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Amnesty International (AI) is a worldwide movement of people who campaign for human rights. AI works towards the observance of all human rights as enshrined in the Universal Declaration of Human Rights and other international standards. It seeks to promote the observance of the full range of human rights, which it considers to be indivisible and interdependent, through campaigning and public awareness activities, as well as through human rights education and pushing for ratification and implementation of human rights treaties.

AI's work is based on careful research and on the standards agreed by the international community. AI is a voluntary, democratic, self-governing movement with more than a million members and supporters in more than 140 countries and territories. It is funded largely by its worldwide membership and by donations from the public. No funds are sought or accepted from governments for AI's work in documenting and campaigning against human rights violations.

AI is independent of any government, political persuasion or religious creed. It does not support or oppose any government or political system, nor does it support or oppose the views of the victims whose rights it seeks to protect. It is concerned solely with the impartial protection of human rights.

AI takes action against some of the gravest violations by governments of people's civil and political rights. The focus of its campaigning against human rights violations is to:

- \* free all prisoners of conscience. According to AI's Statute, these are people detained for their political religious or other conscientiously held beliefs or because of their ethnic origin, sex, colour, language, national or social origin, economic status, birth or other status – who have not used or advocated violence
- \* ensure fair and prompt trials for all political prisoners;
- \* abolish the death penalty, torture and other ill-treatment of prisoners;
- \* end political killings and "disappearances".

AI calls on armed political groups to respect human rights and to halt abuses such as the detention of prisoners of conscience, hostage-taking, torture and unlawful killings.

AI also seeks to support the protection of human rights by other activities, including its work with the United Nations (UN) and regional intergovernmental organizations, and its work for refugees, on international military, security and police relations, and on economic and cultural relations.

**Cover photo:** A protestor shows her injuries after she was hit by a police weapon during an anti-war protest in Oakland, California on 7 April 2003. © AP

# THE PAIN MERCHANTS

## Security equipment and its use in torture and other ill-treatment

### 1. INTRODUCTION

"It's possible to use anything for torture", says a US manufacturer of electro-shock riot shields, "but it's a little easier to use our devices." <sup>1</sup>

Amnesty International has campaigned for many years to end the trade in torture equipment. In *Arming the Torturers: Electro-Shock Torture and the Spread of Stun Technology*<sup>2</sup> and *Stopping the torture trade*<sup>3</sup>, Amnesty International detailed the largely unregulated business of manufacturing and trading electro-shock weaponry and other devices which are ostensibly designed for security, but which in reality lend themselves to serious abuses of human rights.

The prohibition on torture and other cruel, inhuman or degrading treatment or punishment extends to all circumstances, even during war.<sup>4</sup> The right to freedom from torture is so absolute that it can never be restricted. Torture is always, in every situation, unacceptable.

Yet torture continues in many countries despite the fact that it is absolutely prohibited under international law. During 2002 Amnesty International reported torture or ill-treatment by security forces, police or other

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<sup>1</sup> John McDermit, president of Nova Products, Inc; quoted in interview with Anne-Marie Cusac, *The Progressive*, September 1997 (<http://www.progressive.org/cusac9709.htm>)

<sup>2</sup> March 1997 (AI Index: ACT 40/01/1997)

<sup>3</sup> February 2001 (AI Index: ACT 400022001)

<sup>4</sup> Torture violates binding customary international law – see for example the case of *Filartiga v Pena-Irala*, 1980. In this case, the US Federal Court of Appeals said that "deliberate torture perpetrated under color of official authority violates universally accepted norms of international law of human rights, regardless of the nationality of the parties." [citation 577 F Supp. 860 (EDNY 1984); summarized in 78 American Journal of International Law 677 (1984).] Torture and other cruel, inhuman or degrading treatment or punishment are also prohibited by treaties - see Articles 4 and 7 of the International Covenant on Civil and Political Rights, 1966, the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984, and Common Article 3 of the Geneva Conventions, 1949

state authorities in 106 countries.<sup>5</sup> A study of Amnesty documentation for the years 1997-2000 showed that torture was reported in more than 150 countries. In more than 70 of them, the reports were widespread or persistent. In more than 80 countries, people reportedly died as a result. Most of the torturers documented by Amnesty International were police officers.<sup>6</sup> In the aftermath of the attacks of 11 September 2001 in the USA, some US commentators have even argued that law enforcement agents should be allowed to torture suspects: "torture-lite" is the new entry in the lexicon of abuse.

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984) which 134 states have ratified, forbids torture or other cruel, inhuman or degrading treatment. Likewise, Article 7 of the International Covenant on Civil and Political Rights (1966), which 151 states have ratified, requires that: "No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment". The prohibition in Article 7 is complemented by the positive requirements of Article 10 which states that: "All persons deprived of their liberty shall be treated with humanity and with respect for the inherent dignity of the human person."

Are there specific tools of torture? As the president of Nova Products said, almost anything can be used to inflict pain, including fists and feet. But in this report, Amnesty International is concerned particularly with the misuse of security equipment ostensibly designed or promoted for law enforcement, security or crime control purposes.

The UN Code of Conduct for Law Enforcement Officials (Article 5) contains an absolute prohibition of torture and ill-treatment. The official Commentary to Article 5 states that the term cruel, inhuman or degrading treatment or punishment "should be interpreted so as to extend the widest possible protection against abuses, whether physical or mental." In addition, the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials states that "Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms" (Article 4) and that "Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall..[m]inimize damage and injury, and respect and preserve human life" (Article 5).

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<sup>5</sup> Amnesty International Annual Report 2003 (AI Index: POL 10/001/2003)

<sup>6</sup> From a survey of Amnesty International research files on 195 countries for the years 1997-2000. Information on torture is usually concealed, and reports are often hard to document, so these figures may well be an underestimation. See Amnesty International, *Take a step to stamp out torture*, October 2000 (AI Index ACT 40/13/00) and *Combating torture: A manual for action*, June 2003 (AI Index, ACT 40/001/2003)

All over the world, law enforcement agencies and security services use equipment that ranges from the simplest technology - batons and sticks - through implements like handcuffs, tear gas, water cannon and "stun-guns", to control crowds and restrain people alleged to have broken the law or to be posing an imminent threat to others.

Most crowd control technologies and restraint devices rely on the principle of containment through pain or physical restriction. They are inherently open to abuse, some more so than others. This report includes, for example, the case of a Chinese man who, for his first 33 hours in police custody, was suspended from handcuffs attached to the bars of a door with his feet locked in 50kg shackles, and was kicked, beaten and attacked with electric batons.

In the last thirty years, devices such as electro-shock stun guns, plastic baton rounds and disabling chemicals have been marketed to security forces as "less than lethal" equipment. Amnesty International has serious concerns, both about the medical effects of much of this equipment, and about its employment in torture and other cruel, inhuman or degrading treatment or punishment.

The term "less than lethal" does not necessarily mean that an item of equipment could not lend itself to abuse. The autopsy of a man in Florida, USA, who was tasered a dozen times by deputy sheriffs in July 2002, said that the taser - which delivers a 50,000 volt shock each time it is fired - had contributed to his death. In Switzerland in March 2003, two projectiles from a "less lethal launcher" were fired at a woman by police during a demonstration, one of which left fragments of metal and plastic embedded in her face from which they cannot be removed without the risk of paralysis.

"Less than lethal" security equipment is a growing international business. In 2003 the Omega Foundation<sup>7</sup> in the United Kingdom identified some 856 companies in 47 countries which were active in the manufacture or marketing of "less than lethal" weapons. Governments' regulation of the sale and use of these products is often seriously lacking and this requires urgent action.

The UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials state that "the deployment of non-lethal incapacitating weapons should be carefully evaluated in order to minimize the risk of endangering uninvolved persons, and the use of such weapons should be

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<sup>7</sup> The Omega Foundation is a non-governmental organization based in Manchester devoted to research on the supply of security equipment, technology and services.

carefully controlled". Amnesty International is concerned that this principle is frequently ignored.

This report shows why the manufacture, use and transfer of security and police technologies needs more than ever before to be strictly regulated by governments using common criteria based on international human rights and humanitarian standards. Amnesty International calls for laws and regulations to:

1. ban outright from use, manufacture, transfer and promotion all equipment the primary use of which is to commit human rights violations and violations of international humanitarian standards;
2. suspend the use, manufacture, transfer and promotion of any type of equipment where credible evidence has shown that it may inherently lend itself to human rights abuse, pending the outcome of a rigorous, independent and impartial inquiry into the use and effects of that type of equipment;
3. prohibit the transfer and use of any type of equipment where credible evidence has shown that it may inherently lend itself to human rights abuse unless the receiving party has established rules (including mechanisms which enable the effective monitoring and observance of the rules) which regulate the eventual legitimate use of it and which are based upon international human rights and humanitarian law standards.

As a result of campaigning by Amnesty International and other non-governmental organisations, on 19 December 2001, the General Assembly of the United Nations passed a resolution calling on all governments to "take appropriate effective, legislative, administrative, judicial or other measures to prevent and prohibit the production, trade, export and use of equipment that is specifically designed to inflict torture or other cruel, inhuman or degrading treatment".<sup>8</sup>

In this report, Amnesty International outlines its continuing concerns over the abuse of security equipment, and details its recommendations to governments to stop the trade in tools used for torture. Much of the report derives from material presented at the International Expert Meeting on Security Equipment and the Prevention of Torture, convened by Amnesty International in London on 25 and 26 October, 2002.<sup>9</sup>

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<sup>8</sup> UNGA Res. 56/143

<sup>9</sup> The 40 participants included the UN Special Rapporteur on Torture, a lawyer from the European Commission, a medical officer from the Council of Europe, police and prison officers, medical experts, international legal and trade specialists, investigative journalists and researchers, and members of Amnesty International staff from the International Secretariat.

In early 2003, following concerns expressed by the European Parliament and government officials in the European Union, the European Commission proposed a Council Trade Regulation which, if adopted by the European Union and ratified by EU member states, will institute a ban on the trading of equipment which “has no, or virtually no, practical use other than for the purpose of” capital punishment or torture, from member states to countries outside the EU. The proposed Trade Regulation makes a distinction between such equipment, and other security equipment that “could be used for the purpose of torture but which also has legitimate uses”. For the latter, it proposes that trade in a commonly-agreed list of such equipment should be strictly controlled by EU governments, “taking into account reports on any occurrences of torture in the country of destination.” Although the current proposed list of equipment to be prohibited or controlled through this Regulation does not meet all the recommendations of Amnesty International as set out in this report, the adoption of the Regulation by the European Council of Ministers would nevertheless be a major positive step in helping to prevent torture and ill-treatment.

The ban and the controls would cover trade with parties outside the European Union. Trading of such equipment *within* the EU member states is “not considered necessary”, the draft regulation says, because “capital punishment does not exist and there are sufficient safeguards in place to prevent torture and other cruel, inhuman or degrading treatment or punishment.”<sup>10</sup> The omission of internal trade within the EU could leave scope for suppliers to seek out those export points where member states have the weakest interpretation and implementation of the Regulation.

Amnesty International is aware of 57 companies in the EU and accession states who have offered to sell, distribute, broker or manufacture stun weapons between 2000 and 2003.

As a result of campaigning, the United States now also has a regulation which prohibits the export of crime control items to a country in which the government engages in a consistent pattern of gross violations of internationally recognized human rights. For other countries, the US Government is required to consider applications for export of crime control items on a case by case basis, unless there is civil disorder in the country or region concerned, or there is evidence that the government may have violated human rights.<sup>11</sup> The table in Appendix 3 at the end of this report, however,

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<sup>10</sup> Council of the European Union, 5773/03, 27 January 2003

<sup>11</sup> US Department of Commerce *2002 Report on Foreign Policy Export Controls* The US government says that a license is required to export “specially designed implements of torture

details licence approvals by the US Department of Commerce for exports of a category of equipment including shock batons and electro-shock stun guns to countries where the US State Department itself has reported persistent torture.

The UN Special Rapporteur on Torture, Theo van Boven, was mandated by the United Nations Commission on Human Rights in 2001 to investigate the trade and production of equipment designed for torture with a view to prohibition. He announced in his preliminary report in January 2003 that he intended to propose to all UN Member States a trade ban and control system on such equipment similar to that of the EC Trade Regulation.<sup>12</sup>

Amnesty International welcomes measures by governments that make it illegal to trade in the tools of torture and below elaborates some of the specific issues that need to be taken into account when designing such measures.

## 2. MECHANICAL RESTRAINTS

### USA and Afghanistan

*"The problem we are now facing, is that the current Afghan government is treating us like animals. I have injuries all over my body, and was kept in handcuffs for days."*

--Faiz al-Kandari, a Kuwaiti national imprisoned in Afghanistan in December 2001.<sup>13</sup>

*"Prisoners at Camp X-Ray in Guantánamo Bay are made to wear shackles whenever they are out of their cells... It is reported that the prisoners are also shackled during medical treatment, including when unconscious during surgery."*<sup>14</sup>

Restraint devices are sometimes needed by law enforcement officials to control dangerous prisoners. But the circumstances and limits within which they are used should be consistent with international human rights standards. (See Appendix 1)

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and thumbscrews, which are subsets of the crime control category, to any destination, with a policy of denial for all applications."

<sup>12</sup> United Nations Commission on Human Rights, *Civil and Political Rights, Including the Question of Torture and Detention*. 59<sup>th</sup> Session E/CN.4/2003/69

<sup>13</sup> Amnesty International: *Memorandum to the US Government on the rights of people in US custody in Afghanistan and Guantánamo Bay*, April 2002 (AI Index: AMR51/053/2002)

<sup>14</sup> Ibid.

For almost half a century, international human rights standards have required governments to prohibit the use of chains and irons, such as shackles, on prisoners. The standards have not been updated, so for instance do not mention other materials such as plastic. Rule 33 of the United Nations' Standard Minimum Rules for the Treatment of Prisoners, adopted in 1955, states: "Chains or irons shall not be used as restraints" and, moreover, that "Instruments of restraint, such as handcuffs, chains, irons and strait-jackets, shall never be applied as a punishment."

Yet in many parts of the world, "chains and irons" and other mechanical restraints are used to punish, torture and mistreat prisoners and detainees:

#### China

*"For the first 33 hours in police custody, Zhuo Xiaojun (34) was suspended from handcuffs attached to the bars of a door with his feet locked in 50kg shackles, and was kicked, beaten and attacked with electric batons...In the two years between his first conviction and successful appeal, Zhuo was reportedly held with his hands and feet shackled together at all times." <sup>15</sup>*

#### Belarus

*"Around 100 young people, many of them minors, reportedly took part in an unsanctioned, but peaceful, anti-government protest action in Minsk on Valentine's Day 2002...Approximately 30 young protestors were detained, of whom 16 were minors...Dmitry Dashkevich [a minor] stated that an officer at the Sovetsky Department of Internal Affairs handcuffed him to a radiator and proceeded to hit him in the face and stamp on his feet." <sup>16</sup>*

#### Bolivia

*"Wilson Pucho Ali, a conscript at the First Air Base of the Bolivian Air Force...reported that in September 1996 he had been tortured at the El Alto military air base by three officers and two civilians because he had lost his gun. He was kept chained up for a week and immersed in water, beaten with a stick and subjected to mock execution while being kept hanging upside down. When taken to the Military Hospital, he reportedly exhibited widespread injuries and both of his ankles were broken." <sup>17</sup>*

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<sup>15</sup> Amnesty International: *Torture - A Growing Scourge in China - Time for Action*, February 2001 (AI Index: ASA 17/004/2001)

<sup>16</sup> Amnesty International: *Trodden Underfoot: Peaceful Protest in Belarus*, May 2002 (AI Index: EUR/49/008/2002)

<sup>17</sup> Amnesty International: *Bolivia: Torture and Ill-Treatment: Amnesty International's Concerns*, June 2001 (AI Index: AMR 18/008/2001)

Chains and shackles should never be used according to Rule 33, but little is done to enforce or encourage compliance with this Rule. Other security equipment based on simple mechanical technology, such as handcuffs, is manufactured and traded with little or no government attention to their possible misuse. Many countries, for instance, do not even have export controls on different types of handcuffs or rigorous training programmes and accountability systems for their adoption and use in law enforcement.

Amnesty International believes governments should impose stringent controls to ensure that no form of mechanical restraint is used for torture, or falls into the hands of parties who intend harm to prisoners and detainees. This means, for instance, that such mechanical devices should not be transferred to countries whose security forces are known to use them for torture or ill-treatment.

## **2.1 Shackles, thumbcuffs, legcuffs**

Leg irons, ankle bars, legcuffs, body chains, and any other form of metal shackle on the hands or feet, are included in the prohibition in Rule 33 of the UN Standard Minimum Rules for the Treatment of Prisoners. Yet Amnesty International has documented the use of leg irons in at least 38 countries over the past five years.

Rule 34 of the UN Standard Minimum Rules says instruments of restraint "must not be applied for any longer time than is strictly necessary". Yet governments continue to allow such instruments to be used sometimes for extended periods of time.



**Spanish leg cuffs and thumbcuffs on display at the IWA Exhibition, Nürnberg, Germany, 2002. © Robin Ballantyne**

### Cambodia

Shackles, particularly leg-irons, have a long history in Cambodian prisons, including during the Khmer Rouge period from 1975-1979 and up to the present day. Usually fastened to the legs, but sometimes the hands, shackles are wide metal rings attached to a bar or a chain. They can be extremely painful, severely restricting movement and usually rubbing the flesh raw and impeding blood circulation. Fixed wooden stock-like restraints are still a common feature in older prisons in Cambodia.

A Cambodian human rights group reported in 2000 that in the previous few years, shackles had been used in at least six prisons: Kompong Som, Koh Kong, Kompong Cham, Kompong Thom, Prey Veng and T3 in Phnom Penh. Prison chiefs and guards frequently justify the use, the campaigners said, because of poor security resulting from lack of staff and old dilapidated prison buildings.<sup>18</sup>

<sup>18</sup> *Less than Human: Torture in Cambodia*, Cambodian League for the Promotion and Defense of Human Rights (LICADHO), June 2000

The use of shackles in Cambodian prisons and detention centres was banned by government order in 1993, but the ban is widely contravened.

*A local Cambodian NGO in Kompong Thom province reported in April 2000 that nine prisoners who attempted to escape were shackled 24 hours a day for an extended period with the express permission of the prison director and the provincial prosecutor as well as the director of the prison department who was reported to have declared that the "restraining" of the prisoners had been carried out in compliance with prison procedures.<sup>19</sup>*

The UN Special Representative's report on human rights in Cambodia noted in 2001 various instances of shackles being used in Cambodian prisons. In Kompong Som, the prison director ordered leg shackles to be used on one prisoner for 37 days.<sup>20</sup>

### China

Old-style leg irons can be manufactured by small craft producers. But there are also large commercial manufacturers. The Police Apparatus Factory of Muping District is reportedly the largest handcuffs and "fettters" manufacturer in China, producing 500,000 pairs of various types of handcuffs, and 20,000 pairs of "fettters" per year.<sup>21</sup>

There are reported to be 3 companies in China (including Hong Kong) that manufacture leg irons and shackles. Some of these companies also manufacture or supply thumbcuffs, which are regularly used by the Chinese police. In China, the torture of both criminal suspects and political dissidents is endemic; even very young children are not immune:

*"China's Legal Daily newspaper reported that an eight-year-old boy, Liu Jingjing, was severely beaten during 22 hours in illegal incommunicado detention in Hebei province...on 1 June 1995...[The boy] was reportedly beaten [and] put in thumbcuffs...By the next morning, he had been forced to 'confess' to taking some money...He was dizzy, vomiting and disoriented -- all symptoms of head injuries -- and a local hospital found evidence of bruising and swelling along the left side of his body." <sup>22</sup>*

<sup>19</sup> Amnesty International, *Kingdom of Cambodia: A human rights review based on the Convention Against Torture*, June 2003 (AI Index ASA 23/007/2003)

<sup>20</sup> Report of the Special Representative of the Secretary-General for Human Rights in Cambodia, Mr Peter Leuprecht, submitted in accordance with resolution 2000/79 (E/CN.4/2001/103, January 2001)

<sup>21</sup> [www.beijingaviation.com/police/listing/CNCO3.pdf](http://www.beijingaviation.com/police/listing/CNCO3.pdf)

<sup>22</sup> Amnesty International: *Hidden scandal, secret shame: Torture and ill-treatment of children*, December 2000 (AI Index: ACT 40/38/00)

Manufacturers in Taiwan also offer thumbcuffs for sale. And a US website selling "law enforcement duty gear" has offered a pair of rigid thumbcuffs with serrated inside edges for less than \$13.<sup>23</sup>

Amnesty International has observed that some thumbcuffs being used or marketed appear to have serrated or sharp inner edges, designed to prevent them slipping off. Such edges may easily cause injury. Moreover, prisoners or detainees held in thumbcuffs, particularly behind their back or head, may easily be injured from a fall, unlike handcuffs where they can cushion themselves. For these reasons, Amnesty International opposes the use of thumbcuffs with serrated or sharp inner edges in law enforcement as inherently cruel, inhuman and degrading, and calls for their manufacture, trade and use to be banned.

