

We need to talk about Yemen

Briefing - December 2016 - Emily Knowles

Summary

Is the UK at war in Yemen? This is the sort of question that invites a binary response. But although it is a simple question to ask, it is not an easy question to answer. The story of UK involvement in the current crisis in Yemen is hard to unravel, a task that is not helped by contradictory government statements, the lack of transparency surrounding government policies, and confusing distinctions between different types of UK assistance to members of the Saudi-led coalition on the front lines of the war.

It is hard to square official statements such as “British military personnel are not directly involved in Coalition operations”,¹ “we will provide support to the Saudi and GCC operation in every way we can”,² “drone strikes against terrorist targets in Yemen are a matter for the Yemeni and US governments”,³ and British forces “are present in the operation room for the Saudi air strikes against Yemen”.⁴ This becomes even harder when evidence comes to light of a UK Special Forces presence on the ground at various points in the conflict,⁵ and when reports emerge suggesting that the UK intelligence community is playing a “vital role”⁶ in the US targeting process.⁷

Greater transparency over the UK’s role in the conflict would benefit the government for many domestic reasons, particularly given the levels of public and parliamentary scepticism about arms sales and secret wars.⁸ But the stakes in Yemen are also very outward-facing. Stories of violations of international humanitarian law abound on both sides of the conflict, and civilian casualties are soaring.⁹ The people of Yemen are currently bearing the brunt of a military campaign that was only authorised on the basis that it was meant to protect them.¹⁰ Identifying clear lines of responsibility is an integral part of making sure that the situation can be improved, and that governments can

be held to account for the mistakes made throughout the conflict. At the moment, the UK government seems caught between claiming enough knowledge and oversight of Saudi-led coalition activities to justify continuing to supply them with arms, yet distancing themselves from the decision-making process enough to deny responsibility for the disasters that have occurred. This pushes them towards engaging indirectly and opaquely in the conflict; a risky strategy for a number of reasons:

- **Effectiveness** – The government’s ability to improve the targeting behaviour of the Saudi-led coalition in Yemen appears to be minimal. It is possible that the fear of being implicated as a party to the conflict has led to strategic trade-offs such as not having control over targeting lists that are now damaging the effectiveness of the campaign.
- **Accountability** – It is impossible to hold the government to account over behaviour in conflicts it won’t admit it is party to, because we can’t evaluate the success or failure of aims, objectives, and actions that aren’t disclosed. This is particularly pernicious in conflicts where reports of breaches of international humanitarian law are prevalent on all sides.
- **Legitimacy** – The legality of the government’s decision to continue sales of weaponry to Saudi Arabia is currently being challenged by the High Court. Regardless of the outcome, current UK actions risk undermining its international legitimacy, as well as the government’s own overarching strategy of improving national security by promoting international human rights.

Misleading government statements

“We were told that UK personnel are not part of the intelligence planning cells, but that they are in the Joint Combined Planning Cell HQ. We also heard that UK personnel are in Saudi Arabia to train, educate and teach best practice, which includes understanding IHL and training air crews and planners how to go about assessing targets for the future, but that our liaison officers ‘do not provide training, they do not provide advice on IHL compliance, and they have no role in the Saudi targeting chain.’ This is an area in which there is much confusion and greater clarity is needed.”¹¹

– First Joint Report of the Business, Innovation and Skills and International Development Committees of Session 2016-17, “The use of UK-manufactured arms in Yemen”

Part of the difficulty in establishing whether or not the UK is at war in Yemen comes from the fact that government statements about UK involvement are often unclear, contradictory, or difficult to reconcile with available evidence.

Assistance to US strikes

In 2014, it was revealed that British troops were embedded with US forces at Camp Lemonnier, from which the US was launching its drone operations in Yemen.¹² The MoD denied that they were involved in coordinating lethal strikes. Then-defence minister Mark Francois said:

“...there are three UK armed forces personnel embedded with US forces at Camp Lemonnier. They work within the Combined Joint Task Force-Horn of Africa (CJTF-HOA) and are responsible for planning and supporting US military operations in the region. As embedded military personnel within a US headquarters, they come under the command and control of the US armed forces but remain subject to UK law, policy and military jurisdiction”¹³

Nevertheless, the official position that “drone strikes against terrorist targets in Yemen are a matter for the Yemeni and US governments”¹⁴ was undermined by documents released by Edward Snowden in 2015 that suggested that a joint US, UK, and Australian surveillance network codenamed Overhead had supported at least one lethal drone strike in Yemen in 2012.¹⁵

