



COMBATING TORTURE

THE NEED FOR COMPREHENSIVE REGULATION
OF LAW ENFORCEMENT EQUIPMENT



Omega Research Foundation

AMNESTY
INTERNATIONAL



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1. SUMMARY

Torturers are not born, they are recruited, trained, equipped and supported. In many cases it is foreign companies and governments who supply them with the law enforcement equipment that is used to inflict torture or other ill-treatment, and the expertise in how to use them. While certain governments are directly involved in the trade of these “tools of torture”, others prefer to turn a blind eye.

Some of the “tools of torture” are inherently abusive, that is, any use of them would constitute torture or other cruel, inhuman or degrading treatment or punishment (other ill-treatment). These include almost medieval implements like leg irons, neck restraints, spiked batons, chains and whips, as well as modern weapons and devices intended to achieve compliance through pain, such as electric shock batons, stun guns and stun belts. All such items must be banned totally for use in law enforcement. In contrast, other equipment, for example tear gas, pepper spray and handcuffs, may have, when used appropriately in line with international human rights standards, a legitimate role in law enforcement, but they are often systematically abused for torture or other ill-treatment. Their trade and use needs stringent regulation.

In recent years, increasing numbers of governments around the world have started the process of developing and introducing legislative measures to combat the trade in “tools of torture” at the national and regional levels, notably in the European Union (EU).¹ Building on these initiatives, on 18 September 2017 the Global Alliance for Torture Free Trade was launched. To date, almost 60 states from all regions of the world² have signed its Political Declaration to act together “to further prevent, restrict and end trade in goods intended for use in torture or capital punishment”; and to adopt legislation and efficient enforcement systems for the restriction and elimination of trade in such goods.³

Amnesty International and the Omega Research Foundation strongly support the Global Alliance initiative, and encourage all states to join. The Global Alliance has the potential now to facilitate the development of truly effective national and multilateral measures to combat the trade in “tools of torture”.

However, it is self-evident that to effectively combat this trade, states must agree a comprehensive definition of the range of goods covered, including those most commonly used to maim and brutalize people, whether through torture, other ill-treatment, excessive use of force, or other human rights violations. This should include not only banning inherently abusive equipment such as thumb cuffs, spiked batons and electric shock stun belts, but also controlling goods such as standard batons, handcuffs, pepper spray and tear gas, goods that have a legitimate law enforcement use but could be readily abused for torture or other ill-treatment.

1 Council Regulation (EC) No 1236/2005 of 27 June 2005 concerning trade in “certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment”. It came into effect on 31 July 2006. The Regulation has been amended several times. The consolidated EU Torture Trade Regulation contains the world’s first – and so far only – legally binding multilateral trade controls to prohibit the international trade in equipment which has no practical use other than for the purpose of execution, torture or other ill-treatment; and to control, through licensing requirements, the trade in equipment which could be abused for such violations of human rights.

2 For further details of the Global Alliance, see: <http://www.torturefreetrade.org/>

3 Global Alliance to end trade in goods used for torture and capital punishment, Political Declaration, New York, 18 September 2017, http://www.torturefreetrade.org/documents/170918_Political-Declaration-Torture-Free.pdf

The EU Torture Trade Regulation offers a good model dividing the items into two categories:

- i “prohibited” goods that are inherently abusive in nature, and;
- ii “controlled” goods that can have a legitimate law enforcement or other use but need to be subject to trade controls in order to avoid their employment in torture, other ill-treatment or the death penalty.

Law enforcement weapons and devices should never be supplied to recipients who are likely to use them for torture, other ill-treatment or other serious human rights violations. Although this principle is already incorporated in many policies of individual states and certain regional organizations, the lack of international regulation is a substantive loophole in practice that needs to be urgently closed. The current failure of states to collectively prohibit the trade in equipment which is inherently abusive, and effectively control other equipment which is often abused, poses a threat to human rights around the world.

