An illustration on a grey background. On the left, a hand in a purple suit sleeve holds a green money bag with a white dollar sign. On the right, a hand in a dark green suit sleeve holds a purple assault rifle. The title 'THE CURRENCY OF WAR' is in large white letters, with the subtitle 'The Global Arms Trade and War Profiteering' in smaller white italicized letters below it.

THE CURRENCY OF WAR

The Global Arms Trade and War Profiteering

The responsibility of upholding and enforcing the mandate of international peace and security is bestowed upon the permanent members (P-5) of the United Nations Security Council (UNSC). However, as they simultaneously trade arms with human rights violating states, they engage in war profiteering. In fact, the P-5 are among the largest global arms exporters in the world and leverage their UNSC veto power to profit from the perpetuation of war. Unfortunately, the existing international legal instruments, such as the Arms Trade Treaty, have proven to be ineffective in ensuring compliance with global standards of behavior in the international arms trade. As the P-5 exhibits a moral and political will to engage in war profiteering, the effectiveness of the global governance system in protecting the most vulnerable global citizens becomes compromised.

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Every day, millions of people worldwide suffer both directly and inadvertently from the consequences of irresponsible arms trade propagated by war profiteering countries¹. While the trade of conventional weapons has become a pinnacle of national security and defence policy, the transfer of arms to human rights violating recipients problematizes global arms trade.

During the 15 years following 9/11, the value of the legal arms trade increased to almost double its former levels, totaling \$95 billion in 2017.² In response to the increasing militarization of the global state system, the United Nations Office for Disarmament Affairs has claimed that the world is on the brink of a new Cold War, emphasizing the imminence of the dangers posed by the global arms trade on the global governance system.³ In virtue of being the five permanent members (P-5) of the United Nations Security Council (UNSC), the United States, the United Kingdom, France, China and Russia are the primary responsible for maintaining international peace and security, as conveyed through Chapter V of the UN Charter.⁴ Paradoxically, the P-5 are among the largest global arms exporters in the world,⁵ as in 2016 80% of the weapons in trade came from these states and Germany. Furthermore, while the P-5 are granted significant legal and norm-setting capabilities to promote their agenda of peace and security, they are simultaneously profiting from the prolongation of warfare.

Ultimately, the global governance system's ingrained responsibility to be a protector for its most vulnerable citizens, particularly victims of conflict, is compromised when its most powerful members display a blatant willingness to profit from weapon sales and the perpetuation of armed conflict. Moreover, the effectiveness of international legal agents, such as the Arms Trade Treaty in being a mechanism for circumventing arms trade to human-rights abusing states, is hindered when not all the P-5 are signatories.

To make this argument, I will firstly contextualize the issue of war profiteering

and the arm trade within the global governance system. I will introduce the military-industrial complex as a lens for understanding the war profiteering occurring within this system. Then, in a second section, I will discuss the impact and magnitude of the arms trade. As such, I will reveal how war profiteering and arms trade pose threats to international peace and security through the investigation of current global armed conflicts. Subsequently, I will also highlight the challenges that war profiteering and arms trade present for global governance. In the final section, I will analyze the efficacy of the 2014 Arms Trade Treaty and the prospect for adequate arms regulation.

Arms and the Global Governance System

Countries within the international state system have fostered a global arms industry, a network by which they manufacture and sell weapons and military technology. This trade market is dependent on willing suppliers and purchasers. It is important to understand the role that both major importers and exporters play in the channels of the arms trade in order to appreciate the consequences that stem from weapons trade globally. Interestingly enough, these major exporters are leaders in the global governance system. Global governance is the collective approach to identify and address worldwide problems that transcend the problem-solving capacities of states. The United Nations and its Security Council are leading institutions in charge of global governance.⁶ Hence, by being major arms exporters, the leaders of the UNSC are exhibiting objectives that are contrary to the responsibilities which have been endowed upon them.