Assistance to Saudi strikes

In January 2016 the MoD admitted that British forces are present in the operation room for the Saudi air strikes against Yemen, but without having an operational role.¹⁶ In his evidence to the Committee on Armed Export Controls (CAEC), Tobias Ellwood, Parliamentary Under-Secretary of State for Foreign and

Commonwealth Affairs, explained that those liaison officers were there “to improve our understanding of the air campaign.”¹⁷

However, in April 2016 evidence surfaced that the UK was helping the Yemeni National Security Bureau to gather intelligence, as well as putting its human intelligence network at the disposal of the Americans, which may have been used to inform Saudi and US strikes alike.¹⁸ In September 2016, when asked if he would outline what procedures are used for sharing UK intelligence with Gulf states and what assurances he could offer that UK intelligence was not being used for the strikes, Tobias Ellwood stated: “I cannot comment, for the obvious reason that we do not discuss intelligence matters at the Dispatch Box”¹⁹

In evidence to CAEC, Philip Dunne, then-Minister of State for Defence Procurement, explained that “UK liaison officers in the air operations centre were not involved in targeting decisions, but instead conducted training on doctrine for using UK-supplied weapons systems and provided advice on targeting processes.”²⁰ However, in January 2016, the Saudi foreign minister told journalists that “we have British officials and American officials and officers from other countries in our command and control centre. They know what the target list is, and they have a sense of what it is that we are doing and what we are not doing.”²¹

While the minister denied that these foreign officials select the targets, it may be that they are involved in other aspects of the targeting decision-making process, particularly since the MoD told the Guardian it had agreed to “increase oversight of the targeting process” in 2015.²² In October 2016, Bob Stewart MP stated: “I visited the air operations centre in Riyadh, where British air force personnel are helping the Saudis in their target planning.”²³

Boots on the ground

In March 2015, the then-Foreign Secretary stated that Britain would “provide support to the Saudi and GCC operation in every way we can, but we’re clearly not going to get involved in military action itself.”²⁴ Instead, support was scoped to include “Political support... logistical and technical support.”²⁵

However, a report released in April 2016 referenced interviews with Yemeni troops who stated that UK Special Forces had occasionally taken the lead on joint UK, US, and Yemeni operations against AQAP,²⁶ indicating that the UK may well have been playing an active conflict role, at least at various points in the war.

Arms Sales

In July 2016 the government went back and updated a range of statements made over the past year that suggested they had assessed that the Saudi-led coalition had not breached international humanitarian law (IHL) during the conflict, thereby allowing the government to continue arms sales. Statements have now been changed to read ‘we have not assessed’ and ‘we have been unable to assess’ that there has been a breach of IHL by the coalition.”²⁷

In its response to CAEC, the government admitted that “UK Defence personnel are unable to form a complete understanding of the Coalition’s regard for IHL in its operations in Yemen as they do not have access to all the information required to do so.”²⁸ This is despite evidence to the same committee given by Philip Dunne, who stated that “the access we have to information from within Saudi operations allows us to conduct post-incident analysis of strikes.”²⁹

The status of UK involvement in Yemen

“It is impossible, on the basis of the evidence that is before us, to claim plausibly that the United Kingdom is not involved [in Yemen].” - Professor Philippe Sands QC in his evidence to CAEC³⁰

International law is not clear on the criteria for determining when one state assisting another in an armed conflict itself becomes a party to that conflict. This lack of clear thresholds is unhelpful, and complicates answering questions of when states should be considered combatants in a conflict. However, the depth of UK involvement - which seems to have included all things from intelligence-sharing, arms sales, training, advising, and Special Forces deployments – makes it hard to maintain the UK’s distance from the conflict, and must increase the risk of the UK being dragged in to full-scale participation.

The distinction between ‘combat’ and ‘non-combat’, or ‘direct’ and ‘indirect’ roles means little in modern conflicts where the line between being on the front line and being there to train and assist local troops is increasingly blurred. Recently, Houthi rebels in Yemen are believed to have targeted US naval ships in missile attacks, possibly because of America’s assistance to Saudi Arabia’s military campaign in the country. This resulted in direct US strikes on Houthi radar stations,³¹ raising questions about how UK support to the Saudi-led coalition is seen from the ground, and whether the government’s decision not to declare itself as a combatant will prove an effective shield against retaliation.

Implications of a lack of transparency and accountability

UK involvement in the Yemen conflict has been characterised by ambiguity, poor transparency and undisclosed aims. The government has chosen to rely on very narrow definitions to argue that it does not have an operational role in the conflict.