Amnesty International and the Omega Research Foundation are calling on all states, including Global Alliance Members, to introduce comprehensive measures to tackle the trade in “tools of torture” by:

- Adopting regulations to ban the production of, and trade in, inherently abusive law enforcement equipment and related training;
- Adopting trade regulations, establishing strict control measures, incorporating human rights-based risk assessment, on the transfer of law enforcement equipment that could be easily abused for torture and other ill-treatment;
- Agree regional and international mechanisms to regulate the trade in “tools of torture” in a harmonized manner which incorporate a transparent system for reporting and information sharing.

THE CURRENT FAILURE OF STATES TO COLLECTIVELY PROHIBIT THE TRADE IN EQUIPMENT WHICH IS INHERENTLY ABUSIVE, AND EFFECTIVELY CONTROL OTHER EQUIPMENT WHICH IS OFTEN ABUSED, POSES



A THREAT TO HUMAN RIGHTS AROUND THE WORLD.

2. LEGAL FRAMEWORK

PROHIBITION OF TORTURE

Under international law, the prohibition of torture and other cruel, inhuman or degrading treatment or punishment (other ill-treatment) is absolute and it applies to all circumstances, including in situations of armed conflict, during anti-terrorist operations, or other public emergency. The absolute prohibition is a rule of customary international law and a peremptory norm, meaning that every state is bound by it even if they are not party to particular treaties containing the prohibition; it cannot be overruled by states reaching agreements to the contrary. States are obligated not only to protect people from torture and other ill-treatment by public officials but also from similar acts by private individuals, groups and companies. All acts of torture constitute a crime under international law. States have obligations to bring to justice everyone responsible for any act of torture. Certain acts which constitute other cruel, inhuman or degrading treatment or punishment are also crimes under international law.

By putting in place national legislation that recognizes the prohibition on the trade and use of intrinsically abusive equipment and weapons, and the additional obligation on states to adopt strict risk assessments based on human rights criteria on the transfer of legitimate law enforcement equipment, states will be helping to ensure fulfilment of their obligation to prohibit and prevent torture and other ill-treatment under international law.

States are obligated not only to protect people from torture and other ill-treatment by public officials but also from similar acts by private individuals, groups and companies. All acts of torture constitute a crime under international law.

PERSONS IN CUSTODY ARE IN AN ESPECIALLY VULNERABLE POSITION.



THE AUTHORITIES HAVE A CLEAR DUTY UNDER INTERNATIONAL HUMAN RIGHTS LAW TO BOTH RESPECT AND PROTECT DETAINEES AND PRISONERS.

USE OF FORCE STANDARDS

The rights to life and to freedom from torture and other ill-treatment, which are at the heart of international treaties and other instruments on the use of force by law enforcement officials, must be protected and respected at all times. Any use of force by law enforcement officials must be governed by the principles of necessity and proportionality.

The use of force by law enforcement officers is strictly regulated by international standards, including the 1979 Code of Conduct for Law Enforcement Officials⁴, and the 1990 United Nations (UN) Basic Principles on the Use of Force and Firearms by Law Enforcement Officials⁵, which require force to be used only by designated, trained and accountable public officials in strictly defined circumstances, and only when other means have failed or are ineffective in the circumstances and when its use is lawful, necessary and proportionate for the law enforcement objective.

Persons in custody are in an especially vulnerable position. The authorities have a clear duty under international human rights law to both respect and protect detainees and prisoners. Any use of force by custodial officials must respect the principles of necessity and proportionality. The UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)⁶, provide both principles and practical rules for the use of restraints in prisons. Rule 82 states that “Prison staff shall not ... use force except in self-defence or in cases of attempted escape, or active or passive physical resistance to an order based on law or regulations. Prison staff who have recourse to force must use no more than is strictly necessary.”

4 UN, Code of Conduct for Law Enforcement Officials, adopted by UN General Assembly resolution 34/169 of 17 December 1979

5 UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials, adopted by the Eighth United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Havana, Cuba, 27 August to 7 September 1990

6 The UN Standard Minimum Rules for the Treatment of Prisoners [SMR], originally adopted by the UN Crime Congress in 1955, have been revised (and renamed) during 2010-15. The revised SMR – named the Mandela Rules – were adopted by the UN Commission on Crime Prevention and Criminal Justice on 21 May 2015 (E/CN.15/2015/L.6/Rev.1), and consequently adopted by the UN General Assembly, in December 2015.