Indeed, a recurring theme in global governance, undermining its efficacy, is beset with inherent contradictions. The international state system is composed of a multitude of state and non-state actors that have conflicting interests. Furthermore, the principle of state sovereignty and non-interference is consistently seen as contradictory to the pursuit of international peace and

security.⁷ UN Charter Article 51 establishes that states' right to self-defence is a fundamental principle of national sovereignty.⁸ The arms trade is no exception to this narrative, as states have long protected their right to sell arms with whomever they wish in the name of national security objectives. However, it is evident that the arms trade is also a contributor to international conflict and human rights abuses.⁹ Article 26 of the UN Charter recognizes the need to ensure that international peace and security are maintained with the least diversion of the world's economic and human resources.¹⁰ Thus, the contradiction of Article 51 and Article 26 arises, since states have proven that what they equate as legitimately exercising their right to self-defence translates into exorbitant military spending. As a consequence of these contradictions, an informal hierarchy of principles are created, and since the P-5 exercise their veto power with impunity, there is a prioritization of national interests over their responsibilities to the international community. The P-5 are the most important norm entrepreneurs, as their veto power, state and collective political influence span all aspects of global governance.¹¹ Since these states have a monetary interest in the perpetuation of armed conflicts, this results in a lack of resolute decision making.

The military-industrial complex serves as a defining theoretical framework to understand the forces that drive the leaders of the global governance system to engage in the global arms trade. As military powers with insurmountable resources, the P-5 have fostered and exploited the military industrial complex through their engagement as global arms suppliers. In the final days of his presidency, Dwight Eisenhower delivered a speech warning of a threat to democratic government and peace: the military-industrial complex. Eisenhower's conception of the military-industrial complex detailed the growing union of defence contractors and armed forces.¹² In this nexus of private interests and national defence, Eisenhower posited that the US's military establishment was an active participant in the arms industry.

The President warned about the repercussions of the military-industrial complex for the health of democracy, explaining that a military establishment and a growing arms industry had emerged as a hidden force in US democracy.¹³ Although theorized in 1961, Eisenhower's military-industrial complex remains pertinent to the current state of the global arms trade, as these transactions continue to be driven by the nexus of private interests and national defence. To the likely dismay of Eisenhower, the scope and magnitude of the military-industrial complex has become a multi-billion dollar industry.¹⁴ Rather than the military-industrial complex being perceived as a direct threat to national democracy, it has become a threat to the global governance system, corrupting states to disregard international obligations for peace and security to engage in the capitalist agenda of the arms trade. The P-5 exhibit this corruption when they prioritize their own economic agenda over the humanitarian objectives of the UN.

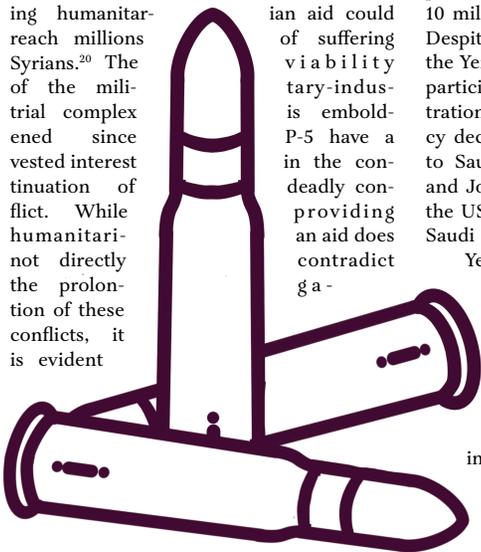
P-5 as the main exporters of global arms: the damaging consequences

Through the inherent contradictions within the UN system as well as the unparalleled power granted to the P-5, these major global states engage in a duplicitous exchange. They sustain their position of power and responsibility to be a protector of international peace and security, while simultaneously perpetuating violence in human rights violating states.

The United States has been the world's top arms exporter every year since 1990, and it is closely followed by Russia, China, France, Germany and the United Kingdom.¹⁵ The channels of arms trade that these exporting countries have exploited paralleled their foreign policy interests. For instance, from 2012-2016, the US bolstered their arms trade relationship with Saudi Arabia, Kuwait, Qatar and the UAE, all of which are key allies of the US in the Middle East. In fact, during that period, Saudi Arabia imported 212% more major weaponry than in the previous five-year period,

making the Saudi state the top arms importer in the world.¹⁶ Additionally, in conjunction with Russia's ongoing contention with Ukraine, Russia provided arms to rebel forces in Ukraine. Russia also provided air defence systems to Iran, an ally, in Russia's support of the Assad regime in Syria. Bangladesh, Pakistan and Myanmar accounted for more than 60% of China's major weapons exports.¹⁷ Both China and Russia have also exported weapons to Nigeria, where armed conflict between the government and Boko Haram has resulted in the use of explosive weapons in populated areas, leading to thousands of civilian deaths and mass displacement.¹⁸