Amidst reports of UK Special Forces on the ground,³² sharing intelligence that could be used for Saudi and US strikes,³³ selling weaponry to the Saudi-led coalition,³⁴ placing liaison officers in command and control rooms,³⁵ and embedding troops in the US bases that are used to carry out strike action,³⁶ the government’s claim of a non-operational role seems to be more a reflection of the outdated definitions that the government is using, rather than a statement about actual levels of UK involvement.

Yemen is an example of how far modern conflicts have moved away from clear-cut declarations of war between states towards fluid, shadowy wars conducted away from public scrutiny. This form of military engagement currently sidesteps important democratic controls that the British government would normally be under for the use of force, such as the parliamentary convention that UK conflict decisions are taken to a vote, the monitoring of theatres of UK engagement by the National Security Council, and the clear line of responsibility that holds combatants to account for their behaviour in warfare.

The ability to use force and assist allies are both vital components of UK defence and security policy. Indeed, increasing the capacity of the UK’s partners to bring security and stability to their regions is a core part of making Britain’s contributions to international security sustainable. Choosing to do so without opening the government up to full scrutiny may feel like the only politically feasible option for governments facing strong domestic opposition to the use of military force against credible threats to national security. This does not, however, mean that it is never counter-productive.

A full appreciation of the risks of this strategy is impossible given the levels of secrecy that underwrite it. It is nevertheless possible to flesh out some core challenges to the legitimacy, accountability, and effectiveness of the UK’s military action overseas that arise.

Legitimacy

While criteria for judging whether a state has become a party to a conflict are unclear, it will be interesting to see whether the High Court rules that the UK has breached its commitments under international mechanisms like the Arms Trade Treaty by continuing its arms sales to Saudi Arabia.

Parliamentary reviews of UK policy in Yemen have warned that the UK risks undermining its international legitimacy through its continuing support to Saudi Arabia amid concerns of breaches of International Humanitarian Law (IHL).³⁷ In particular, the government's lack of assessment of evidence of violations stemming from its exports, a requirement it signed up to under the Arms Trade Treaty,³⁸ sets a worrying precedent for others to follow.

The UK government initially stated that it had conducted its own assessments and had concluded that the Saudi-led coalition had not breached IHL during the conflict, thereby allowing the government to continue arms sales. Statements have now been changed to read 'we have not assessed' and 'we have been unable to assess' that there has been a breach of IHL by the coalition.³⁹ This is despite organisations such as Human Rights Watch handing over GPS coordinates, details of strikes, and details of markets and schools that it says were hit by the coalition, giving the government primary evidence to consider.⁴⁰

The government has adopted an overarching strategy of improving national security by promoting international human rights.⁴¹ Its poor approach to transparency and accountability in the Yemen case stands at odds with this, and may undermine the legitimacy of UK military action both at home and abroad.

Accountability

Since military action was first subject to parliamentary vote in the UK, successive governments have supported the move away from an "outdated" model of intervention where the decision to go to war sits with the Prime Minister and the Cabinet alone, claiming a move towards greater transparency and accountability is pivotal for a 21st century democracy.⁴²

Nevertheless, the UK's controls on the use of force are outdated and do not properly cover remote warfare, meaning that the government does not necessarily need to disclose a wide range of these 'war-like' actions if they are not carried out by regular troops, or troops declared as having a combat role. Special Forces, military advisers, intelligence capabilities, and military training teams can be used in areas where the UK is not formally at war, without being considered an official intervention that would trigger a parliamentary vote

or heightened scrutiny. This appears to still be the case when the UK's contributions are considered 'vital' to the coalitions it supports, like in Yemen.

When the UK carries out operations with Special Forces, parliamentary authorisation or notification is not required. This allows them to operate in combat roles in countries where Parliament has not voted on military action such as Libya,⁴³ as well as in places where the relevant authorisations specifically preclude the deployment of UK troops in ground combat operations such as Syria.⁴⁴ In addition, scrutiny is severely restricted by the lack of a parliamentary committee to oversee the Special Forces (such as exists for the Intelligence Services).⁴⁵ On top of this, the MOD's long-held policy not to comment on Special Forces⁴⁶ and the weakness of the Defence Advisory Notice System,ⁱ allows them to deflect any evidence that surfaces about their use.