3. PROHIBITED AND CONTROLLED WEAPONS AND DEVICES

Stringent controls on the trade of “tools of torture” are urgently needed given that currently unregulated international transfer of security and policing equipment poses a threat to people’s enjoyment of their human rights, notably the right to life, to security of person, to dignity, and to freedom from torture and other ill-treatment.

Amnesty International and the Omega Research Foundation believe that in order to be fully effective, any legislation aiming to tackle this trade should have a double approach and distinguish between:

- i) goods that are inherently abusive and therefore, whose manufacture, promotion and trade should be banned, and
- ii) goods that might have a legitimate law enforcement purpose but which are commonly abused for torture and other ill-treatment, whose transfer should be subject to stringent controls to ensure that they will not be used for such violations.

Examples of items that should be prohibited include leg irons, electric shock stun belts and inherently painful devices such as serrated thumb cuffs. Examples of items that should be controlled include batons, tear gas and ordinary handcuffs. The table below and following sections provide examples of goods that Amnesty International and the Omega Research Foundation believe should be prohibited, and those that should be controlled.

ELECTRIC SHOCK WEAPONS /DEVICES	MECHANICAL RESTRAINTS	RIOT CONTROL AGENTS (RCAs)
	KINETIC IMPACT WEAPONS/DEVICES	

ELECTRIC SHOCK WEAPONS/DEVICES	MECHANICAL RESTRAINTS	KINETIC IMPACT WEAPONS/ DEVICES	RIOT CONTROL AGENTS (RCAs)
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ITEMS THAT AMNESTY AND OMEGA BELIEVE SHOULD BE PROHIBITED

<p>Direct contact electric shock devices including: shock shields, shock batons, stun guns, stun gloves, shock grabbing devices</p> <p>Body worn electric shock devices including: stun cuffs, stun belts, stun sleeves and stun vests</p>	<p>Thumb cuffs and finger cuffs</p> <p>Thumbscrews and fingerscrews</p> <p>Leg irons</p> <p>Bar fetters</p> <p>Gang chains comprising bar fetters or weighted leg restraints</p> <p>Neck restraints</p> <p>Multi-point restraints (with metal restraints)</p> <p>Multi-point restraints with fabric straps intended for law enforcement purposes including restraint chairs, shackle boards and shackle beds</p> <p>Weighted restraints</p> <p>Fixed restraints</p> <p>Cage beds and net beds</p> <p>Prisoner hoods and blindfolds</p>	<p>Strengthened whips and sjamboks</p> <p>Spiked batons and other spiked weapons/devices</p> <p>Weighted batons and weighted gloves</p>	<p>Inherently dangerous RCA delivery mechanisms</p>
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ITEMS THAT AMNESTY AND OMEGA BELIEVE SHOULD BE CONTROLLED

<p>Projectile electric shock weapons</p>	<p>Ordinary handcuffs and restraints</p> <p>Leg cuffs and restraints</p> <p>Multi-point restraints with fabric restraints for medical use including: restraint chairs, shackle boards and shackle beds</p>	<p>Hand-held striking weapons including: standard batons, truncheons and tonfas</p> <p>Launched kinetic impact weapons/ projectiles including: rubber bullets and plastic bullets</p>	<p>Tear gas (CS, CN and CR)</p> <p>Pepper Spray (OC and PAVA)</p> <p>RCA delivery mechanisms</p>
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3.1 GOODS THAT SHOULD BE PROHIBITED

3.1.1 ELECTRIC SHOCK WEAPONS AND DEVICES



DIRECT CONTACT ELECTRIC SHOCK WEAPONS AND DEVICES

INCLUDING STUN GUNS, SHOCK BATONS, SHOCK SHIELDS



Images (from left to right) of an electric shock baton, electric shock stun gun, electric shock shield and electric shock grabbing device (all images © Robin Ballantyne/Omega Research Foundation).