Thus, rather than enforcing humanitarian-directed action, these states have instrumentalized their political will to further their own interests against innocent civilians, who are often bystanders in armed conflict.¹⁹ Over the course of the Syrian civil war, Russia has vetoed 16 council resolutions in regard to Syria. For many of those votes, China has backed Russia. To date there have been two occurrences when Russia and China have vetoed UN resolutions that would have ensured life-saving humanitarian aid could reach millions of suffering Syrians.²⁰ The of the military-industrial complex emboldened since vested interest continuation of flict. While humanitarian not directly the prolongation of these conflicts, it is evident



that the political affiliations of Russia and China supersede the humanitarian agenda of the UN.

In light of this, the problematic nature of the global arms trade occurs when human rights violating players are the recipients of military capabilities. As weapons trade through global arms networks are utilized by recipient actors to commit criminal actions (and there is sufficient evidence which proves that suppliers are aware of these human rights abuses), arms suppliers become complicit in the perpetuation of human rights abuses. Between 1999 and 2003, almost half of the global arms were purchased by countries with poor human rights records.²¹ This trend unfortunately persists today. In Yemen, a coalition led by Saudi Arabia has been conducting air strikes against the rebel group, the Houthis. Researchers have found US-designed and/or manufactured bombs and cluster munitions in the rubble of destruction, which is plausible as Saudi Arabia is the US's biggest arms buyer.²² The Yemen conflict has sparked the worst global humanitarian crisis. Thousands of civilians have been killed, 20 million people are experiencing food insecurity and 10 million of them are at risk of famine.²³ Despite worldwide acknowledgement of the Yemeni crisis and Saudi Arabia's active participation, in 2019, the Trump administration issued an unprecedented emergency declaration for a \$8.1 billion arms deal to Saudi Arabia, the United Arab Emirates and Jordan.²⁴ This deal directly implicates the US in the proxy war between Iran and Saudi Arabia that is reeking destruction in Yemen and Syria at the expense of millions of innocent civilians.²⁵ The UK joins the US in their complicity in the Yemen conflict. In fact, Saudi Arabia is also the largest consumer of the UK arms trade. This trade has continued unabated since Saudi's military intervention in Yemen, despite repeated violations of international humanitarian law by the Saudi state. Following a similar trend, since the outbreak of the

Syrian civil war in 2011, 53% of the more than 300,000 deaths have been caused by the use of explosive weapons provided by Russia.²⁶ The US has supplied the Syrian opposition forces with military equipment.²⁷

War profiteering, the act of profiting financially from war and militarization, is a consequence of infringements on international peace and security. It is important to note that the global arms trade does not incite conflict itself, but rather exacerbates power dynamics in conflict zones becoming emboldened with heightened accessibility to weapons, giving means to actors to inflict violence on others. Arms accessibility therefore contributes to perpetual cycles of violence, directly undermining economic and social development and political stability in fragile regions.²⁸ Even after conflict has subsided, the continued availability of arms puts pressure on weak governance and slows economic development. Governments in weak states often employ arms as tactics of repression to subdued popular dissent or strengthen their military coalition.²⁹ Oxfam estimates that armed violence costs Africa \$18 billion annually. This figure is approximately equivalent to the annual contributions of development to the entire continent.³⁰ Moreover, not only does the proliferation of the global arms trade alter the political fabric of states, it also alters social dynamics. Between 2011 and 2014, Action on Armed Violence recorded almost 150,000 deaths and injuries from the use of explosive weapons in populated areas globally and 78% of these victims were civilians.³¹ Survivors of explosive weapons may face long-term challenges of disability, psychological harm, and/or social and economic exclusion.³² It is important to grasp the ramifications of the arms trade to understand the immorality of war profiteering in its contribution to irrevocably changing political, social and economic elements in conflict-ridden states. Even upon termination of conflict, these lasting effects hinder civilian's rights to live a free and dignified life.

