Parliament, in the Proposed Resolution on the humanitarian situation in Yemen (2016/2515(RSP)) of 3/02/2016, paragraph N, is conclusive:

"Considering that, since the war broke out, some EU Member States have continued to authorise transfers of weapons and related items to Saudi Arabia; that such transfers are in violation of Common Position 2008/944/PESC on arms export control, which explicitly rules out the authorising of arms licences by Member States when there is a clear risk that the military technology or equipment to be exported might be used to commit serious violations of international humanitarian law and to undermine peace, security and stability in a region."¹⁵

¹³ Tica Font, Eduardo Melero and Camino Simarro (2015) [Exportaciones españolas de armamento 2005-2014. Alimentando conflictos en Oriente Medio](#). Delàs Study Centre for Peace.

¹⁴ "UK arms sales to Saudi Arabia in breach of national, international and EU law, say lawyers", Independent, 10/01/2016, available at: <http://www.independent.co.uk/news/uk/home-news/uk-arms-sales-to-saudi-arabia-in-breach-of-national-international-and-eu-law-say-lawyers-a6804961.html>

¹⁵ European Parliament (03/02/2016) Proposed Common Resolution on the humanitarian situation in Yemen (2016/2515(RSP)), available at: <http://www.europarl.europa.eu/sides/getDoc.do?pubRef=-//EP//TEXT+MOTION+P8-RC-2016-0151+0+DOC+XML+V0//ES>

This analysis permits us to affirm that the Spanish government should review the exports made to coalition countries, in particular Saudi Arabia, and to all parties in the conflict, and begin a rigorous investigation which might allow us to discover the extent of the possible use of Spanish arms in the Yemeni conflict. Also, authorised exports should be reviewed and these should be revoked or suspended immediately whilst violations of international humanitarian law by all parties involved in the conflict do not stop. On the contrary, JIMDDU, as a competent body, should make public the criteria under which it continues approving and allowing the export of armaments to Saudi Arabia and other members of the coalition, even in the knowledge of these serious violations.

RECOMMENDATIONS

In light of the aforementioned, we consider that it is necessary:

- To immediately suspend contracts of transfer of arms and other military aids to Saudi Arabia and its allies in the coalition, as these might be used to commit violations of human rights and international humanitarian law in Yemen;
- To drive an independent investigation to document the possible cases of armaments made in the EU and exported to Saudi Arabia or its allies, which may have been used in the course of military intervention in Yemen to carry out attacks which may have involved human rights violations or war crimes;
- To put an immediate stop to logistical support and intelligence provided by some EU countries to Saudi Arabia and to the other members of the coalition;
- To apply a stricter interpretation, more in keeping with the spirit of the EU Common Position and to allow national parliamentary controls over its application in countries where this doesn't happen;
- To suspend the authorisation of contracts for the sale of armaments to Saudi Arabia, as other EU countries like Belgium¹⁶ and Sweden¹⁷ have done, and to all other countries involved in military conflicts and/or who may have committed human rights violations, like the United Arab Emirates, Kuwait, Qatar or Bahrain;
- To declare an embargo on arms to Saudi Arabia and members of the coalition who are active in Yemen;
- To undertake all necessary efforts on a diplomatic level to end the conflict in Yemen, facilitating the creation of a negotiating table between all the parties involved as a basis for a peace process and national reconciliation;

For all this, we ask Spanish Members of European Parliament to align themselves to and vote in favour of the Proposed Resolution 2016/2515(RSP) on the humanitarian situation in Yemen.

We do not build a more secure world by filling it with arms and ammunition. Let us accept the responsibilities that we have to put a stop to the brutality in Yemen.

¹⁶ "Belgium Rules Out Arms Sales to Saudi Arabia", Defense World, 2016. Available at: http://www.defenseworld.net/news/15029/Belgium_Rules_Out_Arms_Sales_To_Saudi_Arabia

¹⁷ Sweden's stopped selling arms to Saudi Arabia. Why can't the UK follow suit? , The Guardian, 2015. Available at: <http://www.theguardian.com/commentisfree/2015/mar/12/sweden-stopped-selling-arms-to-saudi-arabia>