The electric shock from these weapons and devices is applied directly by hand, as they are pressed against an individual, causing intense localized pain but generally not incapacitating the subject. Due to their intrinsic nature and design, direct contact electric shock weapons and devices carry an unacceptable risk of arbitrary force. In addition, the ability to apply extremely painful electric shocks at the push of a button, and to repeatedly do this without long-lasting identifiable physical traces, makes them a favoured tool of torture. UN and regional torture monitors, Amnesty International and other non-governmental anti-torture organizations have documented incidents of abuse in all regions of the world.⁷



SERBIA: ELECTRIC SHOCK TORTURE TO ELICIT FORCED CONFESSIONS

The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) documented the use of electric shock torture or other ill-treatment by Serbian police officers to force prisoners to confess to certain crimes.⁸ One person arrested in Belgrade in March 2017 was brought to the Metropolitan Police Headquarters where he was forced to sit in a chair with his hands cuffed behind his back, punched several times in the body and subjected to repeated electric shocks from a hand-held torch-like device (measuring around 20cm) to the ribs, legs and lower back.

⁷ See Amnesty International, Hotspot Italy, How EU's flagship approach leads to violations of refugee and migrant rights (Index: EUR 30/5004/2016) p. 18, <https://www.amnesty.org/en/documents/eur30/5004/2016/en/>; Amnesty International, Above the law, police torture in the Philippines (Index: ASA 35/007/2014), p. 75, <https://www.amnesty.org/en/documents/asa35/007/2014/en/>; Amnesty International, Report 2016/17 (Index: POL 10/4800/2017), p. 308, <https://www.amnesty.org/en/documents/pol10/4800/2017/en/>

⁸ European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT), Report to the Government of Serbia on the visit to Serbia carried out by the CPT from 31 May to 7 June 2017, CPT/Inf (2018) 21, Strasbourg, 21 June 2018, p.12. See <https://rm.coe.int/16808b5ee7>.

Another person arrested and taken to the Metropolitan Police Headquarters alleged that, while handcuffed behind his back, a bullet-proof vest was placed over his upper body and several police officers proceeded to deliver punches and baton blows to his body. Further, he stated that they used a “torch device” to deliver electric shocks to his genitals; he claimed that he had blood in his urine for several days thereafter.

Another person arrested at the Hungarian border and taken to Novi Sad District Police Station alleged that he was subjected to repeated electric shocks from a hand-held device to the inner part of his legs and his testicles both during transportation and while handcuffed to a safe in a crime inspector’s office.

PROHIBIT BODY WORN ELECTRIC SHOCK DEVICES

DEVICES INCLUDING STUN BELTS, STUN VESTS AND STUN CUFFS



Images (from left to right) electric shock stun belt, electric shock ankle cuff (both taken from company promotional materials); and electric shock sleeve (last image© Robin Ballantyne/Omega Research Foundation).

A range of electric shock devices are intended for attachment directly to prisoners’ bodies and can be activated by remote control; they include stun belts, stun vests and stun cuffs. They are worn, sometimes for many hours at a time, with the constant threat that they would be activated at any moment, and in the case of stun belts will deliver a 50,000 volt shock, via electrodes placed near the prisoner’s kidneys, resulting in severe pain for the duration of the shock and causing muscles to contract involuntarily, rendering the subject immobile. Other physical effects can include muscular weakness, involuntary urination and defecation, heartbeat irregularities, seizures and welts on the skin. Although both the UN Committee against Torture⁹ and the European Committee for the Prevention of Torture¹⁰ have condemned the use of stun belts and recommended such practices be halted, they, and other body worn electric shock devices, have been manufactured by companies in the Americas, Africa and Asia, and have been promoted by companies in all regions of the world. These devices have been used to control prisoners in certain countries including South Africa,¹¹ and some states of the United States of America.¹²

9 Report of the Committee against Torture, UN Doc. A/55/44 (2000), para. 180(c).

10 CPT, 20th General Report, CPT/Inf (2010)28, 26 October 2010, para. 74.

11 Omega Research Foundation/Institute for Security Studies, “Compliance through pain: Electric shock equipment in South African prisons”, policy brief 86, June 2016.