Legcuffs, the modern form of leg shackle, often look just like a pair of large handcuffs. The UK banned the export of legcuffs, leg irons and certain other kinds of shackle in 1997, and subsequently introduced controls on the export of handcuffs above a certain size. However, the controls may still not be working adequately.

Birmingham, England, is the home of Hiatt, a British company founded to make leg irons and, according to the company's own reports, "nigger collars" for the slave trade.<sup>24</sup> In December 2002, journalists from a newspaper in Birmingham, the *Sunday Mercury*, reported they had bought a pair of 4050 handcuffs, called "Big Brutus", from a website based in the USA. The handcuffs were stamped "Hiatt Made in England", and were identical in size to a pair of Hiatt 5000 legcuffs which the journalists had also bought from a US-based website, and which were stamped "Hiatt-Thompson USA".<sup>25</sup> Amnesty International remains concerned that large, or oversize handcuffs, are still being exported from the UK to the USA where they have been converted to leg-cuffs.

In a statement to the *Sunday Mercury* in December 2002, the British Department of Trade and Industry (DTI) said allegations against Hiatt had been investigated in 1999, "and a possible loophole to control individual cuffs above a certain threshold was closed on August 31, 2000".<sup>26</sup> Between 2000

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<sup>23</sup> <http://www.tannersstorefront.com/thumbcuffs.htm>

<sup>24</sup> *The Independent*, 16 November 1999

<sup>25</sup> It is legal to export legcuffs from the USA; applications need to be made for an export licence. Even if an export licence is not granted, there may be ways round it; exports from the USA to Canada, under a reciprocal agreement, do not require export licences. And onward exports of leg irons from Canada do not require export licences either.

<sup>26</sup> *Sunday Mercury*, 15 December 2002

and 2002, however, between three and ten export licences for "over-sized handcuffs" had been granted each year, the DTI told a member of the British parliament; the names of the companies involved were not disclosed. In addition, some of the belly chains and other restraints available for sale in the USA are using British made handcuffs. Because the UK government does not require a licence to export handcuffs to the USA, or any other country, there is no control on how British-made handcuffs are incorporated into other types of restraint equipment such as belly chains in countries such as the USA even though such types of restraint equipment are banned in the UK.

Many countries with companies manufacturing leg irons or cuffs have inadequate or no controls on the export of such restraint equipment. Even in countries where controls do exist it is clear that exports of leg irons are still being authorized. Amnesty International believes that the manufacture, trade and promotion of restraint devices whose use is inherently cruel, inhuman or degrading should be banned.

In the mid-1990s several states in the USA began using chain gangs, with jail inmates shackled together at the legs while they worked outside the prison. Most states which introduced chain gangs in their prison systems during the 1990s have now ceased using them. However, chain gangs are still used for jail inmates in Maricopa county, Arizona.

Punitive use of shackles and leg irons by US military forces has now taken place in the context of the "war on terror" since the atrocities of 11 September, 2001. Afghan national Alif Khan told Amnesty International that he was held in US custody in Bagram Air Base in Afghanistan for five days in May 2002. He said that he was held in handcuffs, waist chains, and leg shackles for the whole time, subjected to sleep deprivation, denied water for prayer and ablution, and interrogated once or twice a day. He was kept in a cage-like structure with eight people, and no speaking was allowed between the detainees. Alif Khan said that he was then transferred to Kandahar Air Base where he was held for 25 days. Again he was held in handcuffs, shackles and waist chains, for most of the time.<sup>27</sup>

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<sup>27</sup> Amnesty International, *USA: The threat of a bad example: Undermining international standards as "war on terror" detentions continue, August 2003 (AI Index: AMR 51/114/2003)*



**US soldier displaying restraints used for transporting detainees to Camp X-Ray, US Navy base in Guantanamo Bay, Cuba. © EPA/Shane T. McCoy**

Indian citizen Mohammed Azmath was arrested on a train in the USA on 12 September 2001, and held for a year in solitary confinement. After his release, he said:

*"When I was shackled, (prison guards) used to bang my chest into the wall. They would put their feet on my shackles and it used to hurt me in my ankles."*

28

Amnesty International has evidence that two large shipments of leg irons, weighing a total of 9.3 tonnes, were exported during 2002 from the port of New York to Saudi Arabia. A Freedom of Information Act request to the US Government has confirmed that the sale of thumbcuffs, leg-irons and

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<sup>28</sup> Associated Press, 27 January 2003

shackles to Saudi Arabia were licenced during 2002.<sup>29</sup> These exports were apparently authorized by the US Department of Commerce in spite of persistent reports by the US State Department of torture of prisoners in Saudi Arabia. Amnesty International has documented cases of torture using leg-irons in Saudi Arabia.<sup>30</sup>

The number of companies known internationally to be marketing leg cuffs, leg irons and other shackles grew from five in the 1970s to 69 by 1998-2000. The number of recorded manufacturers is known to be at least 21, in the following countries:

| <b>Country</b> | <b>Number of Companies</b> |
|----------------|----------------------------|
| China          | 3                          |
| Czech Republic | 1                          |
| France         | 2                          |
| Germany        | 1                          |
| India          | 1                          |
| South Africa   | 1                          |
| South Korea    | 1                          |
| Spain          | 1                          |
| Taiwan         | 3                          |
| UK             | 1                          |
| USA            | 6                          |

However these figures do not represent the true scale of this trade. Very few governments provide trade data for these products, and many countries do not require licences for the export, transshipment or brokerage of such products.

The EC draft Trade Regulation will, if passed, institute a ban "on all trade in equipment which has no, or virtually no, practical use other than for the purpose of capital punishment or for the purpose of torture and other cruel, inhuman or degrading treatment or punishment".

Included in the EC Regulation's draft list of equipment whose trade would be absolutely prohibited are "leg-irons, gang-chains and shackles,

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<sup>29</sup> Freedom of Information Act request obtained by Federation of American Scientists Arms Sales Monitoring Project

<sup>30</sup> in, for example, Amnesty International, *Saudi Arabia: Military, security and police relations: arming the torturers*, June 2000, (AI Index MDE 23/011/2000)

designed for restraining human beings...Individual cuffs or shackle bracelets, designed for restraining human beings...Thumb-cuffs and thumb-screws, including serrated thumb-cuffs".<sup>31</sup>

Amnesty International considers the proposed EC Trade Regulation a very important step in the right direction. However, Amnesty International is concerned that the draft EC Trade Regulation specifically excludes any restrictions on sales within the internal EU market of the equipment and products listed. Trading of equipment within the member states is "not considered necessary", the draft regulation says, because "capital punishment does not exist and there are sufficient safeguards in place to prevent torture and other cruel, inhuman or degrading treatment or punishment."<sup>32</sup> This means that trade between EU countries themselves is not covered and so suppliers could exploit weaknesses in the interpretation and implementation of the Trade Regulation by different EU governments. Amnesty International calls on all EU member states to ensure that intra-EU trade of such items is covered in domestic export control laws and regulations.

## **2.2 Shackle boards and restraint beds**

In August 2000, a lawsuit on behalf of District of Columbia prisoners housed at Sussex 11 State Prison in Virginia alleged they were routinely stripped to their underwear and strapped to a steel bed by the wrists and ankles, with an additional strap across their chests. The prisoners alleged they were held immobilized for 48 hours or more, and that because breaks to use the toilet were grossly inadequate, they were forced to lie in their own waste.<sup>33</sup>

Wallens Ridge State Penitentiary in Virginia also uses steel beds as "shackle boards" or "restraint beds". Wallens Ridge and Red Onion are two high security prisons in rural Wise County in south-west Virginia. Prisoners are kept in solitary confinement 23 hours a day and are shackled at all times when they are outside their cells. In February 2001 the American Civil Liberties Union filed a lawsuit claiming that between January and August 2000, more than 40 prisoners at Wallens Ridge had been placed in five-point restraint as described above for 48 hours or longer. The offences for which

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<sup>31</sup> The Regulation excludes handcuffs "for which the overall dimension including chain, measured from the outer edge of one cuff to the outer edge of the other cuff, does not exceed 240 mm when locked".

<sup>32</sup> Council of the European Union, 5773/03, 27 January 2003

<sup>33</sup> Amnesty International, *USA: Abuses continue unabated? Cruel and inhumane treatment at Virginia supermaximum security prisons*, May 2001 (AI Index AMR 51/065/2001)

they were so severely punished included "kicking the cell door" and throwing clothes.<sup>34</sup>

One prisoner, Robert Joslyn, was tied to a steel bed on two occasions, in January and in March 2000. He was stripped to his boxer shorts and left in a cold cell for 48 hours. Joslyn, reported the ACLU, "could barely stand after being released".<sup>35</sup>

The application of five-point restraints in the circumstances described is a clear violation of international human rights standards, which prohibit the use of restraints as punishment. Such actions also contravene US professional standards: the American Correctional Association states "Four/five point restraint should be used only in extreme circumstances and only when other types of restraints have proven to be ineffective".<sup>36</sup>

Although the Virginia Department of Corrections was reported to have changed its restraint policy and its head, Ronald Angelone, resigned in May 2002 amid pressure from civil liberties and human rights groups for Wallens Ridge to be closed down,<sup>37</sup> Amnesty International continues to receive reports of prisoners in the USA being held in prolonged restraints.

#### Austria

In August 2001 Amnesty International called for an investigation into the death of a 56-year-old Austrian prisoner, Ernst K., who died in Krems Stein prison during the night of 15/16 June. Ernst K.'s hands and legs had reportedly been strapped to both sides of the bed, and he had been left unable to move. Amnesty International had previously expressed concern about the use of various restraint techniques in Austrian prisons, including cage-beds ("*Gitterbetten*"), which were prohibited in late 1999 following the visit of the European Committee for the Prevention of Torture to Austria in September 1999.<sup>38</sup> Amnesty International was told that an investigation was ongoing, and was informed by the Ministry of Justice that the prisoner had been strapped into a bed designed to restrain patients that had been acquired from an Austrian hospital in 1995. It denied that the prisoner had been placed in a cage-bed. Amnesty International was never informed of the outcome of the investigation.

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<sup>34</sup> Ibid

<sup>35</sup> *American Civil Liberties Union News*, 7 February 2001

<sup>36</sup> *USA: Abuses continue unabated? Cruel and inhumane treatment at Virginia supermaximum security prisons*, May 2001 (AI Index AMR 51/065/2001)

<sup>37</sup> *Richmond Times-Dispatch* 9 May 2002

<sup>38</sup> Amnesty International: *Concerns in Europe: July - December 2001* (AI Index: EUR 01/002/2002)

## 2.3 Restraint chairs

Restraint chairs used in the US penal system consist of a metal framed chair into which prisoners are strapped at the arms and the legs, with a strap across the chest. The use of these chairs is virtually unrestricted in many US jurisdictions.

In 2002, Amnesty International called on US federal authorities to institute a national inquiry into the use of restraint chairs, following four deaths in jails and detention centres between February 2000 and August 2001.

Charles Agster, a 33-year old man with learning difficulties, was put into a chair in Maricopa Street Jail, Arizona, on 6 August 2001, after he'd been "hog-tied". This means Agster's arms were handcuffed behind his back, his legs were bound together at the ankle with a leather strap, and a strap was tied between the handcuffs and the leg strap. He was then allegedly dragged face-down and strapped into a restraint chair, with a hood over his head. Minutes later he was observed to have stopped breathing. An autopsy gave the cause of death as "positional asphyxia due to restraint". Amnesty International is concerned that the degree of force used against Agster was grossly disproportionate to any threat posed by him.<sup>39</sup>

Hazel Virginia Beyer was three times over the legal alcohol limit when she was strapped into a restraint chair at Johnson City Jail, Tennessee, on 23 February 2001. She slipped down in the chair, and was choked when the restraining strap tightened around her throat. Hazel Beyer remained comatose until her death on 7 March 2001. The autopsy determined her cause of death as brain damage resulting from a failure to get oxygen to the brain.<sup>40</sup>

US manufacturers have promoted their metal-framed chairs as safer than other forms of four-point restraint since the prisoner remains upright, but there appears to have been no independent testing of their safety or medical effects on prisoners in terms of international human rights standards.

Dan Corcoran, president of AEDEC International Inc, Oregon, which manufactures the Prostraint Violent Prisoner Chair, told an investigating attorney in June 1998 that he'd tested the safety of the chair as follows:

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<sup>39</sup> Amnesty International: *USA: The Restraint Chair – How many more deaths?* February 2002 (AI Index: AMR 51/031/2002)

<sup>40</sup> Ibid

*"I put various friends in there. I yanked on (the straps) as hard as I could, and I'm physically apt [sic]. I could cause no pain to them whatsoever" <sup>41</sup>*

AEDEC was listed as a defendant in a class-action lawsuit brought against the Sacramento County Sheriff's Department alleging law enforcement officers were torturing people with a restraint chair. A videotape made inside the Sacramento jail, and played in court, showed several women being put into the chair, including Gena Domogio, who was naked, and resisting:

*"She yells at the guards who are kneeling on her back and spits blood on the floor, apparently because her mouth has been injured. The guards respond by wrapping her face in a towel. They keep the towel on her face and at one point appear to hold it against her mouth as they force her into the chair, although she repeatedly says that she has a thyroid problem and that she can't breathe.*

*"Kimberly Byrd was reportedly taken to the hospital after she passed out in the chair where she had been hooded and bound...In the videotape, she is obviously terrified. 'I'm going to die. Please don't let me die', she says over and over again." <sup>42</sup>*

An increasing number of US custody facilities have purchased restraint chairs during the past decade - local jails, immigration detention facilities, prisons and juvenile detention facilities.

Amnesty International urges the US Government to suspend the transfer and use of restraint chairs pending an independent national enquiry based on international human rights standards. The design and use of restraint chairs should be subject to a rigorous, independent and impartial review by appropriate medical, legal, police and other experts based on international human rights standards.

## **2.4 Handcuffs and belts**

For many years, AI has documented the misuse of standard design handcuffs for acts of torture, and cruel, inhuman and degrading treatment. In some cases, such acts appear to be aberrations that violate official law enforcement policy and practice, but in other cases they may form part of a systematic

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<sup>41</sup> Anne-Marie Cusac, "The Devil's Chair", *The Progressive*, April 2000

<sup>42</sup> Ibid.

pattern of abuse.

#### Israel

*"An Israeli General Security Service agent, 'Jerry', giving testimony before a military court in the matter of Palestinian detainee Sa'id Zo'arub, spoke about a method he described as 'tightening the handcuffs to the smallest possible circumference on the detainee's wrist'. He told defence attorney Leah Tsemel the objective was 'to obtain vital information'."*<sup>43</sup>

#### Russia

*"Another reported torture method [in the Russian Federation] is known as 'lastochka' ('the swallow'). The detainee's arms are handcuffed behind the back in a raised position, and the person is then suspended by the arms from the wall or ceiling causing great pain. In some cases, the person is beaten while suspended. In the method known as 'konvert' ('the envelope'), the person is forced to place their head between their knees, and their hands are handcuffed or tied to their ankles. They are then beaten in this position."*<sup>44</sup>

Amnesty International is concerned that even when handcuffs are not used for purposes of torture, aspects of their design, and lack of training of police officers and prison guards, facilitate their use for inflicting what amounts to cruel, inhuman or degrading treatment.

#### United Kingdom (UK)

Rigid steel handcuffs manufactured by Hiatt, a British company, were introduced by many police forces in the United Kingdom in 1993. By October 1995 there had been 546 official complaints of injuries, including nerve damage, bruising and fractures.

In 1999, a group of UK-based medical experts published a letter in the British Medical Journal documenting findings of fractures, lacerations, and injuries to the radial, ulnar and median nerves caused by the use of rigid cuffs. They pointed out that rigid cuffs spring shut on a ratchet:

*"This can lead to direct trauma and allows over-tightening to occur. We postulate that bony injuries are caused at the time the cuff is applied or by*

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<sup>43</sup> *Legislation Allowing the Use of Physical Force and Mental Coercion in Interrogations by the General Security Service*, Position Paper by B'Tselem, an Israeli human rights organization, January 2000

<sup>44</sup> Amnesty International, *The Russian Federation: Denial of Justice*, October 2002 (AI Index: EUR 46/027/2002)

*levering on the cuffs afterwards, which causes a considerable torque at the wrist joint."* <sup>45</sup>

Police officials in Britain told medical investigators that rigid cuffs are used only by those officers who have received the relevant training. Police officers are encouraged to use them to maintain control, and for self-protection, and they are instructed not to remove or adjust the handcuffs until a safe controlled environment has been reached. This may mean that a detainee's complaint of over-tight handcuffs may be addressed only after some considerable time.

In June 2003, police in California recalled more than a thousand pairs of handcuffs supplied by Hiatt following an internal investigation into a case of excessive force during an arrest in 2001. Eduardo Mata suffered cut wrists after he was restrained in Hiatt Model 2010 nickel-plated handcuffs. The Los Angeles County Sheriff said "We want a cuff that reduces the risk of injury. These are a very solid design and effective cuff, but we cannot use a cuff that has the potential for inadvertent injuries."<sup>46</sup>

Amnesty International is concerned that very few law enforcement departments in the world appear to carry out reviews of the use of handcuffs by their officers. Even if police authorities have a system of reviewing every use of force by officers, handcuffs are often not included in the definition of use of force. This is in spite of evidence that different types of handcuffs may be used to inflict pain and suffering:

#### Czech Republic

*"A German national who was arrested close to Wenceslas Square [in Prague] on 26 September [2000] stated to Amnesty International: 'As I tried to protect my head, a police officer beating me with a truncheon broke my right forearm... When I was brought to the police van I was searched again and handcuffed. I told the officer that my arm was broken but he only grinned at me and tightened the handcuffs...'"* <sup>47</sup>

Handcuffs are not defined as "controlled goods" under the trade laws in most countries of the world. In Britain, for instance, no export licence and therefore no end user certificate is required for the export of handcuffs.

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<sup>45</sup> "Complaints of pain after use of handcuffs should not be dismissed", letter from F.S. Haddad, N.J. Goddard, R.N. Kanvinde and F. Burke, *British Medical Journal*, 1999, 318:55

<sup>46</sup> "Handcuffs recalled after cut wrist claim in arrest" *Birmingham Post* 13 June 2003

<sup>47</sup> Amnesty International: *The Czech Republic: Arbitrary detention and police ill-treatment following the September 2000 protests*, March 2001 (AI Index: EUR 71/001/2001)

Therefore, it is not possible to monitor to which countries different types of British handcuffs are exported.

Eight police forces in the UK (as well as three health care trusts) are now using a new device called the Emergency Response Belt (ERB), which is a broad strip of fabric measuring 7 by 20 inches with a compression strap that is fastened with Velcro. It is used when handcuffs have already been put on but suspects are still in danger of harming others or themselves. It is wrapped around the body to hold the arms in to the torso, and up to another two of the devices can be used around the hips and legs to immobilise the suspect completely. Handcuffs can then be removed. The fabric stretches up to 1 and a half inches, so movement is not completely prevented.

The Northamptonshire Police in the UK first introduced ERBs in 2000, and since then has reported no injuries, complaints or litigation relating to its use. However, research is still underway into Velcro products, including handcuffs, and satisfactory versions have yet to be properly reviewed in the scientific and medical literature in terms of international human rights standards.

Although moving away from metal restraints to restraining devices made of synthetic materials may help protect persons in custody from ill-treatment, Amnesty International is nevertheless concerned that the medical and other effects of such products are usually not subjected to rigorous independent review published by experts using international human rights standards.