The designation of any mission as 'combat' or 'non-combat' also has huge implications for its scrutiny in the UK. For example, while the then-Foreign Secretary initially stated that any military mission to Libya would trigger a parliamentary vote,⁴⁷ Tobias Ellwood was subsequently quick to emphasise that a training mission was being considered which, because it didn't anticipate 'a combat role' for UK troops, ruled a parliamentary vote out.⁴⁸ Similarly, because the UK government's official position is that "the UK is not a member of the Saudi Arabian-led Coalition and British military personnel are not directly involved in Coalition operations",⁴⁹ it has not had to submit to the same levels of parliamentary scrutiny and authorisation.

Where the UK provides capabilities to allies rather than taking an active lead in operations, it does not necessarily need to report them to Parliament. For example, in 2015 it was revealed that a small number of UK pilots embedded with the US military had carried out airstrikes in Syria against ISIS targets before parliamentary authorisation was given.⁵⁰ This is the same in Yemen, where the government has not had to open its activities up to scrutiny despite reports that UK intelligence is critical to US strikes.⁵¹

The people of Yemen are currently bearing the brunt of a military campaign that was authorised on the basis that it was meant to protect them.⁵² Identifying clear lines of responsibility is an integral part of making sure that the situation can be improved, and that governments can be held to account for their roles in the conflict.

ⁱ The Defence Advisory Notice System is the non-legally-binding system that the UK Government uses to advise the media about whether publishing material they receive about SOF might be harmful to national security. In addition to SOF, the system covers information on military operations, nuclear and non-nuclear weapons and equipment, ciphers and secure communications, sensitive installations and home addresses, and UK Security and Intelligence Services. (<http://www.dnotice.org.uk/danotices/index.htm>)

Effectiveness

In his evidence to CAEC, Mr Dunne contended that the UK's high level of engagement with the Saudi-led coalition was understandable given the "privileged position" that the UK holds with Saudi decision-makers.⁵³ The Parliamentary review of the use of UK-manufactured weapons in Yemen acknowledged that the UK is "a major supplier of defence equipment... Saudi Arabia, the UAE, and Kuwait have been identified as 'priority markets' for defence exports... and in 2015 over 30 per cent of all UK defence exports were licensed to Saudi Arabia."⁵⁴

This is likely to affect the government's cost-benefit calculations when it comes to involving itself in the conflict in Yemen. However, remote warfare, is not cost or risk free – the costs and risks can just be harder to anticipate and mitigate, and success cannot be guaranteed.

It is hard to see how the current model of UK support to the Saudi-led coalition is in the UK's interests when the campaign has been such a disaster. Figures for the number of children killed or injured in 2016 were six times higher than in 2014.⁵⁵ Of the casualties, 60% (510 deaths and 667 injuries) were attributed to the Saudi-led coalition and 20% (142 deaths and 247 injuries) to the Houthis.⁵⁶ The United Nations verified 101 incidents of attacks on schools and hospitals, which is double the number verified in 2014. Of the attacks on schools and hospitals, 48 per cent were attributed to the coalition, 29 per cent to the Houthis and 20 per cent to unidentified perpetrators.⁵⁷

In light of the large number of violations attributed to both the Houthis and the Saudi-led coalition, the UN listed them in its April 2016 report of parties that have committed grave violations against children. The Saudi-led coalition was named as both a party that kills and maims children, and which engages in attacks on schools and/or hospitals.⁵⁸ In June, after considerable Saudi pressure,⁵⁹ the UN retracted the Saudi-led coalition from the report.⁶⁰

The current situation may mean that the British government ends up with the worst of both worlds – it is sufficiently engaged to be considered part of the conflict by a growing number of commentators, yet it is not engaged enough to have any realistic chance of improving targeting practices, reduce IHL concerns, or increase the chances of stability in Yemen.

Conclusions

Involving the UK in complex conflicts is always risky, and even good strategies can fail. However, the opacity of the UK's involvement in Yemen makes it extremely difficult to fully appreciate the risks that it is exposing itself to, or to hold the government to account when poor decisions have been made.

This lack of transparency makes it more likely that the UK will continue to sink time and resources into supporting failing policies, with little chance of a good result for either UK national security or stability in Yemen. Warfare, even remote warfare, is not cost or risk free – the costs and risks can just be harder to anticipate and mitigate. The UK's failure in Yemen should be used to prevent future strategic failures.

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Remote Control is a project of the **Network for Social Change** hosted by **Oxford Research Group**. The project examines changes in military engagement, with a focus on remote control warfare. This form of intervention takes place behind the scenes or at a distance rather than on a traditional battlefield, often through drone strikes and air strikes from above, with special forces, intelligence operatives, private contractors, and military training teams on the ground.

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