12 See Omega Research Foundation, “Use of body-worn electric shock in US State prisons”, <https://omegaresearchfoundation.org/case-studies/use-body-worn-electric-shock-us-state-prisons>

3.1.2 MECHANICAL RESTRAINTS

PROHIBIT

INHERENTLY DEGRADING OR PAINFUL RESTRAINTS

INCLUDING THUMB CUFFS, LEG IRONS, BAR FETTERS, NECK RESTRAINTS, WEIGHTED RESTRAINTS AND FIXED RESTRAINTS



Images (from left to right) of thumb cuffs, weighted leg irons and neck restraint (all images © Robin Ballantyne/Omega Research Foundation).

The Nelson Mandela Rules and the use of restraints

The UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules)¹³ provide both principles and practical rules for the use of restraints in prisons. The overarching principle is that “No prisoner shall be subjected to, and all prisoners shall be protected from, torture and other cruel, inhuman or degrading treatment or punishment” (Rule 1), hence the absolute prohibition on any “use of chains, irons or other instruments of restraint which are inherently degrading or painful” (Rule 47(1)).

Rule 47(2) provides that “Other instruments of restraint” – that is, ones that are not inherently degrading or painful – may only be used “As a precaution against escape during a transfer, provided that they are removed when the prisoner appears before a judicial or administrative authority” and “By order of the prison director, if other methods of control fail, in order to prevent a prisoner from injuring himself or herself or others or from damaging property”. Rule 48 further clarifies that instruments of restraint can only be used after “lesser means of control” have proved ineffective, that the method used must be the least intrusive one and be removed as soon as is no longer necessary, and that it must “never be used on women during labour, during childbirth and immediately after childbirth.” Importantly, Rule 49 adds that “The prison administration should seek access to, and provide training in the use of, control techniques that would obviate the need for the imposition of instruments of restraint or reduce their intrusiveness.”

Despite the prohibitions of the Nelson Mandela Rules, some companies have manufactured a range of degrading or painful mechanical restraints that severely restrict movement, some of which are likely to cause severe physical pain as well as mental suffering or risk serious injury to the prisoner. They include thumb cuffs, finger cuffs, leg irons, bar fetters, weighted leg restraints, neck restraints, and restraints specifically designed to be bolted to prison walls, floors or ceilings. For example, the Omega

¹³ UN Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules), adopted by UN General Assembly resolution 70/175, 17 December 2015, Annex.

Research Foundation has documented a company that has manufactured and promoted a restraint bracelet incorporating a single handcuff and a “stationary mount in the form of a rock bolt”. According to the company information, this restraint device “allows you to restrict freedom of movement” of the prisoner who will be “securely chained to the wall.” The company has also manufactured “Bouquet” bracelets for restraining up to five prisoners together that allows the “possibility of fixing [a] group ... to a fixed support.” The company has claimed that both of these fixed restraints have been adopted by the “Interior Ministry [and] the Federal Border Service” of an East European state.¹⁴

PROHIBIT CAGE BEDS AND NET BEDS



Image of cage bed (left) (© Volunteers at Kepep Institution); image of net bed (right) (taken from company promotional materials).

Cage beds and net beds comprise a cage (four sides and a ceiling) or similar structure enclosing a human being within the confines of a bed, the ceiling or one or more of the sides of which are fitted with metal or other bars (in the case of cage beds) or fabric netting (in the case of net beds), and which can only be opened from outside. The Human Rights Committee, the expert UN body charged with overseeing the implementation of the International Covenant on Civil and Political Rights (ICCPR), has called for a cessation of the use of cage beds, and has stated that their use “is considered an inhuman and degrading treatment of patients confined in psychiatric and related institutions”.¹⁵ The CPT in its revised standard-setting document of 2017 concerning “means of restraint in psychiatric establishments for adults”, stated that “the use of net (or cage) beds should be prohibited under all circumstances.”¹⁶ Certain countries, notably the Czech Republic, have previously employed net beds in psychiatric institutions despite CPT reports¹⁷ expressing serious misgivings about their use and calling for an end to such practices.¹⁸