#### Israel/Occupied Territories

*"The overwhelming majority of Palestinian detainees have complained of the use of disposable handcuffs (termed in Hebrew 'azikonim'), made of flexible but hard plastic, that can be tightened but not loosened, which the soldiers and police use to bind detainees' hands and sometimes their legs. These plastic handcuffs often cause swelling, cuts in the skin, and intense pain. The requests - and sometimes begging - of the detainees to replace the handcuffs with looser ones are often met with refusal and derision. Beating, kicking, slapping, curses and humiliation are commonplace during the arrest of Palestinians."* <sup>48</sup>

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<sup>48</sup> *Comments on the Third Periodic Report of the State of Israel Concerning the Implementation of the UN Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, LAW - the Palestinian Society for the Protection of Human Rights and the Environment; the Public Committee against Torture in Israel (PCATI); and the World Organization Against Torture (OMCT), October 2001



**Palestinian men and teenage boys wearing plastic handcuffs sit in a yard of the Al Ain refugee camp in Nablus as they wait for their documents to be checked by Israeli forces on 10 April 2002.**

© AP

### Czech Republic

*"Dr Matthew Price, a U.S. national...was arrested on 26 September...in front of the Renaissance Hotel [in Prague]...Dr Price was reportedly seized by four officers who took him by the limbs and threw him onto the ground. After his hands were bound behind his back with a plastic strip he was kicked in the face, resulting in fracture of his nose and bleeding."*<sup>49</sup>

Whatever material is used for restraint devices, all prisoners and detainees have the right to be protected from torture and from cruel, inhuman or degrading treatment or punishment.

Amnesty International also calls for a prohibition on the use and promotion of restraint *techniques* whose use is inherently cruel, inhuman or

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<sup>49</sup> *The Czech Republic: Arbitrary detention and police ill-treatment following the September 2000 protests*, March 2001 (AI Index: EUR 71/001/2001)

degrading: including, *chain-gangs and the shackling of women in advanced pregnancy or labour; hog-tying and other prone restraint techniques.*

Guidelines issued by the National Institute of Justice and other bodies in the USA have warned of the particular dangers of hogtying” (where a suspect’s ankles are bound from behind to the wrists while he or she lies prone, that is, face down).<sup>50</sup> A number of police departments, including the LAPD and the NYPD, have banned hogtying. However, others still authorize the procedure and deaths continue to be reported.

### **3. KINETIC IMPACT DEVICES**

Kinetic impact devices are used in crime control and can inflict severe pain. They include the oldest weapons available to law enforcement officials - hand-held devices like batons, truncheons, sticks and clubs - and the more sophisticated technology of launched devices, which include plastic baton rounds and rubber bullets.

Their desired effect is described by some law enforcement officials as compliance through pain - the person who is targeted either desists from action or follows commands because of pain already applied or the threat of further pain. Kinetic impact devices may easily lend themselves to human rights abuse and their application needs to be strictly controlled within human rights standards for law enforcement. (See Appendix 1)

The 1979 UN Code of Conduct for Law Enforcement Officials says police officers and others may use force "only when strictly necessary and to the extent required for the performance of their duty". In many parts of the world, officers armed with sticks or truncheons, plastic baton rounds or rubber bullets, ignore this injunction and inflict unwarranted injuries amounting to cruel, inhuman or degrading treatment or punishment on individuals and groups of people.

#### **3.1 Sticks, batons, truncheons**

##### Egypt

On 3 March 2000, Salha Sayid Qasim, a 37-year-old Egyptian housemaid and mother of four, was accused of stealing from her employer and taken to Giza Police Headquarters in Cairo:

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<sup>50</sup> Guidelines issued by the National Law Enforcement Technology Center issued in June 1995 under the heading "Positional Asphyxia-Sudden Death" identifies risk factors and advises police agencies to avoid the use of prone restraint techniques such as hogtying and to take other precautions, including not keeping a suspect face down.

*"The officer...took off my headscarf, blindfolded me, tied my hands and told me to take off my sandals and go in. When I went in, I didn't know where I was or what was happening to me...People were beating me with a stick, slapping my face, whipping me, and swearing very badly at me...They made me lie down with my legs raised and started on me with the stick. An officer held me down and stood over my legs. Of course my thighs and my body were showing. He beat me very hard."*<sup>51</sup>

Batons, and variations on them - sticks, canes, *lathis* (a long wooden pole carried by all police officers in India) - are the most commonly used police weapon worldwide. They are cheap, easily manufactured locally, and are generally issued to all officers, including those who would not normally carry a firearm or any other weapon. They are widely misused: in cases of excessive use of force; deaths in custody; torture, and other cruel, inhuman or degrading treatment or punishment.



**Spiked Chinese steel police baton, on display at China Police exhibition, June 2002. Amnesty International does not believe that such a piece of equipment could have a legitimate policing function. © Robin Ballantyne**

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<sup>51</sup> *Amnesty International: Egypt: Torture remains rife as cries for justice go unheeded*, February 2001(AI Index: MDE 12/001/2001)

Amnesty International has documented the misuse of police batons or sticks in at least 105 countries around the world in the past five years.

India

*"On 10 May 2001, Rabindranath Das...was chased by police wielding lathis. Fleeing, he ran into the nearby lake where he drowned. Human rights activists who saw his body claimed that he had severe injuries as a result of lathi blows and witnesses reported that police continued to beat him from the shores of the lake while senior police officials stood by...Amnesty International has learnt that arrest warrants were issued against the three accused police officers on 17 June 2001."* <sup>52</sup>



**Riot police hit a protestor with a baton as they disperse a march in Manila, Philippines on 10 September 2003 to coincide with the opening of the World Trade Organization conference in Cancun, Mexico. © AP**

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<sup>52</sup> Amnesty International: *India: Time to act to stop torture and impunity in West Bengal*, August 2001(AI Index: ASA 20/033/2001)

### Turkey

*"Hamdiye Aslan, a 37-year old Kurdish woman...was held in March 2002 at the Anti-Terror Branch of Mardin Police Headquarters [in Turkey]...She was stripped naked and reportedly anally raped with a truncheon by a woman police officer."*<sup>53</sup>

*Three university students, Mahir Mansuroğlu, Dilsat Aktaş and İbrahim Karabağlı, reported to Amnesty International that they were severely beaten with truncheons when they peacefully demonstrated on 2 April 2003 against the visit of Colin Powell to Ankara.*<sup>54</sup>

### Russian Federation

*"'Musa', who was held in Chernokozovo 'filtration' centre [in Chechnya] between 16 January and 5 February 2000, was severely beaten and tortured several times each day...He said that a 16-year old boy called Albert was brought to his cell after being raped with batons and severely beaten by prison guards...[who] referred to him by the female name of 'Maria'."*<sup>55</sup>

Amnesty International calls on governments to strictly regulate the use and transfer of batons, sticks, and all their variants, which can be lethal weapons or weapons of torture in the hands of law enforcement officials who intend harm to people or have not been properly trained. A study by the Los Angeles Police Department showed that suspects sustained moderate to major injuries in 61% of the cases where its police officers had used batons.<sup>56</sup>

A report by the UK Police Complaints Authority in 1998 said that British police officers must receive training in the use of truncheons and batons more regularly than the current provision of once a year. Unless they receive regular training the number of injuries caused by baton strikes rises. The newer, more complex side-handled baton, because it can be used in a greater variety of ways, caused the most injuries according to the study, and even regular training with it failed to alleviate this problem. However, officers need training on more than the techniques of baton use: they need to understand the limits imposed by international human rights standards, and they need clear instruction on avoiding the most vulnerable parts of the body:

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<sup>53</sup> Amnesty International: *Turkey: Systematic torture continues in early 2002*, September 2002 (AI Index: EUR 44/040/2002)

<sup>54</sup> Amnesty International, *Concerns in Europe and Central Asia, January-June 2003: Turkey* (AI Index EUR 01/013/2003)

<sup>55</sup> *Hidden scandal, secret shame: Torture and ill-treatment of children, December 2000* (AI Index: ACT 40/38/00).

<sup>56</sup> Neil Corney, "Kinetic Impact Devices" – a draft paper for the International Meeting of Experts on Security Equipment and Prevention of Torture, Amnesty International, London, 25-26 October 2002

the temples, ears, eyes, bridge of the nose, upper lip, base of the spine, and kidneys.<sup>57</sup>

A report on complaints about police use of batons by the Northern Ireland Police Ombudsman in March 2003 recommended that the Police Service of Northern Ireland examine its training in conflict resolution skills, including content of training, timing of initial training, and the deficit in refresher training.<sup>58</sup>

Amnesty International is concerned that law enforcement officials around the world receive little or no training in the human rights standards that govern the legitimate use of force by police officers. The 1990 UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials have not been incorporated into the domestic law of many countries. These Principles state that "a threat to the life and safety of law enforcement officials must be seen as a threat to the stability of society as a whole", and Amnesty International recognises that police officers need to defend themselves against blows or knife attacks by violent individuals. However, the UN Principles also state that police officers "shall, as far as possible, apply non-violent means before resorting to the use of force and firearms" and should be equipped "with various types of weapons and ammunition that would allow for a differentiated use of force and firearms". (see Appendix 1)

The Second Report of the Independent Commission on Policing for Northern Ireland - the Patten Commission - set up by the UK government in the wake of political changes in Northern Ireland, discusses the "normal" operating procedure of an officer on his or her own, confronting a challenge from a violent individual, as follows:

*"Individual officers rely primarily on interpersonal and negotiation skills in defusing situations and resolving conflict. Often however, responses that are required include using the officer's physical presence, negotiating ability, and where necessary physical force. Physical force includes what are referred to as empty hand skills, and extends to use of batons, incapacitant sprays or in the most extreme circumstances firearms. Both empty hand techniques and the use of batons call for skill and strength on the part of the user."*<sup>59</sup>

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<sup>57</sup> Police Complaints Authority, *Striking a Balance: The Police use of the New Batons*, 1998; and Neil Corney, *Kinetic Impact Devices*, op cit

<sup>58</sup> Police Ombudsman for Northern Ireland, *A study of complaints involving the use of batons by police in Northern Ireland*, March 2003

<sup>59</sup> *Patten Report Recommendations 69 and 70 Relating to Public Order Equipment: A Research Programme into Alternative Policing Approaches Towards the Management of Conflict*, Northern Ireland Office in consultation with the Association of Chief Police Officers, Second Report, December 2001. Research for the report was undertaken by a UK-based

International human rights standards - which the Second Patten Report, published in December 2001, discusses in a discrete section - should be an essential part of every police officer's training, and therefore an essential element in his or her repertoire of "skills".

Amnesty International campaigns for policing to be based on an absolute minimum use of force, for police officers to be given detailed instruction on their obligations under international human rights standards, and for careful monitoring by governments of the activities of the law enforcement agencies they employ, whether these are state police forces or private security firms.

### **3.2 Launched kinetic impact devices**

Police in different countries are issued with a range of projectiles designed to be shot from special guns: "markers", rubber bullets, plastic baton rounds, and rubber-coated steel bullets. These devices are often described by suppliers as "non-lethal" or "less-than-lethal", but can kill or seriously injure.

#### Switzerland

On the afternoon of Saturday 29 March 2003, 45-year-old Denise Chervet and her 16-year-old son, Joshua, took part in a demonstration protesting against the policies of the World Trade Organization and the war in Iraq. At around 5.30pm they went into Cornavin station in Geneva, to catch the train home, together with numerous other demonstrators. Violent confrontations developed between some demonstrators and the police at the station but there were subsequent allegations that police used unwarranted and excessive force against a number of demonstrators. Following an altercation with a police officer, Joshua was hit on the head with a police truncheon and Denise Chervet threw her bottle of beer at the police. Moments later, she herself was hit by projectiles fired by a police officer: one hit her body, and the other the side of her forehead, near her right temple. In the wound sustained to her head, doctors found small pieces of what appeared to be plastic, and other fragments that appeared to be metallic. Because of the proximity of the wound to facial nerves, she was told by doctors that an operation to remove the fragments would carry the risk of paralysis. Thus doctors were unable to remove all the fragments of the projectile from her head.

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steering group consisting of representatives from Her Majesty's Inspectorate of Constabulary, the Home Office, the Association of Chief Police Officers, the Ministry of Defence, the Police Authority for Northern Ireland, the Police Scientific Development Branch of the Home Office, the Royal Ulster Constabulary, and was chaired by the Northern Ireland Office.

Denise Chervet reported that she had seen a police officer raise something that looked like a gun to his shoulder and fire at her. Initial statements issued by the Geneva police categorically denied responsibility for injuring her. However, a few days after the incidents the Geneva police and cantonal government authorities acknowledged police responsibility. Their statements indicated that several days before the 29 March demonstration, two police officers had tested a weapon firing plastic capsules containing paint and covered with bismuth (a type of metal) and that one of these officers had then used the weapon during the demonstration, without authorisation.



**Denise Chervet was wounded by fragments of a projectile made of plastic and metal, manufactured by a Belgian company. Some of the fragments in her face cannot be removed for fear of paralysis.**  
© Le Matin/Mermillod  
Herve

The weapon in question was the FN303 “less lethal launcher” manufactured by Belgian company FN HERSTAL, and marketed as offering “low risk of permanent injuries” even at a distance of one metre. The kinetic impact of the projectile is intended to bring the targeted person to an “instant stop”, and the paint marks them for subsequent arrest by law enforcement

officials. FN HERSTAL marketing material warns, however, "For safety reasons, never aim towards face, throat or neck".<sup>60</sup>

According to the authorities, the officer had drawn up a report on his testing of the weapon before the demonstration but this had not reached his commanding officer until a few days afterwards. "We tried it out on police officers," a police spokesman said. "When they were fired into clothing, these capsules only caused bruising."<sup>61</sup> The police press office and hierarchy claimed they had initially denied the use of the weapon in good faith.

The Geneva chief of police resigned on 5 April and on 9 April the Geneva cantonal government announced that an independent commission of inquiry was to carry out three administrative investigations: one with regard to the conduct of the officer who fired the two projectiles; one with the regard to the lieutenant in charge who "did not immediately inform his superiors" that the projectiles had been fired during the demonstration of 29 March; and one wider-ranging investigation into the events of 29 March and the conduct of the police.

A separate criminal investigation was already under way into a criminal complaint which Denise Chervet had lodged against the police. The wounding and permanent injury of Denise Chervet demonstrate the possibilities for abuse inherent in "less than lethal" security equipment.

#### Israel/Occupied Territories

*"Of 2,299 emergency ward visits recorded for the West Bank and East Jerusalem hospitals from September 29 to October 17 [2000], rubber bullets accounted for 40% of the injuries. 21 of 25 gunshot wounds to the head reported through October 22 at Makassed Hospital in East Jerusalem were rubber bullet injuries. Of the 21 rubber bullet injuries to the head, 16 were penetrating."*<sup>62</sup>

Since rubber bullets were first used against crowds in 1970 by British forces in Northern Ireland, security forces around the world have used them as a form of riot control that is "less lethal" than firearms. But this does not mean they are harmless. In one 3-week period in 2000, at the start of the second Palestinian *intifada* (uprising), more than 900 people in the Occupied

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<sup>60</sup> <http://www.fnherstal.com/html/FN303.htm>

<sup>61</sup> *Le Matin*, 2 April 2003 ("Nous l'avons testé sur des policiers: projetés sur des habits, ces capsules n'occasionnent que des bleus.")

<sup>62</sup> *Evaluation of the Use of Force in Israel, Gaza and the West Bank: Medical and Forensic Investigation*, Physicians for Human Rights, 3 November 2000

Territories sustained injuries from rubber bullets serious enough to put them in hospital.<sup>63</sup>

The Israeli Defence Forces (IDF), which exercise a policing function in the Occupied Territories, and the Israeli police, use rubber bullets that are rubber in name only. They consist of a substantial metal core covered with a very thin layer of rubber.<sup>64</sup>

In *Israel and the Occupied Territories: Excessive use of lethal force*, Amnesty International reported that in policing the demonstrations of September/October 2000, "the Israeli security forces have tended to use military methods rather than policing methods involving the protection of human lives". Demonstrators, many of whom were under 18 years of age, threw stones, and occasionally petrol bombs, at soldiers who were "almost invariably located at a distance from demonstrators in good cover, in blockhouses, behind wire or well-protected by riot shields...Nevertheless a very rapid escalation took place, and within minutes security forces were shooting lethal weaponry -- rubber or plastic-coated metal bullets and live ammunition."<sup>65</sup>

In May 2002, a group of doctors based in hospitals in Israel published the results of their study into injuries from rubber bullets sustained by 152 Arab citizens of Israel during riots in early October 2000.<sup>66</sup> The authors examined 201 injuries, and discerned the effects of two types of rubber bullet fired by Israeli police, both manufactured by TAAS (Israel Military Industries):

- RCC-95, a "blunt cylindrical missile composed of three metal cores that are coated by a hard rubber shell 0.2cm thick with a diameter of 1.8cm. The bullet is mounted in a special canister that fits on the muzzle of an

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<sup>63</sup> Ibid

<sup>64</sup> This section about Israel and the Occupied Territories focuses on the use of rubber and plastic bullets in Israel in the context of the purportedly non-lethal policing equipment discussed in this report. It should be noted that in the Occupied Territories the Israeli army routinely uses live bullets, tank shells and other missiles as well as bombs against unarmed civilians and in densely populated refugee camps and residential areas. More than 2,200 Palestinians, mostly unarmed and including 400 children, have thus been killed in the Occupied Territories by the Israeli army since the beginning of the *intifada* in 2000 and in the same period tens of thousands of Palestinians have been injured. There have also been suicide bombings and arbitrary shootings of Israeli civilians by Palestinian armed groups.

<sup>65</sup> Amnesty International: *Israel and the Occupied Territories: Excessive Use of Lethal Force* AI Index: MDE 15/41/00, October 2000

<sup>66</sup> Mahajna, Aboud, Harbaji, Agbaria, Lankovsky, Michaelson, Fisher, Krausz, "Blunt and penetrating injuries caused by rubber bullets during the Israeli-Arab conflict in October 2000: a retrospective study", *The Lancet*, 359: 1795-800, 2002

US-manufactured M-16 assault rifle...The missile dissociates into its three components after shooting..."

- MA/RA 88, composed of "15 rubber balls with a metal core, each weighing 17g...When fired, the bullets form a circle with a diameter of 7m at a range of 50m".



**Israeli doctors reported that 13 blunt injuries had been caused to this man's back by MA/RA 88 rubber bullets in early October 2000. The injuries, they said, were "supportive evidence for close range of firing". Reprinted with permission from Elsevier (*The Lancet*, 2002, 359, 1795-1800)**

Three of the people in the doctors' study died; two from injuries sustained when rubber bullets entered their brains through an eye; one from post-operative complications. The doctors classed 71 of the 201 injuries as "moderately severe", and 38 as "severe". They recovered RCC-95 bullets (the kind that breaks into three parts) from all of the severe injuries and most of the moderately severe.

*"This type of inaccurate ammunition - one missile that breaks into three components immediately after firing - and the resulting ricochets evidently make it difficult or impossible to avoid severe injuries to vulnerable body regions such as the head, neck and upper torso, leading to substantial mortality, morbidity, and disability." 67*

The impunity of Israeli security forces is a key element in perpetuating their excessive use of lethal force using weapons described as "less than lethal". Amnesty International delegates found in October 2000 that the security forces had "apparently failed to make reports on each death caused by firearms of law enforcement officers, as they are bound to do under international standards", and the number of soldiers who have been prosecuted by the army since September 2000 for the killing or wounding of Palestinian civilians can be counted on the fingers of one hand.

#### United Kingdom [Northern Ireland]

Impunity was also a compelling factor in Northern Ireland, where over 55,000 rubber bullets were fired by the British army and the Royal Ulster Constabulary between 1970 and 1975, causing 3 deaths and possibly hundreds of injuries.

*"Children and teenagers [were] reported to have the most serious injuries from these bullets, particularly skull fractures and brain injuries, along with trunk injuries to the lungs, liver and spleen." 68*

To Amnesty International's knowledge, no member of the security forces has ever been charged in connection with any of these deaths and injuries.

In 1974 the British army replaced rubber bullets with plastic baton rounds, which are plastic bullets. "The enhanced accuracy and stability in flight of these bullets results in less frequent head and chest injuries than rubber bullets, but more severe skull and brain injuries, and often death." 69 Fourteen people were reported to have died in Northern Ireland since 1975 from plastic baton rounds. There are believed to have been thousands of injuries.<sup>70</sup>

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67 Ibid.

68 Ibid.

69 Ibid

70 *Plastic Bullets: A Briefing Paper*, Committee on the Administration of Justice, 1998

The Patten Commission in Northern Ireland found that "the most controversial aspect of public order policing in Northern Ireland has been the weaponry used by the police, in particular plastic baton rounds". In its First Report, published in 1999, the Commission said, "In common with many groups that gave us submissions, we would like to see the use of Plastic Baton Rounds discontinued as soon as possible".<sup>71</sup>

In 2001 the British government introduced the new L21A1 baton gun into the armoury of every police force in Britain itself, as a firearm intended to provide a less potentially lethal option (for use in situations where a suspect would otherwise be shot with ordinary ammunition) and for use in public order situations. Since its introduction this type of baton gun has been used on at least five occasions – all of which were confrontation situations rather than public order situations.<sup>72</sup>

However research commissioned by the Northern Ireland Human Rights Commission has found that the new L21A1 baton round travels faster and hits harder than the one it replaced. Over 10% of the new baton rounds fired have caused injury compared with a 1.14% injury rate with the previous round. The new round is also 2.5 times more likely to penetrate the skin<sup>73</sup>.

