

Brexit and Arms Sales to the Philippines: A Reactive Approach to Human Rights

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TEGG WESTBROOK, MAY 12 2018

In June 2016, the UK voted to leave the European Union (EU) (often referred to as 'Brexit'). Brexit partly came about due to the concern that Britain was unable to secure its own trade agreements with emerging powers around the world. In the face of a slowing economy, this is a promise that the current Conservative government is now setting out to achieve. The UK is now keen to establish stronger trade ties with countries around the globe, bringing with it a host of goods and services in order to attract business and investment. As the sixth largest exporter of conventional weapons and equipment, the UK's defence industry is keen to grasp this unique opportunity.

The UK's exit from the EU has not only created uncertainty about its future relationship with its continental neighbours, but also, in light of recent arms sales, its proclaimed position as a champion of human rights. Being unable to implement trade deals with countries while Brexit negotiations are taking place, and to compensate potential loss of markets in Europe, the British government is keen to establish trade relationships where they can, fulfilling the promises made to voters of a "a truly global Britain".

The largely privatised UK defence industry is a major advantage for a government seeking to secure trade ties, as it provides a range of high-tech, battle-tested and often state-of-the-art systems and equipment. Major regional and world powers such as Saudi Arabia and the United States, for example, are among the largest importers of UK-made weapons and systems. Indeed, former Shadow Defence Secretary Dr Liam Fox (As 'Shadow' Secretary, Fox was the opposition spokesperson while the Labour government were in government), said in 2009 that under a Conservative government, one of his major priorities was to "preserve UK defence jobs by maximising exports" and that the Conservative Party would "use defence exports as a foreign policy tool". Now as Secretary of State for International Trade and President of the Board of Trade under a ruling Conservative government, Fox is putting this promise into practice.

With an increasing demand of weapons in the Middle East and Asia, the UK defence industry seems particularly eager to use Brexit to its advantage. In this context, there are various interpretations as to why the UK is particularly interested in security in the Philippines. First, the Philippines has a growing economy with a large population, and presents an opportunity for many lucrative business relationships. It offers a gateway to secure deals through diplomatic channels with other emerging economies through ASEAN. Additionally, there is a high proportion of Filipinos living in the UK and vice versa, meaning that cultural and business ties are well converged. Moreover, the Philippines is experiencing territorial disputes with China, and has strategic alliances with the United States and Japan – both UK allies. If the Philippines is unstable, this could lead to China potentially asserting its territorial claims which may draw the UK into unwanted dispute with a major power. Thus, the UK's recent diplomatic and business missions to the Philippines, a country that is experiencing prolonged and intense social and political unrest, is one of intrigue.

The UK's Obligations under the Arms Trade Treaty

In 2014 the UK ratified the Arms Trade Treaty, a legally binding UN agreement which serves to prevent arms being exported to states where there is a risk that they might be used to commit or facilitate serious violations of

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international law. Article 7, for example, permits states to assess the potential that conventional arms or items would contribute to or undermine peace and security (Art 7.1. a), or could be used to commit or facilitate a serious violation of international humanitarian law (Art 7.1.b.i) or international human rights law (Art 7.1.b.ii). The findings in the article suggest that despite clear risks of the above violations taking place, the UK still licensed weapons to the Philippines, and only withheld certain weapons and equipment reactively on some occasions. This punitive approach – i.e. a corrective measure intended to counteract an undesirable consequence, or even used as a punishment for wrongdoing – is not wholly compliant with the spirit of the Arms Trade Treaty rules, and less effective than actually withholding all weapons and equipment in anticipation (in many cases based on obvious information available) that they may be used irresponsibly. It contradicts, for example, the UK government's 2016 Foreign and Commonwealth Office report on Human Rights and Democracy, which outlines the government's commitment to protecting, among other things, human rights defenders, children's rights, and supporting the rights of children caught up in armed conflict. All these issues are of major concern in the Philippines.