14 For further details of the company and products see: “Manufacture, trade and use of ‘tools of torture’ in the Council of Europe”, Omega Research Foundation, June 2018. https://omegaresearchfoundation.org/sites/default/files/uploads/Publications/ORF%20CoE%20Tools%20of%20Torture%20Report%20Revised%20June%202018%20FINAL_1.pdf

15 Concluding Observations of the Human Rights Committee, Slovakia, UN Doc. CCPR/CO/78/SVK, 22 August 2003, para. 13; Concluding Observations of the Human Rights Committee, Czech Republic, UN Doc. CCPR/C/CZE/CO/2 9 August 2007, para. 13.

16 CPT, Means of restraint in psychiatric establishments for adults (Revised CPT standards), CPT/Inf(2017)6, 21 March 2017.

17 CPT, Report to the Czech Government on the visit to the Czech Republic carried out by the CPT from 1 to 10 April 2014, CPT/Inf (2015) 18, 31 March 2015.

18 The risks linked with the use of net beds were illustrated by the case of a 51-year-old woman who died in a net bed at Dobřany Psychiatric Hospital in January 2012. According to the CPT, “The patient concerned was reportedly placed in a net-bed on the day of her admission to the hospital and, after having spent several hours therein, she tore the net and strangled herself in the loop. Allegedly, this happened despite constant CCTV-coverage of the net-bed where the patient was placed.” CPT (31 March 2015) op. cit., para 170.



MULTI-POINT RESTRAINTS WITH METAL RESTRAINTS

INCLUDING RESTRAINT CHAIRS, SHACKLE BEDS OR SHACKLE BOARDS



Images of restraint chairs with metal hand and foot restraints
(© Robin Ballantyne/Omega Research Foundation).

Amnesty International and the Omega Research Foundation have documented the marketing of multi-point restraints, notably restraint or interrogation chairs, incorporating metal hand and foot shackles or other metal restraints.¹⁹ Amnesty International has also documented the employment of similar devices in the torture of prisoners, notably in China.²⁰ The trade and use of all such inherently abusive equipment should be prohibited.



CHINA: LAWYER BOUND HAND AND FOOT TO RESTRAINT CHAIR

Amnesty International has documented the use by Chinese prison and law enforcement officials of a range of degrading and painful restraint techniques, with some prisoners being handcuffed, leg-cuffed and bound for long periods to inherently abusive mechanical restraint devices such as iron restraint chairs.²¹ On 21 November 2017 prominent human rights lawyer Jiang Tianyong was sentenced to two years' imprisonment for "inciting subversion of state power". While in detention, he was forced to endure poor prison conditions which had damaged his health, with his father personally witnessing him being cuffed by his hands and his feet to an iron restraint chair. Jiang Tianyong said he was force-fed unknown medication twice a day, and according to his family, his memory had drastically deteriorated.²²

19 Amnesty International and the Omega Research Foundation, *Grasping the nettle: Ending Europe's trade in execution and torture technology* (Index: ACT 01/1632/2015); *China's trade in tools of torture and repression* (Index: ASA 17/042/2014).

20 Amnesty International, *Hands and feet of lawyer cuffed to iron chair*, Urgent Action (Index: ASA 17/8818/2018); Amnesty International, *No end in sight: torture and forced confessions in China* (Index: ASA 17/2730/2015).

21 Amnesty International, *No end in sight: torture and forced confessions in China* (Index: ASA 17/2730/2015) <https://www.amnesty.org/download/Documents/ASA1727302015ENGLISH.PDF>

22 Amnesty International, *Hands and feet of lawyer cuffed to iron chair*, Urgent Action (Index: ASA 17/8818/2018) <https://www.amnesty.org/download/Documents/ASA1788182018ENGLISH.pdf>

3.1.3 KINETIC IMPACT WEAPONS AND DEVICES



INHERENTLY ABUSIVE OR DANGEROUS KINETIC IMPACT WEAPONS AND DEVICES

INCLUDING SPIKED BATONS, SPIKED SHIELDS AND SPIKED ASSAULTIVE ARM ARMOUR; SJAMBOKS AND OTHER STRENGTHENED WHIPS; WEIGHTED GLOVES AND WEIGHTED BATONS