Concerned at their use in Northern Ireland, in October 2002 the UN Committee on the Rights of the Child recommended that plastic baton rounds be abolished as a means of riot control in the UK.<sup>74</sup>

Plastic baton rounds, rubber bullets and rubber-coated steel bullets are potentially lethal weapons that also have the capacity to inflict cruel and inhuman suffering. Amnesty International is concerned that credible reports from different parts of the world point to security forces using rubber bullets as weapons of first resort, rather than as the last step before the use of live ammunition.

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<sup>71</sup> *A New Beginning: Policing in Northern Ireland: The Report of the Independent Commission on Policing for Northern Ireland*, September 1999 (henceforth referred to as *The Patten Report*)

<sup>72</sup> Four of these occasions documented in: Patten Report Recommendations 69 and 70 Relating to Public Order Equipment: A Research Programme into Alternative Policing Approaches Towards the Management of Conflict, by the Steering Group, Northern Ireland Office. Third Report, December 2002. Fifth occasion was mentioned in BBC report 4 August 2003: [http://news.bbc.co.uk/1/hi/uk\\_news/england/london/3122469.stm](http://news.bbc.co.uk/1/hi/uk_news/england/london/3122469.stm)

<sup>73</sup> The Omega Foundation, *A Review of the human rights implications of the introduction and use of the L21A1 baton round in Northern Ireland and proposed alternatives to the baton round*, March 2003

<sup>74</sup> Amnesty International press release, *UK: The Committee on the Rights of the Child issues its Concluding Observations on the UK's implementation of the Convention on the Rights of the Child, October 2002*, (AI Index EUR 45/022/2002)

Amnesty International has documented the use of rubber and plastic bullets to commit, or facilitate, human rights abuses in at least 32 countries worldwide in the past five years.

#### Swaziland

On 13 August 2003, during a police operation against demonstrators and bystanders in Mbabane, members of the Operational Support Services Unit (OSSU) used rubber bullets against the demonstrators.

*"A passenger in a ministry of agriculture vehicle, Ben Zwane, the Principle Assistant Secretary, was injured by glass when a rubber bullet shattered the passenger window... In a statement he described what happened when police were pursuing demonstrators and fired rubber bullets, one of which hit the passenger side of his vehicle. The glass shattered and splinters struck him in the head, face and neck. In a state of shock and while attempting to remove fragments of glass from his body Ben Zwane then suffered further injuries to his eyes when the police fired volleys of teargas at the fleeing demonstrators. He required medical treatment."<sup>75</sup>*

#### USA

At Port of Oakland, California, on 7 April 2003, around 700 protestors gathered to picket shipping company APL, which transports munitions worldwide. "It was a peaceful, legal picket, not a blockade", David Solnit, of Direct Action to Stop the War, told *The Guardian*, a British newspaper. Police ordered the demonstrators to disperse, but reportedly less than a minute after they'd given the order, started to fire into the crowd. "They fired rubber bullets, wooden bullets and beanbags right into the crowd", Solnit said.<sup>76</sup> At least 21 people were injured, nine of whom were bystanders.

One of the weapons Oakland police used that day - wooden baton rounds - were deemed unacceptable for use in Northern Ireland in the 1970s because of their capacity to cause serious head injury and/or blindness. The use of bean bags is being discontinued by some police departments in the U.S. because the bags can break bones, and individual lead "beans" can penetrate the body. Amnesty International has called on the Oakland Chief of Police to conduct a full enquiry into what appears to have been excessive and indiscriminate use of force by police officers on 7 April 2003, involving weapons defined as "less than lethal". No inquiry has yet been held into the incident. A lawsuit against the Oakland city and police authorities alleging violations of demonstrators' civil rights is pending.

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<sup>75</sup> Letter from Amnesty International to the Prime Minister and Minister of Police Dr Barnabas S. Dlamini, 12 September 2003.

<sup>76</sup> *The Guardian*, 8 April 2003

Amnesty International notes with concern the absence of identification markings in plastic baton rounds, rubber bullets, bean bags et al, and therefore the impossibility of carrying out a forensic ballistics trail to ascertain which law enforcement official pulled the trigger, and in what circumstances. Amnesty International considers the anonymity of this equipment a significant factor in fostering a culture of impunity amongst law enforcement officers. This, and the broader issue of governments' unwillingness to take action against officers who have used excessive force, contribute to the widespread abuse of these weapons.

## 4. ELECTRO-SHOCK DEVICES

*"It is efficient and gives us pleasure"*



**A hooded Brazilian police officer displays an electric shock instrument which he claims to use during torture sessions. This photograph was published as part of an article in a national newspaper in 2001, in which a civil police officer was quoted as saying of this instrument, "The main thing is not to leave any marks...It is efficient and gives us pleasure." © Jornal do Brasil**

### China

Two young women, Zhang Hongjuan and Li Tongjin, claimed in letters to their families which were later made public that they were tortured during interrogation when they were detained on separate occasions during August and October 2001.

*"In her letter, Zhang Hongjuan states that police officers at the Public Security Bureau detention centre in Zhongxiang City, Hubei Province, shackled her hands and feet, ripped open her shirt and beat her on the chest with an electric baton. Li Tongjin wrote to her family that police officers at the same detention centre shackled her feet and tried to pull off her shirt, before beating her on the chest and legs with an electric baton."*<sup>77</sup>

### Malawi

*"The complainant was whipped on the forehead [and] also squeezed in the armpits with a shock stick...[a police officer who was present] told the complainant to confess to avoid being killed. [a businessman and his accomplice] ...applied shock on his body and private parts. He was helpless."* Report by the Ombudsman of Malawi into a complaint by Anock Sopani against the Malawi Police Service, 1 November 2001

Early electro-shock stun weapons such as stun guns and batons have been on the market since the 1970s. Since then the industry has introduced increasingly high voltage stun guns and batons, and also variants such as stun shields, electro-shock belts and dart-firing taser guns. A recent medical study into the death of a 7-month old baby who died when his foster mother used an electro-shock stun gun on him to keep him quiet, describes stun guns in the USA as "readily available self-defense weapons, which have steadily increased in popularity since their introduction... Despite the limited research in the safety of these devices, they remain widely available with unregulated sales".<sup>78</sup>

For the period 1999-2003, Amnesty International is aware of at least 59 manufacturers of electro-shock weapons in 12 countries.

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<sup>77</sup> Amnesty International, China: Urgent Action 01/02 (AI Index: ASA 17.001/2002)

<sup>78</sup> Matthew S. Turner, B.S., and Mary I. Jumbelic, M.D., "Stun Gun Injuries in the Abuse and Death of a Seven-Month-Old Infant", *Journal of Forensic Science*, January 2003 pp180-82

**Table 2: Numbers of companies manufacturing electro-shock weapons 1999-2003**

| <b>Country</b> | <b>Number of companies</b> |
|----------------|----------------------------|
| Taiwan         | 16                         |
| China          | 13                         |
| South Korea    | 10                         |
| USA            | 8                          |
| France         | 3                          |
| Israel         | 2                          |
| Russia         | 2                          |
| Brazil         | 1                          |
| Czech Republic | 1                          |
| Mexico         | 1                          |
| Poland         | 1                          |
| South Africa   | 1                          |

This breaks down regionally as follows:

| <b>Region</b>             | <b>Number of Companies</b> |
|---------------------------|----------------------------|
| Asia / Pacific            | 39                         |
| North and Central America | 9                          |
| Europe and CIS            | 7                          |
| Middle East               | 2                          |
| Africa                    | 1                          |
| South America             | 1                          |

Official government data on exports of electro-shock weapons is rarely published. The US Government has displayed a higher level of transparency which shows that in 2002 the US exported items in a category of equipment including shock batons and stun guns to at least 12 countries where persistent torture was reported (see Appendix 3). Amnesty International is extremely concerned that the US Department of Commerce has approved export licences to countries which the US State Department has criticised for carrying out torture – in 2002, these countries included Bangladesh, Brazil, Ecuador, Ghana, Honduras, India, Jordan, Lebanon, Mexico, Saudi Arabia, South Africa and Venezuela.

Within the European Union and the ten states due to join it during 2004, Amnesty International is aware of 57 companies offering to sell, distribute, broker or manufacture electro-shock stun weapons.

**Table 3: EU Member States and EU Accession States – Number of companies offering to sell, distribute, broker or manufacture electro-shock weapons 2000-2003**

| Country        | No. of Companies | No. of Manufacturers |
|----------------|------------------|----------------------|
| Austria        | 1                |                      |
| Belgium        | 1                |                      |
| Czech Republic | 8                | 1                    |
| France         | 7                |                      |
| Germany        | 31               | 1                    |
| Poland         | 4                |                      |
| Slovakia       | 1                |                      |
| Spain          | 1                |                      |
| United Kingdom | 3                |                      |
| <b>Total</b>   | <b>57</b>        | <b>2</b>             |

Electro-shock stun weapons deliver variable shocks, depending on the voltage and amperage, the length of time for which they're applied, the power of the battery, and the physical condition of the victim and his/her environment, such as the moisture in the atmosphere. One direct effect is to cause pain. Here is how a Lebanese prisoner describes the effect of an electro-shock baton:

*"They use the electro-shock sometimes in our eyes. What you feel is terrible, you feel like it's hell, you feel lightning in your eyes and your hands, all your body is shaking, you feel that you want to die...When my friend were standing near the wall, they came and tried to shock him in his testicles, and so he saw from underneath the blindfold this stick which give us all this pain."*<sup>79</sup>

In addition to severe pain, other immediate effects can include loss of muscle control, nausea, convulsions, fainting and involuntary defecation and urination. This is what "Muhammad" experienced in a prison in Saudi Arabia:

*"For many hours they tortured me on the soles of my feet. Being hit with an electric baton not only made me vomit, but I lost control of everything. I lost control of my bowels, my water, I just could not control anything in my body. I was left in my own vomit and urine all night. That is how they want you to be during a torture."*<sup>80</sup>

<sup>79</sup> *Back on the Torture Trail*, "Dispatches", Channel 4, 13 March 1996. The Lebanese authorities have said in their responses to recent Amnesty International reports that they do not practice torture by electric shocks because they do not possess such instruments.

<sup>80</sup> *The Torture Trail*, "Dispatches", Channel 4, 11 January 1995

For the period 1990-2003, Amnesty International has documented electro-shock torture in 87 countries. [See Appendix 4]

Of the manufacturers - as opposed to distributors (of which there are larger numbers – at least 230 worldwide) – identified in Table 2, 66% are located in the Asia Pacific region.

To Amnesty International's knowledge, there are no export controls on electro-shock stun weaponry in China, one of the world's largest manufacturers and where stun batons are often used in law enforcement. In January 1998 it was reported that the North Korean police ordered thousands of electric batons, tear-gas guns and riot shields from China.<sup>81</sup>



**A Chinese police officer on duty in Tiananmen Square with an electroshock baton, June 2002.**  
© Robin Ballantyne

In Taiwan, domestic use of electro-shock stun weapons is prohibited, but the government has permitted exports. However, Taiwan is now considering whether the minor financial benefit gained by commercial exporters of such devices is outweighed by the negative impact abroad on its human rights reputation. At a security conference held in 2003, senior government ministers in Taiwan who themselves have been prisoners of

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<sup>81</sup> *Far Eastern Economic Review* 8 January 1998, volume 161, issue 2, pg 12

conscience, expressed a willingness to adopt a law similar to the EC Draft Trade Regulation. This could help send a positive message to the rest of the world.

Amnesty International campaigns for governments to recognize their responsibilities under international conventions prohibiting torture, and adopt measures to halt the production of and trade in electro-shock stun weapons until a rigorous and independent investigation has been conducted into their effects.

Yet the classification of stun weapons within the Standard Industrial Classification Codes (SIC), through which trade might be monitored, demonstrates the failure of governments to appreciate their potential for use as weapons of torture. SIC 5099 is the international trade statistic code which covers "electronic stun weapons". But SIC 5099 also includes "pre-recorded audio cassette tapes wholesale", and "leather attaches and briefcases". The various country derivatives of the SIC code are similarly unrevealing. It is therefore exceedingly difficult to track the sale of and trade in electro-shock weaponry.

The US government controls the export of stun weapons through a mechanism known as the "crime control list", administered by the Department of Commerce through the Bureau of Industry and Security. Following campaigning by Amnesty International, the Department of Commerce has improved its administration of the export codes. The policy has been rewritten to explicitly include human rights factors, the removal of the NATO exemption on export licences so that licences are now required for export to all countries except Canada, and the introduction of more specific export categories so that transparency has been improved.

A provision to strengthen US policy, called the Lantos-Hyde Amendment, was passed in one stage of the legislative process in 2001 but eventually the overall bill was never passed into actual US law. The Amendment would have restricted the export of crime control equipment susceptible to abuse for torture wherever the foreign government has repeatedly engaged in acts of torture. It also would have banned the exports of some equipment that Amnesty International considers to be inherently cruel, inhuman or degrading, such as thumbscrews, weighted gloves, and electro-shock stun belts.

In South Africa, where at least one company is known to be manufacturing electro-shock stun weapons, there appears to be an absence of clear legal controls on the domestic ownership, transfer or use of such weapons. As far as exports are concerned, new export legislation shortly to

come into force will control a list of goods based on the Wassenaar Arrangement's list (the Wassenaar Arrangement is a grouping of the world's major arms exporters).<sup>82</sup> However, Amnesty International is concerned that the Wassenaar list does not cover stun weapons.

#### **4.1 Electro-shock stun belts**

Remote control electro-shock stun belts are reportedly used in 30 state prisons and all federal trial courts in the USA.<sup>83</sup> They are strapped onto prisoners when they are being transported as well as during judicial hearings. Buckled around a prisoner's waist and operated by guards through a remote control, the belt delivers a 50,000-volt shock through the kidneys for 8 seconds. Once it has been activated, the shock cannot be curtailed before the 8 seconds are over.

*"When I ask Stun Tech president Dennis Kaufman to send me a copy of Stun Tech's promotional video for the R.E.A.C.T. belt, he warns me that many viewers find the footage graphic. 'There are about thirty people jumping around like Mexican jumping beans,' he says. 'It makes great party viewing.'*

*"Kaufman is right: The video is graphic. But it only shows law-enforcement and corrections officers wearing the belt. All have been warned and given time to prepare themselves psychologically before the shock. During the eight-second blast, all are clearly in pain."*<sup>84</sup>

On 30 June 1998, 48-year old Californian defendant Ronnie Hawkins, who was conducting his own defence against a charge of petty theft, was electro-shocked in open court by order of the Municipal Court Judge. "It was like a stinging in my spine and then a lot of pain in my back," said Hawkins, who was facing a 25-year prison term under the "three strikes" law, and had broken court rules to inform the jury of his position. The judge warned him not to speak to the jury, and ordered guards to shock him when he continued to do so.

On 13 July 1998, Oakland defendant Brian Hill, who was also conducting his own defence, was reported to have been accidentally stunned by a belt, and was briefly hospitalised.

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<sup>82</sup> Telephone interview with Frederic Marais, Director, Directorate of Conventional Arms Control, 13 October 2003

<sup>83</sup> "Electric Shock Torture in American Courts and Prisons", *Washington Post* 29 August 2003

<sup>84</sup> Anne-Marie Cusac, "Life in Prison", *The Progressive*, July 1996

In January 1999, a US federal judge issued a preliminary injunction banning the use of the stun belt in Los Angeles County. However, Los Angeles County campaigned successfully to have the ban overturned. It was supported in this by the US federal government, which filed a special petition - an *amicus curiae* brief - arguing that stun belts had been activated on thousands of police officers, had not caused them "excruciating pain", and were medically safe. The Appeal Court, overturning the ban in May 2001, ruled that activating such belts for verbal outbursts in court was unconstitutional but that the belt could nevertheless be used as a security device.<sup>85</sup>

Electro-shock belts invite abuse because the user of the remote control can inflict severe pain at the click of the button and they leave few, if any, visible marks, even when victims are shocked repeatedly. Their use is degrading and can result in torture by remote control. Lack of monitoring of their use and lack of transparency make it impossible to say how many prisoners in how many counties in the United States are presently at risk of pain and humiliation at the touch of a remote control button.

When the United Nations Committee Against Torture urged the US government, in May 2000, to "abolish electro-shock stun belts and restraint chairs as methods of restraining those in custody", Harold H. Koh, Assistant Secretary of State for Human Rights under the Clinton administration, responded that the stun belt was only worn during transportation.<sup>86</sup> But in both Wallens Ridge and Red Onion high security prisons, there have been occasions when inmates have been made to wear remote control stun belts during visits from their lawyers or others.

Force Group, a South African company, supplies the "Anti-Scape Stun Belt", which delivers a 50,000+ volt shock and which it says has been tested by South African authorities and is used by prisons and police. The company also markets electro-shock riot shields, batons, and stun guns.<sup>87</sup>

The US company Electronic Defence Technology, formerly Stun Tech Inc (manufacturer of the REACT stun belt) is now producing the REACT Band-It – a sleeve that is worn around the arm, or leg, or both, and functions in the same way as a stun belt. The company literature describes its

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<sup>85</sup> *ibid*

<sup>86</sup> Anne-Marie Cusac, 'UN calls on the US to abolish torture devices', *The Progressive*, May 2000

<sup>87</sup> <http://www.forcegroup.co.za/> The company's website also details its "Paralyser" range of handheld shock devices, including the "Paralyser Compact" which delivers a shock of 60,000V, the "Paralyser Special", with a shock of 120,000V, and the "Paralyser Python", at 150,000V.

advantages over the belt: "Its forceful power to an appendage is a direct path to nerve and muscle, thereby avoiding body density as found in the torso. This aspect facilitates maximum takedown power."<sup>88</sup>

On 22 August 2003, a stun belt used on the arm was activated against John Allen Muhammad when he was in the custody of Prince William County Sheriff's Department. According to reports, he was stunned twice with the belt (which was strapped around his arm) when he refused to submit to a head X-ray in Prince William Hospital during medical tests. Throughout the incident he was restrained at the wrists and ankles and, according to his lawyer, resisted the X-ray only by moving his head from side to side and trying to sit up. He allegedly suffered some injury from the incident, including welts on his arm from the shock and soreness from the restraints on his arms and legs. Amnesty International is particularly disturbed that the belt was activated while Mr Muhammad was already in mechanical restraints and reportedly being pinned down by officials and/or medical personnel.<sup>89</sup>

The draft Council Regulation of the European Commission describes electro-shock belts as "equipment which has no, or virtually no, practical use other than...for the purpose of torture and other cruel, inhuman or degrading treatment of punishment". Trade in electro-shock belts will be absolutely prohibited from all EU member states of the European Union once the regulation has been passed by the Council of Ministers and ratified by member states. (see Appendix 2 for more details)

Amnesty International reiterates its call to the federal government of the US and all other governments to ban the use and trade of all types of electro-shock stun belts with immediate effect

## **4.2 Electro-shock stun guns**

The manufacturers of electro-shock weaponry argue that their products are not lethal. But deaths have been associated with the use of stun weapons. An autopsy in the US laid the blame for a baby's death squarely on the stun gun his foster-mother used on him. Even though the baby was malnourished and evidently the victim of long-term neglect and cruelty, what killed him were the electric shocks delivered to his body.

"Stun guns", the autopsy concluded, "are dangerous weapons." In their forensic medical investigation of the death of a 7-month-old baby in the

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<sup>88</sup> React Band-It Information Brochure

<sup>89</sup> letter from Amnesty International to Prince William County Sheriff Office, 17 September 2003

United States of America, published in January 2003,<sup>90</sup> Turner and Jumbelic reported that a stun gun known as an Advanced Space Thunder, manufactured by S.K. Electronic Corporation in Korea, was found in the foster-mother's handbag. They observed "seven...well-circumscribed macular lesions 0.1 in. in diameter" on the child's body. "The 2-in. distance between the erythematous macules on the right upper chest matched the distance between the contact electrodes on the stun gun," they said.



**A stun gun on display at IWA exhibition, Nürnberg, Germany, 2002, showing a European CE quality mark. The European Commission has stated that it has not tested the products carrying these quality markings. Amnesty International believes that the European Commission should investigate the medical effects of such weapons before permitting CE markings to be used.**

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Amnesty International has warned governments since at least 1997 about the uncontrolled international spread of electro-shock stun guns and batons originally from the USA but now from an increasing number of suppliers, whose use for torture and ill-treatment has been found in many countries.<sup>91</sup> For example, a South African company has manufactured such products under agreements with companies in Europe and North America, then supplied them locally and to other law enforcers abroad who have a record of electro-shock torture and ill-treatment.