The Inefficacy of International Law in Addressing War Profiteering

The establishment of the Arms Trade

Treaty (ATT) was an instrumental feat for the international community in arms regulation of conventional weapons and abidance to existing global and legal obligations and norms. The ATT is a mechanism created in an attempt to ensure compliance to global standards of behaviour in the international arms trade.³³ The multilateral treaty was developed through the United Nations General Assembly over the course of seven years, and finally entered into force on December 24, 2014.³⁴ The legally-binding Treaty prohibits the sale of weapons on the condition that they would violate arms embargoes or other international obligations, or would be used to commit genocide, crimes against humanity, breaches of the 1949 Geneva Conventions, attacks against civilians or civilians objects or other war crimes.³⁵

While the treaty recognizes the inherent right to sell, acquire and possess weapons, it also highlights the legal obligation to abide by the UN Charter, international humanitarian law, international human rights law and UN-instituted arms embargoes.³⁶ Notably, Article 16 of the UN International Law Commission's Articles on Responsibility of States for Internationally Wrongful Acts, articulates that states have a responsibility to not knowingly aid or assist another state in the commission of an unlawful act.³⁷ The Treaty is intended to prevent the diversion of weapons to ill-intended actors and the illicit arms market in an effort to contribute to international and regional peace, security and stability and reduce human suffering.³⁸ Signatories of the ATT must undergo a risk assessment of whether the weapons they sell will be used to undermine peace and security, violate international humanitarian law or human rights law, or commit acts of terrorism or transitional organized crime.³⁹

Of the P-5, only France and the UK remain signatories.⁴⁰ The US was an initial signatory, until April 2019, when President Trump announced that the US would resign from the ATT. Thus, the US no longer factors in the past behaviour of a recipient

country into its arms transfer decisions.⁴¹ Russia and China have never committed to the ATT, which gravely undermines the credibility of the Treaty as they are the second and fifth largest arms exporters, respectively. Moreover, four of the five largest arms importers, India, Saudi Arabia, Egypt and China, all have failed to sign the Treaty.⁴² When the largest propagators of the arms trade and war profiteering refuse to recognize the relationship between arms trade and violations of international obligations and norms, the validity of these responsibilities and standards are challenged. The global governance system must rely upon respect and abidance for principles that aim to uphold international peace and security. The lack of widespread support for the ATT delegitimizes the efficacy of the global governance system in this regard.

The United Nations Institute for Disarmament Research has been steadfast in its criticism of the ATT, claiming that the Treaty has major loopholes that continue to be exploited by war profiteers.⁴³ The ATT is founded on notion that by ensuring conventional arms only end up in the hands of responsible, human-rights abiding actors, international peace and security can be upheld.⁴⁴ However, the efficacy of the ATT has proven to be restricted, as since it entered into force, there have been numerous examples of irresponsible arms transfers, due to its limitations discussed above. Indeed, despite the UK being a party to the Treaty and the US being a signatory until 2019, both states have knowingly aided and assisted violators of the Geneva Conventions, international humanitarian law and international human rights law by selling arms to Saudi Arabia.⁴⁵ Saudi Arabia faces widespread international criticism for its human rights record and has committed numerous violations of international humanitarian law, particularly through the state's involvement in the Yemen civil war.⁴⁶ In 2019, the Court of Appeal in London accepted one of the grounds put forward by Campaign Against Arms Trade against the British government. The judgment challenged the lawfulness of the risk

assessment conducted by the government in its exporting of weapons and military equipment to Saudi Arabia.⁴⁷ Additionally, a leak of classified French Defence Ministry documents reported the use of French-made weapons in Yemen.⁴⁸