There is already evidence to suggest that the UK is pushing arms sales as a way of establishing trade ties with countries and to compensate for potential loss of markets during its withdrawal from the EU, and to meet the expectations of UK voters of a "truly global Britain". This is also evidenced by the UK government's Green Paper released in January 2017, which aims to enhance support for arms exports as part of its industrial strategy. The linking of the Defence Security Organisation (DSO), a government unit responsible for promoting exports on behalf of arms companies and the security industry, and the Department for International Trade, is also affirmation of the close linkage between defence companies and the establishment of post-Brexit economic ties. This article establishes what UK weapons and equipment have been approved and revoked during times of heightened risk of violence and internal repression in the Philippines. It uses arms export data obtained by Campaign Against Arms Trade (CAAT) (a non-governmental organisation seeking to end the international arms trade) from the UK Department for Business, Innovation and Skills' UK export license database. CAAT's web browser for UK export licenses "provides the easiest means of accessing [arms export] information", providing dates of approval and country of issue, the types and quantities of weapons and equipment, their cost, and whether they were approved or revoked. Overall, based on the findings in this article, there are concerns that the UK may omit its human rights obligations because of the uncertainty and restraints that have transpired since the UK's vote to leave the EU. This is demonstrated by UK arms sales to the Philippines since the referendum vote that may have potentially prolonged, intensified, or exacerbated conflict and upheaval in the country. The UK has approved licenses despite clear risks that human rights and humanitarian violations have and may take place in the Philippines. The article concludes that the UK exercises a reactive rather than proactive response to internal repression in the Philippines, thereby, in practice, not fulfilling its human rights obligations under the Arms Trade Treaty.

Brexit and the UK's Readjustment of Its Arms Promotion Strategy

Through its trade missions, as one of the world's largest exporters of advanced weapons, UK-made defence goods may be particularly attractive for states experiencing conflict, with low GDP, and with defence technology lags, and welcome alongside other goods and services that may positively impact struggling economies. The sharp fall in value of the British pound following Brexit (which is now more or less back to pre-Brexit strength) was said to have made UK goods more attractive because it lowered prices for foreign buyers. The Defence Security Organisation (DSO) has been important in promoting British defence businesses. Previously part of UK Trade & Investment (UKTI), not long after the referendum vote, the DSO linked with the Department for International Trade (DIT). In the government's post-referendum green paper, enhancing support for arms exports was a key point in its industrial strategy (p. 74). The CEO of Aerospace, Defence, Security and Space (ADS), a trade organisation that supports UK defence industries, also said that "Brexit provides the circumstances and the catalyst for faster and more efforts" for building relationships in Asia, Oceania and the Gulf States. Thus, with government support and backing, UK defence businesses are seizing this unique opportunity to further globalise their operations.

Post-referendum Arms Sales

As one of the key advocates and early ratifiers of the Arms Trade Treaty, which obliges States Parties to consider human rights and humanitarian law before licensing weapons, the UK has been consistently criticised for its arms

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exports to countries where there are risks of violating such provisions. Examples include billions of dollars worth of UK weapons, including aircraft and munitions, being traded to Saudi Arabia during its military operations in Yemen, where humanitarian law violations has been consistently reported, including the bombing of thousands of civilians. Also on the DSO's list of "Priority Markets", following the referendum, the UK also established conventional weapons contracts with Turkey not long after President Recep Tayyip Erdogan's crackdown of opposition leaders and civil rights campaigners following the failed July 2016 coup. Erdogan was internationally condemned for his purge of journalists, judges, bureaucrats, teachers, academics and military personnel. Amnesty International also reported widespread torture of detainees, including beatings, torture and rape. Despite this, UK arms licenses to Turkey have steadily risen since 2015 during Erdogan's presidency.

Recent Human Rights Concerns in the Philippines

The UK's recent weapons licenses to the Philippines has not been covered by the media, not least since President Rodrigo Duterte was elected. A highly outspoken and unpredictable figure, Duterte's statements and political goals have been condemned by international organisations such as the EU and UN, and civil society as a whole. Among other controversial statements, Duterte has encouraged his police and citizens to execute drug addicts; has claimed to have personally executed alleged criminals; wants to lower the criminal age of drug offenders to nine years; and has threatened to kill human rights campaigners. Duterte's "War Against Drugs", which has been ongoing intermittently since July 2016, is said to have left between 4,000 and 13,000 people dead. Amnesty International has also claimed that Philippine police officers have been paid to kill alleged drug offenders. Among other external responses, the EU passed legislation expressing concern over reports of extrajudicial executions and mass arrests of suspected drug users and dealers. The EU parliament also condemned the Philippines for arresting Senator Leila de Lima, Duterte's highest-profile critic. EU lawmakers expressed serious concerns that the charges against de Lima were "almost entirely fabricated". Despite this, the Philippines has been one of the UK's first primary trading missions in light of its Brexit strategy.