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<sup>90</sup> "Stun Gun Injuries in the Abuse and Death of a Seven-Month-Old Infant", op cit

<sup>91</sup> Amnesty International, *Arming the Torturers*, 1997, op cit

### Malawi

The case brought by Malawian citizen Anock Sopani against the Malawi Police Service, investigated in 2001 by the Ombudsman of Malawi, testified to the uncontrolled spread of stun weapons. The person alleged to have tortured Anock Sopani is a Malawian businessman and a private citizen, who accused Sopani of theft. The businessman was reportedly in possession of a "shock stick" or stun weapon. The Ombudsman found that on 16 October 2000, he had used the weapon against Anock Sopani in the presence of a Malawian police officer who had failed to intervene to stop the torture. "One wonders", said the Ombudsman, "why the Police seem to have treated [the businessman] and his accomplice with VIP treatment and kid gloves as if they were not lawbreakers." <sup>92</sup>

Following campaigning by Amnesty International and other organizations in Europe, the proposed draft EC Trade Regulation will require authorisation from an EU committee for the export of "portable stun weapons with high frequency pulses equal to or exceeding 50,000 V ...including but not limited to electric-shock batons, electric shock shields, stun guns and electric shock dart guns (tasers)". Amnesty International is concerned that the proposed threshold of 50,000 volts is a somewhat arbitrary figure in the draft EC Trade Regulation because even a 10,000-volt stun weapon with a high amperage could be more harmful.

Although the proposed EU Regulation will institute an export trade regime, an extremely important step in the campaign to stamp out torture, it makes no provision for controls on domestic use by EU member states. In at least three EU member states - Greece, Spain and Austria - there have been reports of electro-shock torture, some involving stun weapons, as the following examples show.

### Greece

In *Arming the Torturers*, published in 1997, Amnesty reported that the Greek government had outlawed the use of hand-held stun weapons by law enforcement agencies.

But on 25 June 2002, four months after he'd been arrested in Athens, Joseph Emeka Okeke, a Nigerian, was taken out of his cell by three police officers from the Aliens Directorate of Pallini (northeast Athens), who allegedly told him that he was due to be released. Suspecting that he was about to be deported, he refused to follow them.

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<sup>92</sup> "Inquiry by the Ombudsman in the matter between Mr. Anock Sopani, Complainant, and Malawi Police, Respondents", File Number OMB/BT/C/1174/2000, Blantyre, 1 November 2001

According to his subsequent statement, the police officers then "grabbed me and started to kick me, pulling me and beating me with a large black rectangular object that had two extensions like claws. Every time they touched me it was as if electricity was piercing my body".<sup>93</sup> Okeke subsequently drew the object he alleges was used to give him electric shocks, and it resembled a stun-gun.

In August 2002, Yannis Papakostas, a Greek military conscript, was detained for driving a motorcycle without a licence. He alleged that a plainclothes police officer at Aspropyrgos police station subjected him to electric shocks on his shoulders and genitals.<sup>94</sup>

These were the first reported instances of torture using stun weapons in Greece for nearly ten years. In 1993, the European Committee for the Prevention of Torture (CPT) had noted that two detainees at Athens Police Headquarters alleged they had been tortured with electric shocks: "Their descriptions of the device - black, shaped like an electric razor, with two poles at one end - were concordant". During the same visit, five other detainees had complained to the CPT that they were tortured with electric shocks at Thessaloniki Police Headquarters, where the CPT found in a locker "a 29cm long black plastic rod equipped with two small electrodes at one end. The pressing of a button in the middle of the rod resulted in a spark passing between the electrodes".<sup>95</sup>

### Spain

In Spain, Iratxe Sorzabal Diez, who worked for a Basque prisoner support group, was arrested in March 1999, and held incommunicado for the full five days permitted by Spanish law (the Spanish government has this year announced its intention to extend this period to 13 days<sup>96</sup>). She alleged that while she was being transported to the Civil Guard headquarters in Madrid, she was beaten and subjected to electric shocks. Unai Romano was arrested in September 1999, and alleged that while he was held in the Civil Guard headquarters he was subjected to electric shocks to his ear-lobes and his testicles.<sup>97</sup>

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<sup>93</sup> Amnesty International: *Greece: in the shadow of impunity: Ill-treatment and the misuse of firearms*, September 2002 (AI Index: EUR 25/022/2002), Amnesty International and the International Helsinki Federation for Human Rights

<sup>94</sup> Ibid.

<sup>95</sup> CPT/Inf (94) 20, paragraphs 20, 21, 22

<sup>96</sup> Amnesty International Press Release, *Spain: Only adequate safeguards will end torture, and claims of torture*, 11 March 2003 (AI Index EUR 41/003/2003)

<sup>97</sup> Amnesty International *Annual Report 2002, Spain*

### Austria

Delegates from the European Committee for the Prevention of Torture received reports that during February and March 1994, people detained by the Bureau of Security in Vienna, Austria, had been shocked or threatened with shocks from an electro-shock stun weapon. Their report said:

*"The delegation of the CPT did not meet any detainees who claimed to have personally received electric shocks. However, several detainees met separately by different members of the delegation alleged having been threatened with electric shocks...These detainees all described a similar instrument which was a portable device the size of an electric razor, one extremity of which had two electrodes, a device which reportedly a police official carried in a personal bag."*

Use of electro-shock stun weapons has also been recorded in two future members of the EU: Cyprus and Bulgaria. In March 1996 Agence France-Presse reported Greek Cypriot police "used electric batons to fight back 3,000 supporters of the clergy as they tried to break down police barriers around the Archbishopric in Nicosia".<sup>98</sup> In Smolyan in Bulgaria, Anatoli I.H., detained in February 1998, complained of having been subjected to prolonged use of electro-shock batons. He was hospitalized after suffering a heart attack.<sup>99</sup>

Amnesty International welcomes the seriousness with which lawyers and officials of the European Commission have approached the formulation of the EC Trade Regulation, and hopes member governments of the European Union will adopt the Regulation as soon as possible, incorporating amendments from the points above. Amnesty International continues to campaign for all governments world-wide to suspend the use of high voltage electro-shock stun weapons, since their medical effects are not known, pending the outcome of a rigorous and independent inquiry into its effects.

### **4.3 Taser guns**

The case of taser guns in the United Kingdom is instructive when considering the inadequacy of official responses to the growing international pressure by companies to sell modern electro-shock devices. In July 1997 Robin Cook, the then UK Secretary of State for Foreign and Commonwealth Affairs stated:

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<sup>98</sup> 14 March 1996

<sup>99</sup> Amnesty International *Annual Report 1999: Bulgaria*

*"We are committed to preventing British companies from manufacturing, selling or procuring equipment **designed primarily for torture and to press for a global ban**...I can now announce that we will take the necessary measures to prevent the export or transshipment from the UK of the following equipment:*

*Portable devices designed or modified for riot control purposes or self-protection to administer an electric-shock, including electric-shock batons, electric-shock shields, stun guns and **tasers** [emphasis added]."*<sup>100</sup>

Some six years later, in April 2003, the Metropolitan Police in London, and four other regional police forces in the UK, received government permission to institute a year-long operational trial of the US-manufactured M26 "Advanced Taser", a weapon the size of a handgun that fires two barbed darts over a distance of up to seven metres, and delivers a 50,000 volt electric shock along the insulated copper wires attached to the darts. Paul Acres, chair of the conflict management team for the Association of Chief Police Officers (ACPO), said, "The Taser is intended to be a safer, less lethal option and may give police officers the ability to temporarily incapacitate and overpower rather than injure someone".<sup>101</sup>



**A British police marksman demonstrates the newly acquired US-made M26 Taser in Northampton, UK. It was announced in April 2003 that five police forces in the UK would undertake a year-long operational trial of the taser. © PA**

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<sup>100</sup> Statement by the Secretary of State for Foreign and Commonwealth Affairs, 28 July 1997

<sup>101</sup> *The Guardian*, 18 April 2003

UK police were under pressure to find "less lethal" options, especially after a Police Complaints Authority (PCA) review of 24 cases of police shootings between 1998 and 2001. The PCA criticised London's Metropolitan Police for "gung-ho" tactics in several incidents where unarmed people had been shot dead by police officers.<sup>102</sup>

However, five police forces in the UK currently have at their disposal a weapon which had been described by the Foreign Secretary in 1997 as "designed primarily for torture". Amnesty International is not aware of new evidence emerging that proves tasers are not prone to abuse. On the contrary.

*"The Miramar police department has opened an internal investigation into the events that prompted police to use a Taser stun gun to subdue a 15-year old girl after a disturbance on a bus. The department, which originally said there wasn't a need for an investigation of the incident, had a change of heart after learning the family of Chiquita Hammonds...had hired an attorney. ."*<sup>103</sup>

This incident in the US demonstrates the kind of abuse that is possible when police officers have tasers at their disposal. Amnesty International cannot accept that involvement in a disturbance on a bus merits the infliction of excruciating pain from a weapon that delivers electric shocks. Advocates of tasers talk about how they save lives in situations where lethal force would otherwise have been used. But in this particular case it was not being used instead of lethal force. It was simply the application of considerably more force than the situation warranted.

The M26 "Advanced Taser", which a few British police will have at their disposal for a trial year, is manufactured by Taser International Inc., based in Scottsdale, Arizona. In a press release welcoming the UK trials, the president of the company said:

*"This is a great opportunity that mirrors a similar experience in Canada three years ago. The Advanced Taser was tested and later legalized for Canadian law enforcement...I anticipate similar success in the UK and tremendous*

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<sup>102</sup> Derek Bennett had been waving a cigarette lighter shaped like a handgun when he was shot dead in Brixton, south London, in July 2001; in September 1999, after someone rang police from the public house in Hackney, East London where Harry Stanley was drinking to tell them he was carrying a sawn-off shotgun in a plastic bag, police shot him dead in the street as he walked home. The plastic bag turned out to contain a wooden table-leg. (*The Guardian*, 26 March 2003 and 8 April 2003)

<sup>103</sup> *Miami Herald*, 25 October 2002

*growth opportunities to save lives and reduce both suspect and police officer injuries."*<sup>104</sup>

The UK police decision was part of a very good year for Taser International, which announced "record" growth for the year ending December 2002. The company said revenue had leapt from \$6.9 million to \$9.8 million, an increase of 42% over the previous year.<sup>105</sup> The company has stated that it sees the whole world as a potential market: "There are 10-12 million police officers worldwide and 30-35 million private security guards...a tremendous opportunity for Taser International."<sup>106</sup> In June 2003 the company announced that it had received a \$1.5 million order for tasers from an unnamed foreign military power.<sup>107</sup>

The trial of tasers by UK police will confine their use to firearms officers who receive minimal training in their use and operate under general firearms regulations drawn up by the Association of Chief Police Officers (ACPO). In the USA, a number of police forces are simply equipping every officer on patrol with a taser. The Chief Executive Officer of Taser International, says his business is benefiting from what he calls a "growing momentum towards increased deployment":

*"In the fourth quarter (of 2002), we added the City of Phoenix to our list of over 150 agencies that are issuing the M26 to all patrol officers...We believe the trend to equip front line patrol officers with the less-lethal M26 is accelerating and gaining momentum. We are positioned to meet this growing demand."*<sup>108</sup>

The M26 "Advanced Taser" is part of a new generation of electro-shock equipment:

*"The new higher-powered tasers are believed to completely override the central nervous system and directly control the skeletal muscles, causing an uncontrollable contraction of the muscle tissue. This is said to be close to 100% effective regardless of the pain tolerance or mental focus of the individual, providing of course that the barbs attach."*<sup>109</sup>

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<sup>104</sup> Taser International Inc. Press Release, 30 January 2003

<sup>105</sup> Taser International Press Release, 3 February 2003

<sup>106</sup> Taser International Press Release, 28 May 2002

<sup>107</sup> Taser International Press Release, 26 June 2003

<sup>108</sup> Ibid.

<sup>109</sup> *Pattern Report Recommendations 69 and 70 Relating to Public Order Equipment: a Research Programme into Alternative Policing Approaches towards the Management of Conflict*, Northern Ireland Office in consultation with ACPO, Second Report, December 2001

Tasers have been in use by police forces in the USA since the mid-1970s, and some people who have been hit by tasers have died. A 1997 report in the FBI's *Law Enforcement Bulletin* cited seven cases of death where tasers had been used by police officers, but said tasers had been the cause of death in only one of the cases.<sup>110</sup> In a 1987 study on the effects of tasers, reported in a commentary published in *The Lancet* in September 2001, three out of 218 people hit by tasers had died: "All three patients who died after being fired at with a taser had high plasma concentrations of phencyclidine" (in other words they had been smoking or taking tablets of PCP, "Angel Dust", a substance which is simultaneously a hallucinogen, a stimulant and a depressant). "One patient went into respiratory arrest followed by cardiac arrest 25 minutes after being shot. The other two patients had no history of cardiac disease and went into cardiac arrest 5 and 15 min after being fired at."

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Autopsies on three men who died in the USA in January and February 2002 after they had been shocked by police officers with M26 "Advanced Tasers" - in Hamilton, Ohio; Hollywood, Florida; and Philadelphia, Pennsylvania - found cocaine overdoses to have been the cause of death, rather than the tasers. One of the deaths was of a man called Vincent Delostia, who had been "behaving violently" in the lobby of a Hollywood hotel, according to a Hollywood Police Department spokesman. Police said Delostia refused to get on his knees and put his hands behind his back. They fired at him with an M26 Taser; he later stopped breathing, and was dead on arrival at the Memorial Regional Hospital. The medical examiner said Delostia died from a cocaine overdose.

"We know of at least 20 such cases since the Taser was first introduced in 1974", said Taser International's Chief Executive Officer. "Once the medical reviews have been completed, the Taser has never been linked as a definitive cause of death in any of these cases."<sup>112</sup>

However, an autopsy on Gordon Randall Jones, who died in Orange County, Florida, in July 2002, said shocks from tasers had contributed to his death, along with cocaine, though it cited the main cause of death as "positional asphyxia". Jones had been handcuffed and strapped face down on a stretcher by paramedics. He was tasered 12 times by Orange County deputy sheriffs.

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<sup>110</sup> "Controlling Subjects: Realistic Training vs Magic Bullets", S.D. Faulkner and L.P. Danaher, February 1997

<sup>111</sup> Raymond M. Fish and Leslie A. Geddes, "Effects of Stun guns and tasers", *The Lancet*, Vol. 358 No. 9283, 1 September 2001 p687

<sup>112</sup> Taser International Press Release, 2 April 2002

In October 2003 a man was reported to have died after being tasered twice in Orange County, California. About a minute after the taser was used the second time and he was handcuffed, it was reported, an officer noticed that he had stopped breathing. He was taken to hospital where he was pronounced dead.<sup>113</sup>

Amnesty International is also aware of reported deaths in Canada of people subdued by tasers, including Clayton Wiley in July 2003 in Prince George, British Columbia.

Amnesty International has campaigned for years for the use of tasers to be suspended until an independent and rigorous evaluation of their medical effects has been conducted, and its conclusions published. Such an evaluation should examine all types/sub types of tasers and data from all countries where tasers have been used in law enforcement. It should be carried out by independent medical, legal, public and other experts and the findings made public.

The then UK Home Office minister John Denham said in January 2003 that "rigorous medical and operational trials", stretching over the previous two years, had led to the decision to pilot tasers in the UK.<sup>114</sup> The operational trials, as recorded in Chapter 5 of the Third Patten Report, published in December 2002, appear to have consisted on the one hand of tests on various models of tasers "to determine characteristics such as absolute accuracy, performance under ideal and extreme conditions and measurement of the electrical output"; and on the other, of three days of "handling trials" involving 64 officers in March 2002, the main aim of which was "to assess the accuracy of the different models of taser when hand-fired by officers...and to identify important differences in the performance of the different models".<sup>115</sup> The report also looked at the use of tasers internationally, providing information on the use of tasers by various police and correctional agencies in the US and Canada, with information sourced from manufacturers, police forces and correctional agencies, and the press.

The "operational trials", conducted by the Police Scientific Development Branch (PSDB) of the Home Office, found the reliability and predictability of tasers were affected if the target person was wearing loose

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<sup>113</sup> "Man Dies after Police Shoot Him with Stun Gun", *Los Angeles Times*, 8 October 2003

<sup>114</sup> UK Home Office Press Release, 30 January 2003

<sup>115</sup> *Patten Report Recommendations 69 and 70 Relating to Public Order Equipment: a Research Programme into Alternative Policing Approaches towards the Management of Conflict*, Northern Ireland Office in consultation with ACPO, Third Report, December 2002

clothing or thick clothing or was wet; if the batteries were depleted; and if the ambient temperature was very low. In other words, the amount of force delivered by tasers can be variable and unpredictable in certain circumstances, and therefore can be arbitrary.

They also found that if the target person had been previously sprayed with "a police incapacitant spray (CS or PAVA)", or had petrol or strong alcohol on them, "there is a chance that the solvent will catch fire and the subject and their clothing may be engulfed in flames".<sup>116</sup>

The "rigorous medical trials" referred to by the Home Office Minister, were presented in the Patten Report as a statement by the Defence Scientific Advisory Council (DSAC) Sub Committee on the Medical Implications of Less Lethal Weapons (DOMILL). DSAC is a non-departmental body of the Ministry of Defence whose role is to provide independent scientific advice to the government. The research was carried out on behalf of DOMILL by the Defence Science and Technology Laboratory (Dstl), which is the Ministry of Defence's own scientific research centre based at Porton Down.<sup>117</sup> This appears to have consisted of a literature review of "information publicly available, and provided by manufacturers and police forces in North America". This review was said to have been conducted by "cardiac and nerve electrophysiologists, physicists and engineers specialising in the interaction of electrical energy with the body, and trauma specialists", none of whom are named.

With respect to the M26 Advanced Taser, the model of taser currently being used in the UK police trials, the DOMILL experts stated that manufacturers appeared to have conducted very little in the way of experimental research:

*"The body of manufacturers' experimental evidence from biological evidence of the hazardous and intended effects of taser on excitable tissue is not substantial, particularly with regard to the M26."*<sup>118</sup>

They found even less by way of independent medical research on the effects of high-powered tasers such as the M26: "The peer-reviewed evidence is even more limited".

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<sup>116</sup> Ibid, page 56

<sup>117</sup> It was formed in 2001; its forerunner was the Defence Evaluation and Research Agency (DERA)

<sup>118</sup> *Third Patten Report*, op cit, page 81

The UK experts appear to have based their review largely on material supplied by Taser International and by US police departments:

*"The manufacturer's database of over 1600 operational uses of the M26 and reports from law enforcement agencies in North America did offer some insight into the risks and nature of injuries."* <sup>119</sup>

One of the things they did note in two operational surveys by law-enforcement agencies in North America was that more than half of the number of people confronted with the M26 Advanced Taser were impaired by alcohol, drugs or mental illness. "Some drugs and metabolic consequences of muscular activity are believed to increase the susceptibility of the heart to potentially life-threatening disturbances of rhythm," they observed.<sup>120</sup> Again, this means that the effect of the force delivered by the taser is, in some circumstances, going to be unpredictable and therefore arbitrary.

Amnesty International considers the review conducted on behalf of the UK Home Office falls considerably short of the independent and rigorous medical study based upon international human rights standards that is essential. On the evidence provided in the Third Patten Report, it appears that in spite of the Home Office Minister's statement that "rigorous medical trials" had been conducted, no such trials actually took place, rather just a review of the existing limited studies.

However, even with all the limitations of the material they had to hand, the DOMILL experts concluded that "excited, intoxicated individuals or those with pre-existing heart disease could be more prone to adverse effects from the M26 Advanced Taser, compared to unimpaired individuals", and recommended research into cardiac hazards, particularly for people who have taken illegal drugs or who have pacemakers. They did "not consider it *essential* from a medical perspective that these studies are completed before approval is considered for the M26 Advanced Taser trial under the terms of the ACPO guidance" (their emphasis). Despite this, the UK Association of Chief Police Officers and the UK Home Office were reported in October 2003 to be considering the deployment of tasers as standard equipment in police patrol vehicles.<sup>121</sup>

Under international human rights law, and specific standards agreed by the United Nations such as the UN Basic Principles for the Use of Force and Firearms by Law Enforcement Officials, all states have an obligation to avoid

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<sup>119</sup> Ibid, page 82

<sup>120</sup> Ibid, page 86

<sup>121</sup> "Police to get stun guns in squad cars", *Independent on Sunday*, 19 October 2003

arbitrary and excessive use of force by law enforcement officials, including force that tends to inflict unwarranted injury or pain. The effects of tasers are acknowledged to be potentially arbitrary, since they vary according to a number of factors; this raises serious concerns about a police officer's ability to ensure he or she applies only the minimum amount of force necessary.