However, a report by Oxfam argues that even in the absence of some of the world's largest arms exporters, the ATT still has value. The report posits that the ATT creates an international norm for arms exporters that will shape the manner in which all states view arms exports, even non-signatories.⁴⁹ It supports such a stance by referring to the Ottawa Treaty, which has reduced casualties from landmines by more than two-thirds and achieved significant reductions in landmine trade, despite the fact that the US, China and Russia have not signed.⁵⁰ Oxfam's reasoning is idealistic, as global norms have long been established in regard to arms diversion. The ATT is a mechanism which is intended to enforce compliance with such norms. However, in the P-5's role as norm entrepreneurs, the fact that two of five countries have not signed the Treaty, and those who are signatories have repeatedly violated its terms, directly challenges its efficacy as a norm-setting agent. The Honourable Roméo Dallaire articulates this shortcoming, by explaining that the international community has answered the question of how to prevent and respond to grave injustices through the establishment of laws and institutions that dictate what is deemed acceptable and unacceptable conduct. He explains, "on paper, it would seem we have come a long way, but in reality, we have not managed to keep up with the rapid evolution of armed conflict. International law is not yet robust enough to hold accountable all offenders, and institutions are continuously prevented from achieving their mandates by national interests of member states".⁵¹ His statement points to the ineffectiveness of both the ATT and international law in regulating arms trade. Eisenhower's military-industrial complex has become an institution in it of itself, and it is an extremely powerful one at that.

One may question how signatories of the ATT continue to sell weapons unabated by the legally-binding requirements of the Treaty. The ATT sets a high threshold of the certainty a state needs to have with regard to the likelihood that a violation of international law would occur. In response to scrutiny of their arms sale to Saudi Arabia, the British government has continued to insist that it abides by a 'rigorous and robust' export control process. The government claims that its arms sales grant UK influence over Saudi Arabia, allowing the UK to provide training and advice on targeting in order to avoid civilian casualties.⁵² It is hard to imagine how this justification is deemed sufficient under International Humanitarian Law and broader principles of the ATT. The ATT requires two specific reports from State Parties: an initial report on measures taken to implement the treaty, including national laws and regulations, and an annual report on authorized or actual arms exports. Many State Parties have failed to abide by these requirements, not making their reports publicly available. These gaps in reporting allow for states to engage in violating arms exports with impunity.⁵³

The inefficacy of the ATT illuminates a recurring theme in global governance: the lack of political will by states to uphold international agreements and principles. Some of the world's top arms exporters strategically adopted the ATT out of concern for their international reputations, rather than the possession of political will to abide by international norms of arms diversion. The UK has supported arms embargoes in relation to numerous conflicts through the UNSC.⁵⁴ However, the UK did not have a significant value in arms trade with any of these countries. If asked to support an arms embargo against Saudi Arabia, I would be dubious to believe that the UK would approve. This reality speaks to a greater challenge in the international community and global governance at large, the need for international solidarity. There must be a greater perception of international citizenship that is genuine. The hypocrisy is blatant: states are driven to com-

mit to international agreements in a desire to be seen as a 'good international citizen', yet demonstrate a complete unwillingness to comply with the principles of such agreements.⁵⁵ The hierarchy that arms exporting and importing states operate under, which evidently places some lives over others, can be described as criminal.

Conclusion

Each year, thousands of civilians are killed by the very weapons that are sold by P-5 states to callous governments and armed rebel groups.⁵⁶ While millions are restricted from their right to live with dignity, as they grapple with the perils of armed conflict, the world's global powers are profiteering from the arms that wreak destruction on their homes, schools and lives. Instead of arms being controlled by pillars of international law and moral conscience, they are sold for profit to those who exploit them for political gain. What can be done to enhance the efficacy of the ATT or arms regulation at large? The loopholes in international humanitarian and human rights law are omnipresent in all human rights issues plaguing the international state system. There are systemic barriers to human rights abiding arms trade, and it would be naive to believe that with the evident lack of political will to enforce international law and treaties that these can be overcome. However, the precedent of the Court of Appeal in London, that the UK government's refusal to consider Saudi Arabia's war violations in Yemen before licensing arms sales was unlawful, will hopefully be the first of many. While the UK eventually resumed selling arms to Saudi Arabia, the UK government was momentarily forced to pause sales.⁵⁷ I implore domestic courts in states that are actively participating in the perpetuation of war and human destruction to do the same. NGOs can help to combat the issues of war profiteering by increasing awareness among citizens in the P-5 states and encouraging these individuals to lobby for change. Even if only one of these countries realizes the hypocrisy of their behaviour, they can become a powerful advo-

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