A Brief History of Recent Defence Sales and Agreements

The UK and Philippines have a history of defence deals since the turn of the 21st century. The two countries already had in place registered licensed production agreement of major conventional weapons between 1996-2000 (pg. 1). This was during on-going and intensifying conflict between Philippine forces and armed groups fighting for an independent Islamic state, as well as recurrent bloody clashes with communist group – The New People's Party (NPA). Until 2001, over 150,000 people had been killed since fighting erupted in the 1970s. Between 1997 and 2001, the UK supplied a large range of small arms and light weapons and equipment. It is unknown if licensed production on small arms and light weapons were in place during this time. However, in 2001, CAAT expressed concern over the possibility of licensed production in the Philippines had circumvented existing UK export controls. Later, in 2007, reflecting previous deals, CAAT argued that the UK supplied arms to the Philippine government despite there being a major armed conflict. This was in spite of established EU rules stating that arms exports should be prohibited if there is a clear risk that weapons will contribute to armed conflict.

In the region as a whole, by 2010, the UK had over 10% market share of security imports, where ASEAN countries spent a total of \$25 billion annually on defence equipment. Due to the Philippines growing territorial disputes with neighbouring states, particularly China and Malaysia, and its ever present and persistent domestic security threats, the Philippines remains an attractive market for defence materiel. Although not a UK "Priority Market", in 2013, the Philippines was part of the UK Trade and Investment Defence and Security Organisation's (DSO) list of defence and security commercial campaigns. UK politicians have previously visited the Philippines as part of their trade missions in Asia. In January 2016, before Duterte's presidency, then UK Foreign Secretary Philip Hammond (now Chancellor of the Exchequer) visited the country during EU referendum debates where he expressed Britain's commitment to strengthening the two countries' defence relationship and trade partnership. Following the Brexit vote, and eight months into Duterte's presidency, UK international trade secretary Liam Fox made headlines when he expressed that the UK and Philippines had "shared values" and "shared interests". This was despite reports at that time suggesting Duterte's war against drugs had led to the deaths of thousands of people. It was also only months after Duterte threatened to kill human rights workers documenting his crimes.

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UK Arms Exports to the Philippines Prior to Brexit

The Philippines is one of the region's major producers of small arms ammunition (Stohl, 1998), but its forces still rely on foreign imports of various conventional weapons in order to modernise its military. Compared with other imports from other countries, ranked only 90th as the UK known defence exports (CAAT, 2018), UK sales are a drop in the ocean compared with its major conventional weapons deals elsewhere. Nevertheless, time-sensitive sales, even those low in quantity, can have a major qualitative impact in conflict. There are a number of questionable decisions made in light of UK arms sales and defence equipment to the Philippines before, during and after conflicts intensified in the country while the Coalition Government (2010-2015) and the present Conservative government (from 2015) were in power. During the February-March 2013 'Royal Army of Sulu' clashes with the Malaysian security forces in Lahat Datu, Sabah, where armed groups under Jamalul Kiram III staked their territorial claim through force unofficially on behalf of the Philippines, the UK provided the Philippines forces with £50,000 worth of small arms and ammunition (19 March 2017) (CAAT, 2017). This was legal within the bounds of the EU Common Position on Arms Export rules regarding the 'Preservation of regional peace, security and stability' (criterion 4), as Philippine citizens were in danger. However, as relations between the Philippines and Malaysia grew tense, the sale could have deepened distrust and risked escalation of violence.