Amnesty International is particularly concerned by the fact that the M26 taser weapon does not only function as a dart-firing taser in a stand-off situation, but also has the capacity to be used close-up as an electro-shock stun weapon. The operational aim is reportedly to enable a single police officer to deal with several targets: "If a second suspect attacks, an officer who has already discharged the taser can shove the end of his weapon against a second person and control both suspects", a US police officer told a local newspaper.<sup>122</sup> However, stun guns and batons have been used by law enforcers in a number of countries for acts of torture or other cruel, inhuman or degrading treatment .

In a phone conversation with Amnesty International USA in March 2002, Taser International claimed to have marketed taser guns to police forces in Australia, Argentina, Brazil, Canada, France, Germany, Israel, Mexico, New Zealand, Paraguay, Peru, the Philippines, Poland, South Africa, South Korea, Slovenia, Sweden, and Venezuela. Since then, tasers are known to have been used for trial purposes in Austria, Germany, Switzerland and the UK. In July 2003, following operational trials, the Swiss Police Technology Commission approved the use of tasers by law enforcement officers in Switzerland, subject to approval at cantonal level.<sup>123</sup> Taser technology is also under trial in four regions of Germany.

Amnesty International is concerned that the international spread of tasers is permitted by governments when the medical and other effects have not been subjected to sufficient rigorous and independent inquiries by appropriate medical, legal, police and other experts based on international human rights standards. Such inquiries should publish their detailed results concerning each type and sub-type of such weapons, and these results and other reports should be considered before the legislature/parliament, before making any decision on deployment of such weapons in law enforcement.

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<sup>122</sup> *Ledger-Enquirer*, 13 December 2002

<sup>123</sup> Taser International Press Release 25 July 2003

## 5. DISABLING CHEMICALS

In the months preceding the invasion of Iraq in March 2003, the US Secretary of Defence told Congress that the Chemical Weapons Convention, ratified by 149 countries including the US, and in force since 1997, was a "straitjacket" on US military planners:

*"The Pentagon is drafting guidelines under which American soldiers could use riot control agents such as tear gas and pepper spray in Iraq to control unruly prisoners and separate enemy soldiers from civilians, Defense Secretary Donald Rumsfeld told Congress earlier this month.*

*"Problem is, soldiers who use so-called 'non-lethal agents' in combat outside their own countries are violating the very chemical weapons treaties the United States accuses Saddam Hussein of flouting.*

*"While countries may use non-lethal chemicals domestically for law enforcement and crowd control, the Chemical Weapons Convention ...specifies: 'Each state party undertakes not to use riot control agents as a method of warfare.'*

*"That provision...arose as an objection to the United States' reliance on tear gas to flush out Viet Cong fighters and kill them during the Vietnam War.*

*" ' We are doing our best to live within the straitjacket that has been imposed on us on this subject,' Rumsfeld said on Feb. 5. 'We are trying to find ways that non-lethal agents could be used within the law.' " <sup>124</sup>*

### 5.1 Tear gas

Tear gas is a popular name for a family of irritant chemicals whose domestic use by police and security services in crowd control and public order situations is allowed in most countries. Irritants create pain and must be used in very limited and controlled quantities and situations only to disperse assemblies posing an imminent threat of serious injury. However, tear gas is often misused to inflict injuries on individuals and suppress the rights of peaceful protest.

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<sup>124</sup> *Chicago Sunday Times*, 3 March 2003



**Students run from tear gas fired by police into a crowd of some 1,500 demonstrators who tried to march to the US Embassy to protest against the war in Iraq, Thursday 27 March 2003, Bogotá, Colombia. © AP**

Amnesty International has documented the firing of tear gas at demonstrators, many of them non-violent, in more than 70 countries in the last five years.

#### Greece

On 24 March 2003, the dean of the Education School of Aristotelis University in Thessaloniki, Greece, took part in a peaceful demonstration against the war in Iraq. He fell to the ground after a tear gas canister exploded next to him, and was then reportedly stamped on by riot police.<sup>125</sup>

#### Jordan

Tear gas and batons were also used against anti-war demonstrators in Jordan on 21 March 2003.

Most security forces use CS gas, which causes "a burning sensation in the eyes...severe irritation of the respiratory tract, burning pain in the nose, sneezing, soreness and tightness of the chest. Even very light exposure can

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<sup>125</sup> Amnesty International, *Iraq: In the shadow of war: backlash against human rights*, March 2003 (AI Index MDE 14/057/2003)

cause a rapid rise in blood pressure, and as this increases, gagging, nausea and vomiting".<sup>126</sup>

#### Israel

On 3 April 2002, some days after the Israeli army had re-invaded the Palestinian cities of the West Bank, a crowd of between 5000 and 6000 people - "Israeli peace activists, Palestinians in Israel and Palestinian members of the Knesset, the Israeli parliament" - gathered at the Kalandia checkpoint, between Jerusalem and Ramallah. The aim of the demonstration was reportedly to protest at the army's closure of Ramallah and "to ensure that urgently needed aid people had collected - medicines and food - would enter Ramallah".

*"We marched to Kalandia with women leading, straight to the checkpoint, which is currently a big set of plastic and concrete blocks...heavily guarded by armed Israeli soldiers and police.*

*"We began to push against the blocks. I was in the front line. The soldiers and police reacted by letting off sound bombs over our heads, which caused people to panic. Tear gas bombs were thrown at us. 'Tear gas' causes a temporary inability to breathe, then immense pain as the gas enters your lungs and eyes....People dispersed, running for cover.. A few minutes later, people re-gathered...The truck passed through into Ramallah, after much bargaining and pleading...*

*"The police... pushed aside their plastic barriers and began to chase us, throwing tear gas into the crowds and beating us with batons. We kept regrouping, chanting, waving Palestinian flags, standing in groups with our hands linked, refusing to be beaten into submission, refusing to use force...If we reacted, they would beat us. If we ran, they would chase after us, throwing tear gas and beating us...In pauses between teargas, sound bombs and violent police, we were hugging, sometimes crying. As we walked back to our buses, we could count the toll: about 30 injured...One young man had his finger torn off when a tear-gas bomb exploded next to his hand." <sup>127</sup>*

#### Canada

During the three days of the Summit of the Americas in Quebec City in April 2001, eyewitnesses observed the Canadian police using tear gas against

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<sup>126</sup> *Crowd Control Technologies: An Assessment of Crowd Control Technology Options for the European Union*, Omega Foundation, May 2000

<sup>127</sup> "Report on Demonstration at Kalandia Checkpoint", by Diaa Hadid, Union of Arab Community-Based Organizations, *Electronic Intifada*, 3 April 2002

protesters who were not involved in violent behaviour or posing any threat to property or the police. Tear gas was fired directly at individuals and into private property for no apparent reason. <sup>128</sup>

#### Puerto Rico

In April 2001, on the Puerto Rican island of Vieques, hundreds of peaceful demonstrators were sprayed indiscriminately with large quantities of tear gas and pepper spray. The demonstrators, who included elderly people and children, were protesting against the use of Vieques for military exercises - including the firing of live ammunition - by the US Navy. A group of children playing outside the gate of the navy base was sprayed with tear gas, as were people conducting a religious service outside the base.

"Spraying large quantities of chemical substances into non-violent crowds is clearly incompatible with international standards requiring that law enforcement officials should use force only as a last resort, in proportion to the threat posed, and in a way to minimize damage or injury", Amnesty International said at the time. <sup>129</sup>

The UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials state:

*"Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall:*

- (a) Exercise restraint...and act in proportion to the seriousness of the offence and the legitimate objective to be achieved;*
- (b) Minimize damage and injury, and respect and preserve human life;*
- (c) Ensure that assistance and medical aid are rendered to any injured or affected persons at the earliest possible moment..."*

None of these UN Basic Principles appear to have been respected by French police on 23 December 2002 in Paris. Omar Baha, a 38-year old French actor of Algerian origin, witnessed an altercation between a man called Sebastian de Freitas and police officers who had fired tear gas to disperse a crowd at a metro station. The four-year-old brother of de Freitas was affected by the gas, and de Freitas remonstrated with the police, who then allegedly threw him to the ground and beat him. When Baha intervened, the officer who had fired the tear gas allegedly hit him in the face with the end of the gas canister, and other police officers allegedly beat him. A duty doctor in prison found Baha's nose was fractured, but he didn't receive hospital treatment for

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<sup>128</sup> Amnesty International *Annual Report 2002, Canada*

<sup>129</sup> Amnesty International press release: *US Navy must use restraint against protestors in Vieques, Puerto Rico*, 12 June 2001 (AI Index AMR 51/082/2001)

the two days he remained in custody on a charge of "incitation to riot" (a charge the court subsequently threw out as illegal).<sup>130</sup>

And in Argentina, tear gas was used against Nadia Echazú:

*"A transvestite called Nadia Echazú was arrested on 7 October [2001] by members of Police station No. 25 in Buenos Aires, as she carried out a street campaign for the prevention of HIV/Aids...She was beaten around the stomach, held by the hair, pushed to the ground and kicked as she lay there. She was then handcuffed, had tear gas sprayed in her face, and was reportedly insulted by one of the police officers, who said, 'I'll give you [human] rights, you degenerate faggot' ('Yo te voy a dar derechos a vos puto degenerado')."* <sup>131</sup>

Specific international standards for the legitimate use of tear gas by law enforcers do not exist, but many states claim that police are trained to use tear gas only to disperse a crowd that is becoming violent and issue national regulations for this purpose. However, Amnesty International has many reports of tear gas being used in confined spaces where the targeted persons cannot disperse resulting in serious injuries and even deaths. Similarly, to avoid unwarranted injuries police are often instructed not to fire or throw tear gas canisters directly at individuals, but these warnings often go unheeded. The effective regulation of the chemical safety of different types of tear gas is also lacking, since chemical contents and mixtures can vary greatly between countries. Manufacturers' claims are often not subject to independent analysis, and there are few mechanisms for monitoring the possibility of delayed long-term injury. In addition, the criteria which governments apply to decide exports of tear gas vary greatly, and it is relatively easy for law enforcement agencies that persistently abuse tear gas to obtain new supplies.

In April 2001, British journalist Robert Fisk reported picking up tear gas canisters that had been fired by the Israeli army in Bethlehem:

*"The cartridges and gas canisters are labelled 'Federal Laboratories, Saltsburg, Pennsylvania 15681' and are stated on the metal to be 'long range projectiles 150 yards'. The rounds, show the US manufacturers' instructions on the side, contain 'tear gas which is highly irritating to eyes, nose, skin and respiratory system'. And continue: 'If exposed, do not rub eyes, seek medical assistance immediately'...[T]he last words stamped on the Pennsylvania gas cartridges, after a warning that they must not be fired at individuals, make the*

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<sup>130</sup> Amnesty International, *France: The alleged ill-treatment of Omar Baha by police officers in Paris*, February 2003 (AI Index EUR 21/002/2003)

<sup>131</sup> Amnesty International: *Argentina Urgent Action 283/01*, 6 November 2001 (AI Index: 13/022/2001)

usual disclaimers. 'Federal Laboratories,' it says, 'will assume no responsibility for the misuse of this device.' " <sup>132</sup>

And the number of companies offering to supply different types of tear gas continues to grow. Amnesty International is aware of at least 65 companies in 20 countries<sup>133</sup> manufacturing chemical irritants such as tear gas during the years 1999-2003, which break down regionally as follows:

| <b>Table 4: Number of companies manufacturing chemical irritants 1999-2003</b> |                            |
|--|----------------------------|
| <b>Region</b>  | <b>Number of companies</b> |
| Europe and CIS   | 23 companies               |
| Asia / Pacific   | 15                         |
| North and Central America  | 15                         |
| Middle East  | 8                          |
| Africa   | 3                          |
| South America  | 1                          |

In India, the Border Security Force set up a Tear Smoke Unit in 1976 to manufacture gas and stun grenades and gas aerosols, as well as plastic and rubber bullets. Now their factory, at Gwalior, in Madhya Pradesh, "supplies all of India's police and paramilitary forces with tear gas munitions and is beginning to supply the army". <sup>134</sup>

By 2000, India was reported to be "exporting a wide range of its tear-gas munitions in South Asia", as well as to Mauritius. "Since the products produced at the BSF factory are only a third of the price of their western equivalents, there is real potential for large-scale exportation." <sup>135</sup>

The BSF factory uses a special plastic coating on its canisters which melts on impact, preventing rioters from picking up the canisters and throwing them back at the police. In 2001 the Indian factory was reported to be developing something called the "Super Tear Gas Grenade", which would

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<sup>132</sup> *The Independent*, 15 April 2001

<sup>133</sup> including Brazil, Belgium, China, Czech Republic, France, Germany, Hungary, India, Iran, Israel, Italy, North Korea, Philippines, South Korea, South Africa, Switzerland, Taiwan, Turkey

<sup>134</sup> "Perspectives and Implications for the Proliferation of Non-lethal Weapons in the Context of Contemporary Conflict, Security Interests and Arms Control", Nick Lewer and Tobias Feakin, *Medicine, Conflict and Survival*, Vol, 17, 272-286, Frank Cass, London, 2001

<sup>135</sup> *Ibid.*

separate in the air, each of the three segments to contain a different kind of gas: CN, CR and CS.<sup>136</sup>

Nearly 15 years after a group of US doctors said, "Available toxicological data are deficient as to the potential of tear gas agents to cause long-term pulmonary, carcinogenic, and reproductive effects", and called for "investigation into the full toxicological potential of tear gas chemicals",<sup>137</sup> such independent research has yet to be done. It is known that all asthmatics will react with the onset of asthma symptoms if they are exposed to irritants in the air. So they will react to tear gas and other lung irritants.

Amnesty International campaigns for rigorous independent investigations to assess the risk to human rights of law enforcers using specific security technologies and equipment, including chemical irritants like tear gas and pepper sprays, and calls for such research to be published in open scientific journals for public scrutiny before governments authorize the use of such equipment by security forces.

Amnesty International is concerned that substances whose safety has been inadequately tested by manufacturers are adopted by security forces and used in what then amount to live experiments on civilian populations - experiments that continue even when people report short-term extreme suffering and long-term health problems. A brief history of the main forms of disabling chemicals used for crowd control bears this out.

*CN gas*<sup>138</sup> was first produced in 1871 in Germany, and was weaponized but not used during World War I. The irritant properties of CN for crowd control are designed to prevent people from staying in an area voluntarily for long before the gas seriously disables them. Skin blistering and evidence of burning in the cornea have been observed immediately after exposure to the gas, and in the longer term, some people have developed dermatitis and serious lung diseases, like bronchopneumonia. CN gas can contaminate rooms, furniture, vehicles and clothing; its effects continue long after it has been released, and in high concentrations the gas is lethal if the victim is in a confined space. Nonetheless, it remains in use in some countries.

CN is now the active ingredient in Mace sprays - used by police in the US and sold for "self-defence" - where it is often mixed with pepper spray.

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<sup>136</sup> Ibid

<sup>137</sup> Hu H, Fine J, Epstein P, Kelsey K, Reynolds P, Walker B. "Tear gas: harassing agent or toxic chemical?" *Journal of the American Medical Association*, 1989; 262:660-3

<sup>138</sup> 2-chloroacetophenone see the USA Environmental Protection Agency (EPA) site: <http://www.epa.gov/ttn/atw/hlthef/chlo-phe.html>

US police fired a combination of CN, CS and pepper-spray at anti-World Trade Organization protestors in Seattle in December 1999. Jane's Information Group lists five companies manufacturing launchers for weapons-grade CN: four in the United States, one in Israel.<sup>139</sup>

**CS gas**<sup>140</sup> is up to five times more irritant than CN gas, and has been developed in the USA and UK. Despite considerable evidence of the detrimental effects of CS gas on human health,<sup>141</sup> it remains the "tear gas" most commonly used by security forces: "Its popularity among military and police authorities stems partly from comparisons with the other tear gas agents, which suggests that CS is a more potent lachrymator and seems to cause less long-term injury, particularly with respect to the eye."<sup>142</sup>

Some governments use CS gas as a weapon against their own populations. In July 1987, American doctors found that, "by its own account", the government of South Korea had fired 351,200 canisters and grenades of CS gas against civilian demonstrators in the previous month:

*"We heard pervasive accounts of police firing canisters and throwing tear gas grenades directly into crowd gatherings and enclosed spaces, such as rooms, motor vehicles, and subway corridors. Persons who were close to the exploding tear gas grenades and canisters commonly sustained penetrating trauma from plastic fragments that was exacerbated by the presence of tear gas chemical. Many individuals sustained blistering skin burns from direct contact with the tear gas powder. There were several accounts of people who were alleged to have experienced more severe toxic injuries requiring hospitalization."*<sup>143</sup>

In May 2003, the Palestinian Initiative for the Promotion of Global Dialogue and Democracy (MIFTAH) said that since 28 September 2000 -- the start of the second *intifada* - 5386 Palestinians had been injured by CS gas fired by the Israeli army and Israeli settlers.<sup>144</sup> The pattern of misuse has existed in Israel for over a decade.<sup>145</sup>

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<sup>139</sup> <http://fasttrack.janes.com/janesdata/ft/2358/2435/2436/2445/index.html>

<sup>140</sup> Active ingredient: 2-chlorobenzalmalononitrile

<sup>141</sup> See *Crowd Control Technologies*, op cit, p. xxi, for a summary

<sup>142</sup> "Tear Gas - Harassing Agent or Toxic Chemical Weapon", op cit

<sup>143</sup> Ibid.

<sup>144</sup> MIFTAH *Intifada* Report, September 28, 2000 - August 18, 2003

<sup>145</sup> Harvard professor Gene Sharp, who took part in a Physicians for Human Rights delegation to the Occupied Territories during the first *intifada* in 1988, witnessed soldiers from the Israeli army, which uses CS gas, "tossing a tear gas grenade through the window of a small apartment in the Old City of Jerusalem, from which there presently emerged five small

A landmark report by a UK Parliamentary Committee chaired by the former secretary of the UK Medical Research Council following use of CS by the Royal Ulster Constabulary in Londonderry during 13-14 August 1969, concluded that: "it is only under quite exceptional circumstances that exposure doses of inhaled CS could be received that might cause serious injury or death; and that, in the conditions of civil operations, with disciplined troops and police, it is highly improbable that such circumstances can occur. The extended inquiry that we have carried out has thus confirmed, in all essential respects, the assessment previously given to Government by its own official advisers. Nevertheless, we have repeatedly encountered speculations regarding the potential ill effects of inhaled CS. Not all these anxieties could have been allayed by the evidence that has been publicly available. Accordingly we recommend that, if the competent authorities feel it justifiable to release a chemical agent for use in civil circumstances, then medical and scientific research relevant to this decision should straight away be published in the appropriate scientific journals so that informed medical and scientific opinion may assess the situation for itself."<sup>146</sup>

CS gas can be indiscriminate in its effects. In 2001, twenty years after the Home Secretary had allowed police in the UK to fire CS gas at rioters, the Patten researchers investigated the accuracy of the long-range delivery systems available to the police. They reported:

*"Only a limited number of products have so far been submitted...for testing, despite a large number of manufacturers having been contacted. None of these products has met the basic accuracy requirements at 20m, nor indeed even at 15m."*<sup>147</sup>

Police officers in many countries have complained of "cross-contamination": i.e. that they themselves are incapacitated by CS gas. In the UK, for example, a report on the use of CS gas by the Police Complaints Authority found that within the sample of complaints about use of CS gas that was investigated, in 53% of cases the officers themselves had suffered cross-contamination.<sup>148</sup>

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children gasping and choking".

[http://multinationalmonitor.org/hyper/issues/1988/04/mm0488\\_07.html](http://multinationalmonitor.org/hyper/issues/1988/04/mm0488_07.html)

<sup>146</sup> "Report of the enquiry into the Medical and Toxicological aspects of CS (Orthochlorobenzylidene Malononitrile)" by a committee chaired by Sir Harold Himsworth presented to Parliament by the Secretary of State for the Home Department by Command of Her Majesty, September 1971, Cmnd.4775, p.48.

<sup>147</sup> Second Patten Report, December 2001

<sup>148</sup> Police Complaints Authority, *CS Spray: Increasing Public Safety?* March 2000, p10

**CR gas** <sup>149</sup> was discovered in the UK in 1962 where it is now stockpiled alongside CS and other agents. It is reported to be six times more irritant than CS gas and 30 times more irritant than CN; it is a potent skin irritant.<sup>150</sup> In 2001, General R. Badenhorst, former Chief of Staff for Intelligence in the South African Defence Force, told researchers that it had been "normal practice" to issue CR gas to soldiers policing black townships in 1986 and 1987. An unnamed scientist involved in the minority white government's chemical and biological weapons programme, Project Coast, told the same South African researchers that "the government realised it was easy for people in the townships to deal with the effects of CS gas", so they had started to use the more potent CR. Dr Wouter Basson, who headed a government chemical and biological weapons programme during the apartheid era, said in 1989, in a secret document released nine years later to the Truth and Reconciliation Commission, that Project Coast had manufactured 20 tons of CR gas.<sup>151</sup>

## 5.2 Pepper sprays

Oleoresin Capsicum (OC) is the principal ingredient of pepper spray which is an irritant but not necessarily a tear gas. The components of pepper spray are of biological origin and can vary depending on the capsicum used. It can contain very many different chemicals few of which have been adequately studied. PAVA (pelargonyl vanillylamide) pepper spray is a synthetic formulation of one active OC constituent, and is classified as an inflammatory, since, like OC, it causes acute burning of the eyes, severe inflammation of the mucous membranes and upper respiratory tract, and produces coughing and gagging. Different variants of PAVA are currently in use with police forces in Belgium, Germany, the Netherlands and Switzerland, and is under trial in Britain with the Sussex Police.

Different types of pepper sprays are used by police forces, especially in the USA, as a "less than lethal" weapon of containment which doesn't "blow back" on police officers as tear gas does. They contain an agent derived from cayenne pepper, and it can cause extreme pain.

*"I felt this incredible burning, loss of breath; from the time the cop stuck the spray in my face until 45 minutes later, everything is blank, just excruciating pain. I have no recollections. All that went through my mind was pain."*

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<sup>149</sup> Active ingredient: dibenz[b,f][1,4]oxazepine

<sup>150</sup> *Crowd Control Technologies*, op cit

<sup>151</sup> Mafole Mokalobe, "No More Tears: Overcoming the legacy of South Africa's CBW programme", *Chemical and Biological Warfare: Non-Proliferation and the Ethics of Science*, Vol. 10, No. 3, December 2001

Steven Christianson, sprayed with OC in Vermont, February 1998 <sup>152</sup>

The Police Department of Portland, Oregon, has issued figures stating that their type of pepper spray has been "effective" on 97% of the occasions it has been used. They say there has been an 83% reduction in the injuries suffered by suspects, and a 61% reduction in the injuries sustained by police officers making arrests.

Police in the Netherlands - who claim to use a mild organic pepper spray manufactured in the US under their own supervision - report that since they started to use it, in 2000, they have received only one complaint from a person who had been sprayed, out of a total of about 1500 instances of use. Dutch police argue that a person who has been hit with a truncheon might take several weeks to recover whereas a person who has been sprayed with their type of pepper spray will, they say, recover in a matter of 30 minutes or so, having suffered no permanent harm.

OC is actually a plant-derived toxin and as such is banned for use in warfare under the terms of the 1972 Biological Weapons Convention. Pepper sprays are not specifically subject to international human rights standards on law enforcement, and they appear to be produced and marketed internationally by a large number of manufacturers with "weak" or no regulation.

The death of 21-year old Raymond Sterling Jr in Fort Lauderdale, USA, an hour or so after he had had OC pepper spray used on him, demonstrates the implausibility of making comprehensive claims for the safety of commercially-available pepper spray. Raymond Sterling was stopped for speeding at about 1.15am on 19 April 2003. When he resisted arrest, officers gave him "a short blast" of pepper spray, according to a Fort Lauderdale police spokesman. When Raymond Sterling was taken to jail, he said he was exhausted and his legs were tired:

*"Paramedics found nothing wrong with Sterling and left just before 2am. But he continued to complain, so the jail nurse told officers to take Sterling to a hospital. He collapsed six minutes later as an officer walked him towards a squad car. Paramedics returned and took Sterling to a hospital, where he was pronounced dead...Reed said the autopsy showed 'no signs of beating, no bruising, no broken bones, no marks, no indications of any striking by the officers'."* <sup>153</sup>

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<sup>152</sup> "Critics Question Use of Pepper Spray at Anti Iraq War Demo", *Vermont Rutland Herald and Barre Times-Argus*, 22 February 1998

<sup>153</sup> *Associated Press*, 24 April 2003

The autopsy found death was due to a sickle cell trait and that the pepper spray was a contributing factor. According to the autopsy report, the paramedics told their dispatcher the emergency call was a “police department matter with no medical need.” Following the public outcry over this case, Fort Lauderdale police have recently changed their procedures for handling injured persons in custody, so that emergency medical services must be called to transport anyone who is pepper sprayed to a hospital to get a medical clearance before being put into custody.<sup>154</sup>

Within two months of Raymond Sterling’s death another man, Mark Secory, was reported to have died in Florida after being subjected to OC spray by Polk County sheriff’s deputies.<sup>155</sup>

Raymond Sterling reportedly had a history of bronchial asthma, a condition of which officers have said they were unaware at the time of his arrest. It is because such conditions (which are relatively common) may not be known at the time of use, that Amnesty International believes law enforcement agencies should be extremely cautious in their use of pepper spray and other lung irritants.

Concerns are heightened by the fact that in the past decade more than 100 people are reported to have died in custody in the USA after being subjected to OC spray. While most of the deaths have been attributed to other factors such as drug intoxication or positional asphyxia, OC spray has been found to be a factor in a number of cases.<sup>156</sup> There appear to be no national US guidelines governing the use of pepper spray by law enforcement officials and there have been several high-profile incidents involving pepper spray that have led to US police being accused of torture.

Oleoresin Capsicum spray is reported to have been introduced into the US in the 1980s by the Postal Service, who used it as a dog repellent. The FBI adopted it as an official chemical agent in 1987. In 1989 an influential study by FBI Special Agent Thomas Ward, in charge of the Less Than Lethal weapons programme at the Firearms Training Unit in Virginia, recommended the effectiveness and safety of Cap-Stun pepper spray in particular, which the FBI and many police departments subsequently bought. Seven years later, however, Ward pleaded guilty to having accepted \$57,500 in unauthorized payments from Luckey Police Products, the original distributors of Cap-Stun.

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<sup>154</sup> ‘Police rules change after prisoner dies’, *Miami Herald*, 20 September 2003

<sup>155</sup> Letter from Amnesty International to Polk County Sheriff, 12 September 2003

<sup>156</sup> The American Civil Liberties Union (ACLU) of Southern California contends that pepper spray was implicated in the deaths of at least 26 people in California between January 1993 and June 1995.

The ACLU of Southern California called on the FBI to "immediately retract and rescind" all documented research on pepper spray, which it said was compromised by Ward's corruption, and begin a "neutral investigation" into the effects of Oleoresin Capsicum. The FBI declined, saying OC would "continue to be used by its agents as a less-than-lethal weapon and an alternative to lethal force".<sup>157</sup>

#### USA

In a series of incidents at the Pine Hills Youth Correctional Facility in the State of Montana during 2000, staff were reported to have ignored prison policies that require immediate medical attention be given to people subjected to chemical sprays. At Pine Hills Youth Correctional Facility, it appears, pepper spray was used to inflict pain on and to punish juvenile inmates.

Amnesty International has reviewed documentation in the case of one boy victim that shows he was sprayed with OC spray at least nine times in 19 months, including five times in one month in 1999. A senior staff member admitted during court proceedings in July 2000 that some Native American youths in the facility had been sprayed as many as 15 times each.

On 11 May 2000, five Native American youth at Pine Hills were reported to have thrown chairs at the guards. They were said to have been pushed against a wall by the guards, and sprayed directly in the face. One boy, "Justin" (a pseudonym), told church minister Bud Heringer that after they had been "saturated" with pepper spray, he had grabbed an empty canister and tried to spray guards. He said he was put into his cell, sprayed again, and a "towel was placed under the door". "Justin" told Heringer he was sprayed twice more on the same day, and incident reports from the Correctional Facility, made available to attorney Cynthia Thornton, indicated that pepper spray was indeed used on "Justin" three times in one day. "Justin" told minister Heringer he thought he was going to suffocate.

US correctional facility policy No.PHD 3.1.9A states that: "Offenders who have been subjected to chemical agents may suffer skin, eye or lung damage and should be removed from the gaseous area as soon as possible". Another policy provides for video monitoring of any incident requiring the use of force. Neither policy appears to have been implemented in Pine Hills on 11 May 2000. "Free flowing cool water" is meant to be offered to pepper spray victims and youth are supposed to be showered immediately.

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<sup>157</sup> ACLU on New OC Push' from *Law Enforcement News*, 31 March 1996, pp. 1 and 6, quoted in 'The Use and Abuse of Pepper Spray' by Lynne Wilson, [http://www.nlg.org/npap/research\\_papers/researchpapersindex.htm](http://www.nlg.org/npap/research_papers/researchpapersindex.htm)

*"Yet staff at Pine Hills turned showering into an event involving a process that the youth claim is so humiliating that many of them refused to shower. The youth allege that showering entailed stripping and then walking to the showers naked, in handcuffs and shackles, and showering while being viewed by nine to fourteen staff members of both sexes. According to allegations by the juveniles, as well as the scant documentation from the facility that exists, boys who refused the shower were placed in their cells unshowered with the burning, oily residue covering their bodies. According to the boys, they attempted to wash off by splashing themselves with water from the toilet." <sup>158</sup>*

Staff have reported that they used OC spray in order to avoid injuries, but Amnesty International is disturbed that it appears to have been used in some cases as a first option after verbal warnings. Given the pain involved as well as the health risks in the application of OC spray, Amnesty International is concerned that alternative measures could not have been found to control disturbed children in such cases.

In many parts of the world, police forces use pepper spray for crowd control purposes. On 16 April 2003, Greek police fired pepper spray into the faces of anti-war protestors in Athens.



**Greek riot police fire pepper spray into the faces of demonstrators during an anti-war demonstration outside the Greek Parliament in Athens on 16 April 2003. © AP**

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<sup>158</sup> "Pepper spray used repeatedly on Indian youth at Juvenile facility recently discovered", Ruth Steinberger and Liz Gray, *Oklahoma Indian Times*, 20 February 2001

On 26 June 2000, police in Hong Kong dispersed protestors outside the Central Government Office with pepper spray. "The use of pepper spray was a form of violence or force against the protestors", said the Hong Kong Human Rights Monitor on the day. "Although pepper spray will not normally result in permanent injury to its victims it is still a serious form of force and usually causes extreme pain to the victims." <sup>159</sup>

In contrast, pepper spray is outlawed for use against crowds in the Netherlands where police have been using pepper spray since 2000. Dutch police claim to hand every person who has been sprayed a reply-paid card, addressed to the monitoring committee, which they can use to complain if they believe themselves to have been ill-treated; in about 1500 instances of pepper spray use, only one person is so far reported to have returned the card. Every instance is supposed to be considered a use of force to be reported to superior officers; the chain of accountability culminates in a monitoring committee comprising the Ministry of Home Affairs, the Inspectorate of Public Health, the Department of Justice and the Public Prosecutor.

### 5.3 Incapacitating agents

Amongst the range of disabling chemicals, the US Department of Defense (DOD) differentiates riot control agents from "incapacitating agents", even though other governments and official bodies do not always make this distinction. When planning for the war in Iraq, the DOD was reported to have included the possible use of incapacitating "calmative" gases:

*"Internal Pentagon documents...show that the US is developing a range of calmative gases, also banned for battlefield use. Senior US defence sources predict these could be used in Iraq by elite special forces units to take out command and control bunkers deep underground."* <sup>160</sup>

However, the 'calmative gases' or incapacitating chemical agents designed to sedate people referred to above are not the same as riot control agents such as tear gas. Riot control agents are defined as chemicals that can produce in humans rapid sensory irritation or disabling physical effects which disappear within a short time. Other incapacitating chemicals can have more pervasive effects.<sup>161</sup>

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<sup>159</sup> Hong Kong Human Rights Monitor Press Release, 26 June 2000 (<http://www.hkhrm.org.hk/english/reports/press/pr260600.html>)

<sup>160</sup> *The Independent*, 2 March 2003

<sup>161</sup> Federation of American Scientists Working Group on Biological & Chemical Weapons, *Position Paper: The Threat of Chemical Incapacitating Agents*, March 2003

The Chemical Weapons Convention (CWC) bans the development, possession and use of chemical weapons that can cause death, temporary incapacitation or permanent harm.<sup>162</sup> The CWC does not explicitly prohibit the use of incapacitating chemicals for law enforcement, but any chemical used for law enforcement must be of a type and quantity consistent with that purpose. Tear gases are permissible in safe mixtures for domestic law enforcement purposes in riot control situations according to international human rights standards but are prohibited as a method of warfare.

The incapacitating chemical used by security forces in the Moscow theatre siege does not appear to fit those criteria.

After around 700 theatre-goers, performers and theatre staff had been held hostage for three days in October 2002 by people calling for a withdrawal of Russian armed forces from Chechnya, and with three hostages shot by the hostage-takers, Russian security forces pumped an unidentified gas into the theatre.<sup>163</sup> According to Olga Karpova, a senior doctor with the Department of Operational Response of the Moscow Rescue Service, at least 37 hostages died in the theatre.<sup>164</sup> Some 646 were taken to hospitals and a month later around one in six of them had reportedly died. A total of 129 hostages were known to have died as a result of the rescue operation – at least 120 were reportedly killed by the gas.<sup>165</sup> A further 68 are said to be unaccounted for.<sup>166</sup> Fifty hostage-takers died, some shot during the rescue attempt. Some eyewitnesses stated that the hostage-takers shot dead were killed when they were already unconscious.<sup>167</sup>

Treatment of the hostages who had been poisoned was complicated by the refusal of the Russian authorities to state publicly what type of gas had been used in the theatre for four days after the siege had ended. Finally Health Minister Yuri Shevchenko identified it as “based on derivatives of fentanyl, a commonly used anaesthetic”. The Minister refused to be more precise about the chemicals used even on 11 December when faced with a parliamentary

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<sup>162</sup> [http://www.opcw.org/html/db/cwc/eng/cwc\\_frameset.html](http://www.opcw.org/html/db/cwc/eng/cwc_frameset.html)

<sup>163</sup> Robin M Coupland, ‘Incapacitating chemical weapons: a year after the Moscow siege’, *The Lancet*, Volume 362 25 October 2003 – [www.thelancet.com](http://www.thelancet.com)

<sup>164</sup> quoted in [www.newsru.com](http://www.newsru.com) on 27 October 2002

<sup>165</sup> Coupland, op cit

<sup>166</sup> The Russian Federation Ministry of Health said in mid-December that 129 hostages had died. For the same date, the Russian website [www.grani.ru](http://www.grani.ru) documented the deaths of 139 people, and said that a further 68 – whom it named – remained unaccounted for

<sup>167</sup> Amnesty International: *Rough Justice: The law and human rights in the Russian Federation*, October 2003 (AI Index EUR 46/054/2003)

question. He said it was a "state secret".<sup>168</sup> The US Drug Enforcement Administration describes fentanyl as an opiate with "an analgesic potency 80 times that of morphine".<sup>169</sup> The Russian authorities have still not stated officially exactly what was used.

In claims to Moscow City Government which were later dismissed from court, families of the deceased and injured contended that the authorities made woefully inadequate preparations for hostages caught in the gas attack, although they knew in advance what gas they were using. Fentanyl administered in large and uncontrolled doses – as it was through the theatre's air conditioning system – leads quickly to respiratory problems and to coma. Oxygen is vital within minutes, but neither this nor an antidote appeared to have been widely provided for hostages in the street outside the theatre. Hospitals earmarked to give the hostages medical treatment were not alerted to the use of fentanyl, and for several crucial hours their staff were unable to find an adequate antidote.<sup>170</sup>

Lev Fyodorov, president of Russia's Union for Chemical Safety, reportedly said that the authorities would be unable to prevent deaths of civilians in an enclosed space like a theatre:

*"This was a military operation using non-lethal chemical weapons developed during the Cold War. They would have been intended for a military opponent."*<sup>171</sup>

Amnesty International is extremely concerned about the use of currently-known incapacitating chemical agents to sedate people for law enforcement purposes.<sup>172</sup> There is a much greater danger of these agents causing deaths than there is through the use of chemical irritants. Most incapacitating agents - such as the agent used in the Moscow siege - are designed to sedate the victim. Proponents call them "calmatives". The intention is to render the individual incapable of independent action. Making them sleepy or uncoordinated is an effective way of achieving this.

The difficulty with such incapacitating agents is ensuring that everyone is only exposed to a concentration that will sedate them relatively quickly.

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<sup>168</sup> Ibid

<sup>169</sup> [www.usdoj.gov/dea/concern/fentanyl.htm](http://www.usdoj.gov/dea/concern/fentanyl.htm)

<sup>170</sup> Amnesty International: *Rough Justice*, op cit

<sup>171</sup> *BBC News Online*, 27 October 2002

<sup>172</sup> Other agents which do not work by sedation – such as BZ gas or LSD – are either already banned under the CWC (BZ) or have not been "weaponised" (LSD). While Amnesty International focuses in this report on agents having a calmativ action, it remains concerned about the possible development of agents working through other mechanisms.

This is almost certainly impossible to achieve in practice. The likelihood is that some people on the periphery of an exposed group will only be exposed to a sedating concentration whereas others, closer to the point of release of the chemical, will be exposed to much higher amounts. Beyond a certain concentration, and particularly in a confined area where there is no escape, individuals will be forced to breathe in concentrations that could be lethal. This is what happened in the Moscow siege. And without the appropriate antidote, administered promptly, many more died in Moscow than the authorities anticipated. The likelihood is that antidotes will not be readily available where such incapacitating chemical agents are used.

With irritant agents like CS or pepper spray the irritant properties of the agent are such that individuals are forced to leave an area if they can, or stop what they are doing, because of the intense pain they are experiencing. Leaving an area and breathing clean air will eventually bring relief for the majority. In contrast, with incapacitating agents designed to sedate people most will be unable to leave an area, and if there is no wind, these individuals are likely to continue to breathe in concentrations of agent that could eventually kill them. These agents should be prohibited unless it can be shown that the chemical agent used ostensibly for incapacitating offenders through sedation has a suitable margin of safety that will guarantee that individuals are only exposed to incapacitating and not lethal concentrations, and will be protected from indiscriminate or arbitrary effects. As far as Amnesty International is aware, the current incapacitating chemical available do not meet this test.

Amnesty International is calling for comprehensive systems of accountability and transparency to help prevent torture and other ill-treatment through the misuse of chemical agents, including different types of tear gas and pepper sprays. But such systems can only be meaningful if new technologies themselves are subjected to public scrutiny in terms of international human rights standards before being recommended for use in law enforcement.

## **6. FUTURE TECHNOLOGICAL THREATS**

There is already an arsenal of new security products at the design or prototype stage for immobilizing and incapacitating human beings. Much of the development work is being done in US laboratories previously devoted to nuclear weapons, like those at Oak Ridge and Los Alamos. The US "war against terror" has given this work significant momentum, as has the growing military doctrine that on many battlefields, civilian and non-combatants will

be deliberately mixed with combatants. Other key targets are perceived to be internal dissenters, and refugees seeking to cross frontiers.

Some modern technologies have the potential to be used for torture or other ill-treatment no longer simply on a one-to-one or several-to-one process in a prison or police cell, but on the scale of collective punishment and maiming on the streets or at borders.<sup>173</sup>

- *Radio frequency weapons* may use microwaves against anyone straying into an irradiated area; temperatures of up to 107 degrees F could induce an artificial fever.
- *Malodorant systems* can store "stench chemicals" - which reproduce the smell of human excrement or rotting carcasses, for example - in containers, to be released when someone steps on the container.
- *Taser mines* have been developed which can be activated by the victim through a trip device or a sensor; the mines will apparently shoot out darts in a 15-30 feet radius, and a 50,000v shock will pulse through the attached wires for as long as the batteries keep working.<sup>174</sup>
- *UV lasers* may "ionize the air sufficiently for it to carry an electric charge, and thus enable an electric shock to be delivered over some distance".<sup>175</sup> Other potentially abusive technologies include bioweapons, robots, and mass calmatives.