During the Zamboanga City crisis in the same year (9-28 September), in what the UN declared as a humanitarian crisis which ended with more than 200 casualties, hundreds wounded, and more than 110,000 people internally displaced, the UK approved an "unknown" and "unlimited" quantity of small arms equipment and ammunition. The sale, which was approved during the fighting (24 September 2013) between Philippine armed forces and national police against the Moro National Liberation Front, was supplied from various sources (China, Turkey, and the Philippines). It included gun silencers, weapons sights, and small arms ammunition (CAAT 2018a). While human rights violations were carried out by all sides, including Philippine armed forces, who caused civilian casualties by firing at rebels using them as "human shields", the UK, then a signatory to the Arms Trade Treaty, could have chosen to revoke the license on humanitarian grounds. The fact that these arms came from various sources means that accountability for the decision to license these weapons remains unclear.

Questionable UK Defence Exports to the Philippines after Brexit

There is little doubt that Duterte's election campaign policies of killing tens of thousands of criminals leaves reasonable concern, prior to authorisation arms exports, that human rights and humanitarian law abuses may take place. Despite this, UK exports of weapons and ammunition to the Philippines increased significantly in value and quantity. According to data that has been obtained from CAAT's database, since Duterte's presidency, at the time of writing, the UK has approved a total of £15 million worth of military and dual use materiel (CAAT, 2018b). This is also a clear spike from previous years in military equipment.

During Duterte's "War Against Drugs", which involved coordinated efforts between the police and the military forces, despite the potential risk and, later, clear evidence of human rights and humanitarian law violations taking place, the UK approved licenses exceeding £1.3 million of lethal weaponry and equipment, including small arms ammunition (£450,000, August 2016) (CAAT, 2017) and specialist small arms equipment while Duterte's campaign intensified (over £900,000, over a period of 3 months between May 2016 and July 2016, £187,100 worth of which was approved before Duterte's presidency), including weapons sights and infrared/thermal imaging equipment (CAAT, 2018b). While there are end-user particulars that have to be respected by the importer, the Philippine National Police are often armed with a range of lethal military weaponry, including rifles and pistols.

This was during the same period that UN representatives called on the Philippines to stop the extrajudicial killings. However, Duterte's likening of his war against drugs with Hitler's genocide of Jewish people demonstrated his detachment from numerous condemnations. While the Philippines were also dealing with ongoing killings by Islamic extremists and other groups, having realised the unrelenting brutality in which Duterte's forces conducted themselves, almost four months into the anti-drug campaign (October 2016), the UK finally refused a request of 20 sniper rifles and related equipment on the grounds that there was a 'risk of internal oppression' (CAAT, 2018c). In November 2016, the US also halted the planned sale of 26,000 assault rifles to the Philippines National Police over

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concerns about human rights. UK sales of targeting and imaging equipment in the same month, however, were not refused. Similarly, in April 2017, UK licensors further demonstrated its reactive rather than proactive concerns of internal repression when it denied licensing military communications equipment and components days after a multi-source license of machine guns, small arms ammunition and other equipment was approved (CAAT, 2018b).

Concluding Thoughts

While known UK arms agreements with the Philippines have been ongoing for over 20 years, based on the sales information gathered from CAAT's database and aligning it with approvals made during recent armed conflict in the Philippines, the recent spike in sales raises reasonable suspicion not only about the UK's commitment to its obligations under the Arms Trade Treaty, but its position in the world as a proclaimed torchbearer of human rights, the rule of law, and democracy. The UK government's decision to approve a large number of small arms and ammunition, despite the clear risks of violations, shows that the current punitive, rather than preventative approach (enshrined in the Arms Trade Treaty) means that UK weapons may have been used for repression.

It appears that the UK revokes or rejects weapons and equipment in response to certain situations, not the entire volume of defence goods. This punitive approach – i.e. a corrective measure intended to counteract an undesirable consequence, or even as a punishment for wrongdoing – is less effective than actually withholding all weapons and equipment in anticipation (in many cases based on obvious information available) that they may be used irresponsibly. While it is difficult to prove that UK weapons and equipment are directly attributable to human suffering in the Philippines, one has to consider the possibility that for the 4,000 – 13,000 people killed during Duterte's campaign, it is probable that UK weapons and equipment were directly or indirectly used.

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