A doctor working with the International Committee of the Red Cross has observed:

*"One would hope...that it is not the aim of the weapons research community to introduce into police and military arsenals technologies which may be non-lethal but which will have higher levels of severe, permanent or non-treatable effects than is the case with existing weapons...When examining a new weapon...it is important not only to consider the lethality, but also to understand whether it will cause specific diseases, abnormal physiological and/or psychological states or specific and permanent disabilities... Some chemical agents used in the First World War were less lethal than rifle bullets, but the injuries which they inflicted were considered to be horrendous and excessive in relation to the military advantage they brought."*<sup>176</sup>

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<sup>173</sup> *Future Sub-lethal, Incapacitating and Paralysing Technologies – Their Coming Role in the Mass Production of Torture, Cruel, Inhumane and Degrading Treatment*, Dr Steve Wright, October 2002

<sup>174</sup> *ibid.* See also Landmine Action, *Alternative Anti-Personnel Mines: The Next Generations*, 2001

<sup>175</sup> *Crowd Control Technologies*, op cit

<sup>176</sup> "Legal and Health Issues: International Humanitarian Law and the Lethality or Non-Lethality of Weapons", Robin Coupland and Dominique Loye, in *Non-Lethal Weapons*:

This article draws attention to the role of public opinion in containing the excesses of manufacturers of military and security equipment:

*"Public opinion played an important role in the adoption of the treaties banning chemical weapons, anti-personnel mines and blinding laser weapons. Blinding laser weapons would have been considered non-lethal, but the notion of intentionally inflicting permanent blindness was considered abhorrent by a large section of public opinion. This demonstrates how relative the notion of non-lethal is in the perception of human injury and suffering."*

Immensely powerful weapons are being developed, manufactured, and even deployed, without effective public oversight. It is clear that strict controls on new security technologies need to be proactive. Amnesty International will continue to campaign for independent research into their effects to be conducted and placed in the public domain, and for governments to adhere to their commitments under international human rights standards and international humanitarian law.

## **7. AN AGENDA FOR ACTION**

Torture persists either because governments mistakenly think it serves their interests, or because governments are too weak to control the excesses of their security forces. All governments should honour their commitments to abolish torture under international human rights standards.

In this report Amnesty International has presented compelling evidence that a range of equipment ostensibly designed and promoted for security purposes - and often described as "less than lethal" - can easily result in unwarranted injuries or be used for torture or other cruel, inhumane or degrading treatment or punishment.

The effects of such equipment tend to be inadequately evaluated against international human rights standards for law enforcement. Avowals of its "safety" frequently rest solely on the claims of manufacturers regarding the immediate well being of users of the equipment. Even when governments claim to have rigorously evaluated a certain type of equipment or technology, the evaluation is often not open to public and scientific scrutiny.

This flawed process of “legitimising” new security devices and weaponry is compounded by the fact that much of the equipment can be extremely harmful if it is placed in the hands of those law enforcement officials who intend to abuse their position of authority to commit human rights violations and know that, in many cases, they act with impunity.

Thus, with regard to equipment ostensibly designed and promoted for security or law enforcement purposes, Amnesty International is calling on all governments to:

- Immediately ban for use and trade all equipment or technology which has no, or virtually no, practical use other than for inflicting torture and other cruel, inhuman or degrading treatment and punishment. As well as equipment for capital punishment such as electric chairs and automatic drug injection systems, such equipment and technology should at least include *electro-shock stun belts, leg irons and sharp or serrated cuffs and any components for them, and batons or truncheons with spikes*. Brokering of such equipment should also be banned;
- Ban the use of weapons and ammunition which cause unwarranted injury or present an unwarranted risk;
- Strictly control all use, trade and brokering in listed equipment, technology and products which have legitimate uses for law enforcement purposes, but which because of their design could easily cause unwarranted injury or be abused for the purpose of torture and other cruel, inhuman or degrading treatment or punishment; Introduce strict guidelines and monitoring mechanisms for listed items in law enforcement and for trade;
- Legally require all new equipment and technology still in development and its potential legitimate uses to be proven consistent with international human rights standards before any operational deployment of such equipment or technology in law enforcement. This requires rigorous independent investigations of each type and sub-type of such devices and technologies by suitable medical, legal and other experts using relevant international human rights and other standards. The results in each case should be placed in the public domain and then considered by the legislature or parliament before any decision to deploy the equipment in law enforcement or allow it to be sold;
- Rigorously train all law enforcement officials in a differentiated range of methods of using force that are consistent with international human rights standards, particularly the UN Code of Conduct for Law

Enforcement Officials and the UN Basic Principles on the Use of Force and Firearms for Law Enforcement Officials;

- Vigorously investigate all instances where credible reports show excessive use of force by law enforcement officials and establish comprehensive reporting and review procedures to prevent a culture of impunity;
- Monitor and control the activities of manufacturers, suppliers, brokers and private security companies dealing in such equipment to ensure that they respect international human rights standards and promote awareness of such standards by all their employees;

## **7.1 Restraint devices and techniques**

- Adopt strict laws and regulations for law enforcement officials to eliminate unnecessary use of restraint devices and carefully monitor adherence to such regulations, as well as keep them under review;
- Ban the use, manufacture, trade and promotion of restraint devices and methods whose use is inherently cruel, inhuman or degrading: including *shackles, leg irons, leg cuffs and sharp or serrated cuffs*;
- Ban the use and promotion of restraint techniques whose use is inherently cruel, inhuman or degrading: including, *chain-gangs and the shackling of women in advanced pregnancy or labour; hog-tying and other prone restraint techniques*;
- Subject the design and use of restraint equipment such as *restraint boards* and *restraint chairs* to rigorous, independent and impartial review by appropriate medical, legal, police and other experts based on international human rights standards, and suspend all transfers of this equipment pending the outcome of this review.
- Review the use of instruments and methods of restraint like *rigid steel handcuffs* and *plastic handcuffs*, whose use in practice has revealed a risk of abuse or unwarranted injury, through a rigorous independent investigation by appropriate medical, police, legal and other experts who should report publicly whether there is a legitimate method of using such devices consistent with international human rights standards;

## 7.2 Kinetic impact weapons

- Establish strict laws and regulations consistent with international human rights standards for the use and sale of *batons, truncheons, sticks*, and all their variants for law enforcement; Prohibit the use of *batons or truncheons with spikes*; Monitor adherence to such laws and regulations and ensure that all officials are properly trained in the legitimate use of such equipment;
- Establish laws and regulations requiring all weapons that launch *kinetic impact devices* to be treated for practical purposes as firearms, and therefore to be used only by trained firearms officers and then strictly in accordance with the UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officers, which state, inter alia, that "Law enforcement officials shall not use firearms against persons except in self-defence or defence of others against the imminent threat of death or serious injury"
- Institute strict rules for the reporting to superior officers, and monitoring by them, of every launch of a kinetic impact device - including *plastic bullets, rubber bullets, plastic baton rounds, bean bags, wooden bullets* - and require that regular reports of such use are made by law enforcement agencies to legislature/parliaments;
- Take steps to address the issue of the lack of a forensic ballistics trail in plastic baton rounds and rubber bullets in order to allow for adequate monitoring and, where necessary, investigation of human rights violations by law enforcement officials when using such equipment;

## 7.3 Electro-shock weapons

- Ban the use, manufacture and transfer of *electro-shock stun belts*, whose use constitutes cruel, inhuman or degrading treatment;
- Suspend the use and transfer of *high voltage electro-shock stun weapons, including tasers*, whose medical and other effects are not fully known, pending a rigorous and independent inquiry by appropriate medical, legal, police and other experts based on

international human rights standards. Publish the results of the inquiry on each type and sub-type of such weapons and demonstrate before the legislature/parliament in each case that the effects are consistent with international human rights standards before making any decision on deployment.

#### **7.4 Disabling Chemicals**

- Establish laws and regulations based upon international human rights standards to strictly control the use of chemical irritants in law enforcement, and establish effective monitoring mechanisms to ensure such laws and regulations are adhered to, and kept under review; prohibit the indiscriminate or arbitrary use of riot control irritants such as tear gas on people in confined spaces;
- Refrain from using incapacitating chemical agents designed to sedate people for law enforcement purposes unless it can be demonstrated impartially that the agent has been proven to have legitimate use with a suitable margin of safety which will ensure that individuals are only exposed to incapacitating and not lethal concentrations, and will be protected from indiscriminate or arbitrary effects as required by international human rights standards.
- Suspend the deployment and transfer of those types of pepper spray or other chemical irritants, which have revealed a substantial risk of abuse, unwarranted injury or death, pending a rigorous and independent inquiry into its effects in each case by appropriate medical, legal, police and other experts. Publish the results of the inquiry on each type and sub-type of such weapons and demonstrate before the legislature/parliament in each case that the effects are consistent with international human rights standards before making any decision on deployment.

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## **Appendix 1: Framework of International Standards**

Amnesty International's policy and recommendations regarding the trade in equipment and expertise which can be used for torture or ill-treatment is based on principles set out in various international human rights standards, including international standards relating to law enforcement and prison administration. These standards:

### **absolutely prohibit torture and other cruel, inhuman or degrading treatment or punishment (ill-treatment)**

In common with other international human rights standards, the UN Code of Conduct for Law Enforcement Officials (Article 5) contains an absolute prohibition of torture and ill-treatment. The official Commentary to Article 5 states that the term cruel, inhuman or degrading treatment or punishment "should be interpreted so as to extend the widest possible protection against abuses, whether physical or mental."

### **prohibit the use of certain instruments of restraint, notably leg irons, and restrict the use of others**

According to Article 33 of the UN Standard Minimum Rules for the Treatment of Prisoners, instruments of restraint should never be used except as a precaution against escape during a transfer; on medical grounds by direction of the medical officer of the prison or detention centre; or by order of the director of the institution, if other methods of control fail, to prevent a prisoner from injuring himself or others or from damaging property. They must not be applied for any longer than is strictly necessary and must never be applied as a punishment. They should be removed when a prisoner appears before a judicial or administrative authority.

### **state that the use of force by law enforcement officials should be governed by the principles of necessity and proportionality**

Article 3 of the UN Code of Conduct for Law Enforcement Officials states that force should be used "only when strictly necessary". The official Commentary to Article 3 states that the use of force should be "exceptional"; that force should be used only "as is reasonably necessary under the circumstances"; and that it should be used for only two purposes, "the prevention of crime" and "effecting or assisting in the lawful arrest of offenders or suspected offender". The force used should not be disproportionate to the legitimate objectives to be achieved.

The UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials states that “Law enforcement officials, in carrying out their duty, shall, as far as possible, apply non-violent means before resorting to the use of force and firearms” (Article 4) and that “Whenever the lawful use of force and firearms is unavoidable, law enforcement officials shall..[m]inimize damage and injury, and respect and preserve human life” (Article 5).

Rule 54 of the UN Standard Minimum Rules for the Treatment of Prisoners states that officers must not use force against prisoners “except in self-defence or in cases of attempted escape, or active or passive physical resistance to an order based on law or regulations” and that “Officers who have recourse to force must use no more than is strictly necessary”.

**provide for the control of non-lethal weapons**

The UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials supports the use of non-lethal weapons and provides for their control. Article 2 of these UN Basic Principles states: “Governments and law enforcement agencies should develop a range of means as broad as possible and equip law enforcement officials with various types of weapons and ammunition that would allow for a differentiated use of force and firearms. These should include the development of non-lethal incapacitation weapons for use in appropriate situations, with a view to increasingly restraining the application of means capable of causing death or injury to persons”. Article 1 provides that “Governments and law enforcement agencies shall adopt and implement rules and regulations on the use of force and firearms against persons by law enforcement officials”. Article 3 states: “The development and deployment of non lethal incapacitating weapons should be carefully evaluated in order to minimize the risk of endangering uninvolved persons, and the use of such weapons should be carefully controlled.”

## **Appendix 2: The EC Trade Regulation Proposal**

*The Proposal for a Council Regulation concerning trade in certain equipment and products which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment.*<sup>177</sup>

The Trade Regulation proposes to:

- a) ban all trade in equipment which has no, or virtually no, practical use other than for the purpose of capital punishment or for the purpose of torture and other cruel, inhuman or degrading treatment and punishment. As well as equipment for capital punishment such as electric chairs and automatic drug injection systems, such equipment includes stun belts, leg irons and thumbcuffs, and any components for them. Brokering of such equipment will also be banned.
- b) strictly control trade in listed equipment and products, which because of its design could easily be abused for the purpose of capital punishment or for the purpose of torture and other cruel, inhuman or degrading treatment or punishment, but which also has legitimate uses for law enforcement purposes. Such equipment includes electric-shock batons and shields, stun guns and tasers, tear gas and pepper spray, and restraint chairs and shackle boards. Any export of such equipment will require authorisation, regardless of its origin.

The authorising authority will need to request full information on the country of destination, the end-user and the intended end-use, and full information on shipment routes and intermediaries, and whatever other information they deem necessary in order to prevent the equipment being used for the purpose of capital punishment or for the purpose of torture and other cruel, inhuman and degrading treatment. Such information might include an obligation to provide a statement signed by the end-user, or acceptance of a commitment not to re-export.

The EC Trade Regulation also has provisions to keep the list of equipment and products under regular review in order to take technological developments into

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<sup>177</sup> Council of the European Union document 5773/03, 27 January 2003

account, with particular attention to the increasing amount of “non-lethal” law enforcement equipment which could be more harmful than claimed by its manufacturer and therefore lend itself to abuse for the purpose of torture and other cruel, inhuman or degrading treatment or punishment. An annual ‘activity report’ on applications, transactions and denials will be made to the Commission, but it is not yet clear whether this will be made public.

The trade regulation is currently being discussed at officials' level. It will then go to the Council of Ministers to be considered for adoption, at which point it would become directly applicable in the member states.

### **Appendix 3. Selected Examples of United States Export Licenses Approved for Shock Batons, Stun Guns, Electric Cattle Prods and Related Devices in 2002**

(Data obtained from a Freedom of Information Act request filed by the Arms Sales Monitoring Project of the Federation of American Scientists. Each “Date of Licensing Decision” entry indicates a separate license approval.)

According to the Federal Register, the category for discharge type arms 0A985 is defined as “for example stun guns, shock batons, electric cattle prods, immobilization guns and projectiles, except equipment used exclusively to treat or tranquilize animals, and except arms designed solely for signal, flare and saluting use; and parts”.

Whilst Amnesty International welcomes the US government's transparency on arms trade data, it regrets that the US government has authorized the export of equipment in a category that includes electro-shock stun guns and shock batons to countries where the US State Department's own annual human rights reports have documented that security forces have tortured or ill-treated people using electric shock devices.

**COUNTRIES:** In 2002, the United States Department of Commerce **approved** licenses for exports of discharge type arms to the following countries: Andorra, Australia, Austria, Bahrain, Bangladesh, Belgium, Brazil, Chile, Costa Rica, Czech Republic, Ecuador, France, Germany, Ghana, Honduras, India, Ireland, Italy, Japan, Jordan, Kuwait, Lebanon, Malta, Mexico, Netherlands, New Zealand, Norway, Oman, Peru, Philippines, Poland, Portugal, Qatar, Republic of Korea, Saudi Arabia, Slovenia, South Africa, Spain, Sweden, Switzerland, Thailand, Trinidad and Tobago, United Arab Emirates, Uruguay, and Venezuela. In 2002, the United States Department of Commerce **denied** a license for exports of shock batons and stun guns to Nigeria.

**DOLLARS:** In 2002, the Department of Commerce approved 127 licences worth \$14,773,542 for exports of discharge-type items (stun guns, shock batons, electric cattle prods and immobilization guns and projectiles), according to the *United States*

*Department of Commerce Bureau of Industry and Security Foreign Policy Report 2003.* It denied 3 export licences worth \$124,000 for discharge type arms.

**Selected Examples of United States Export Licenses Approved for Shock Batons, Stun Guns, Electric Cattle Prods and Related Devices in 2002**

| <b>Date of Licensing Decision</b> | <b>Country</b> | <b>Excerpts from US Department of State “Country Reports on Human Rights Practices 2002”</b>  |
|-----------------------------------|----------------|---|
| 3/30/02<br>8/22/02                | Bangladesh     | “Police routinely used torture, beatings, and other forms of abuse while interrogating suspects and frequently beat demonstrators.... The police also allegedly beat Nasim... [and] administered <b>electric shocks</b> .”  |
| 6/06/02                           | Brazil         | “U.N. Special Rapporteur on Torture Sir Nigel Rodley concluded that torture was still widespread, systematic, and often deadly ... Torture was reportedly practiced during every phase of detention: Initial questioning, temporary detention, and long-term detention. ...the most common forms of torture were <b>electric shocks</b> , beatings, and threats.” |
| 2/09/02<br>5/24/02                | Equador        | “The police continued to torture and abuse suspects and prisoners... The Permanent Committee for the Defense of Human Rights (CDH) reported 10 cases of torture by police and 70 cases of torture by prison guards... The victims reported that the police beat them, burned them with cigarettes, applied <b>electric shocks</b> , or threatened them.”          |
| 09/06/02                          | Ghana          | “There were continued credible reports that members of the police and customs officials beat prisoners and other citizens. It generally was believed that severe beatings of suspects in police custody occurred throughout the country but largely went unreported.”   |
| 4/20/02                           | Honduras       | “The National Human Rights Commission and the Special Prosecutor for Human Rights accused prison officials of using excessive force against prisoners. Practices reported include beatings, isolation, threats, <b>electric shocks</b> , and immersion in water.”   |
| 8/22/02                           | India          | “The U.N. Special Rapporteur on Torture noted that methods of torture included beating, rape, crushing the leg muscles  |

|   |              |   |
|---|--------------|---|
|   |              | with a wooden roller, burning with heated objects, and <b>electric shocks</b> ... The prevalence of torture by police in detention facilities throughout the country was reflected in the number of cases of deaths in police custody.... police commonly tortured detainees during custodial interrogation.”   |
| 6/20/02   | Jordan       | “The most frequently alleged methods of torture included sleep deprivation, beatings on the soles of the feet, prolonged suspension with ropes in contorted positions.”   |
| 4/24/02   | Lebanon      | “Methods of torture reportedly included beatings and suspension by arms tied behind the back. Unlike in the past, there were no reported applications of <b>electric shocks</b> to the genitals.”   |
| 3/28/02<br>6/14/02<br>6/18/02<br>7/16/02<br>9/12/02 | Mexico       | “Torture... continued to be a serious problem... the police regularly obtain information through torture.”  |
| 5/24/02<br>7/19/02                                  | Saudi Arabia | “Security forces continued to abuse detainees and prisoners... Security forces committed torture... Ministry of Interior officials were responsible for most incidents of abuse of prisoners, including beatings, whippings, sleep deprivation, and at least three cases of drugging of foreign prisoners. In addition, there were allegations of torture, including allegations of beatings with sticks, suspension from bars by handcuffs, and threats against family members.” |
| 7/12/02   | South Africa | “Some members of the security forces were responsible for torture, excessive use of force during arrest, and other physical abuse. Some members of the police beat, raped, tortured and otherwise abused subjects and detainees.”   |
| 2/09/03<br>3/23/02<br>5/24/02<br>6/28/02            | Venezuela    | “Torture and abuse of detainees persisted... security forces continued to torture and abuse detainees physically and psychologically.”  |

## **Appendix 4: Countries where Electric Shock Torture / Ill-treatment has been reported by Amnesty International since 1990**

|                                 |                      |                    |
|---------------------------------|----------------------|--------------------|
| Afghanistan                     | Georgia              | Russian Federation |
| Algeria                         | Greece               | Rwanda             |
| Angola                          | Guatemala            | Saudi Arabia       |
| Argentina                       | Guinea               | Senegal            |
| Armenia                         | Haiti                | Somalia            |
| Austria                         | India                | South Africa       |
| Azerbaijan                      | Indonesia/East Timor | South Korea        |
| Bangladesh                      | Iran                 | Spain              |
| Belize                          | Iraq                 | Sri Lanka          |
| Bolivia                         | Jamaica              | Sudan              |
| Brazil                          | Jordan               | Syria              |
| Bulgaria                        | Kazakhstan           | Taiwan             |
| Burma                           | Kenya                | Tajikistan         |
| Burundi                         | Laos                 | Thailand           |
| Cambodia                        | Lebanon              | Togo               |
| Cameroon                        | Libya                | Tunisia            |
| Canada                          | Malawi               | Turkey             |
| Chad                            | Mauritania           | Turkmenistan       |
| Chile                           | Mexico               | Uganda             |
| China                           | Morocco / Western    | Ukraine            |
| Croatia                         | Sahara               | USA                |
| Cyprus                          | Namibia              | Uruguay            |
| Colombia                        | Nepal                | Uzbekistan         |
| Congo                           | Netherlands Antilles | Venezuela          |
| Democratic Republic<br>of Congo | Nigeria              | Vietnam            |
| Ecuador                         | Pakistan             | Yemen              |
| Egypt                           | Paraguay             | Yugoslavia         |
| El Salvador                     | Peru                 | Zambia             |
| Ethiopia                        | Philippines          | Zimbabwe           |
|                                 | Qatar                |                    |