Images of spiked batons (far left and left), a spiked shield (centre), image of spiked arm armour (right) (all images© Robin Ballantyne/Omega Research Foundation)

Investigations by Amnesty International and the Omega Research Foundation have discovered the ongoing marketing to police and security forces of a range of inherently abusive and dangerous kinetic impact weapons and devices. They are designed to increase, not minimize, the amount of pain and injury inflicted on subjects, and certain types can cause skin tearing and puncture injuries. Their use would lead to severe physical pain, mental suffering and serious injury and they therefore clearly cannot legitimately be used for law enforcement purposes.

3.2 GOODS THAT SHOULD BE CONTROLLED

3.2.1 ELECTRIC SHOCK WEAPONS



PROJECTILE ELECTRIC SHOCK WEAPONS



Images of projectile electric shock weapons (© Robin Ballantyne/Omega Research Foundation).

Projectile electric shock weapons fire darts – connected by electrical wires to the launch device – at an individual and can be used from a distance of several metres. The darts attach to a person’s body, delivering an incapacitating high-voltage electric shock that causes the subject to lose muscle control (neuro-muscular incapacitation). Projectile electric shock weapons should be strictly limited to “stand-off” situations where the only alternative is the use of lethal force or firearms when an officer is facing or trying to prevent an imminent threat of death or serious injury. Regulations should require officers to avoid additional shocks and prohibit continuous or simultaneous shocks with multiple weapons. Regulations should also prohibit the use of such weapons on subjects who are restrained, and on individuals who are more vulnerable, including children, the elderly, and pregnant women.

Certain projectile electric shock weapons also incorporate a direct contact electric shock mode (also called drive-stun), where the weapon is held against the body of an individual and the electric shock applied directly, without firing the projectiles. The drive-stun mode causes pain but does not create neuro-muscular incapacitation of the individual, allowing the weapon to be employed as a *de facto* direct contact electric shock weapon. This capability is prone to abuse, including for torture and other ill-treatment, and therefore this capability should be banned and removed from the design of these weapons intended for law enforcement.

3.2.2 MECHANICAL RESTRAINTS

CONTROL

ORDINARY HANDCUFFS AND LEG CUFFS



Image of standard handcuffs (left) and leg restraints (right) (both images© Robin Ballantyne/Omega Research Foundation).

One of the most common types of law enforcement equipment, mechanical restraints, are applied to the body to restrict the movement of an individual. If used appropriately, in conformity with international human rights law and standards, certain mechanical restraints such as ordinary handcuffs and leg cuffs can be legitimately used to ensure the safe detention and restraint of prisoners. The circumstances and limits within which these restraints are used should be consistent with international and regional human rights standards, notably but not exclusively, the Nelson Mandela Rules (see above). Whilst their use is common in law enforcement, UN and regional monitoring bodies, and anti-torture NGOs, have frequently documented the abuse of handcuffs and leg restraints to increase the level of suffering caused to individuals already under control, for example through excessive tightening; attachment to fixed objects; prolonged use; employment in suspension of prisoners; to place and maintain prisoners in stress positions; or used in conjunction with other means of force e.g. hand-held batons or pepper spray.

The circumstances and limits within which these restraints are used should be consistent with international and regional human rights standards, notably but not exclusively, the Nelson Mandela Rules.

CONTROL

MULTI-POINT RESTRAINTS WITH FABRIC STRAPS

INCLUDING RESTRAINT CHAIRS, SHACKLE BEDS OR SHACKLE BOARDS



Images of restraint chair (left) and restraint bed (right) with fabric restraints (both images © Robin Ballantyne/Omega Research Foundation).

Some full body restraints might have legitimate employment in restricted and carefully controlled medical contexts, for instance to prevent movement during emergency treatment, or to prevent suicide or self-harm. However, a range of devices incorporating multiple restraints such as shackle boards, shackle beds and restraint chairs have been commercially promoted for penal and law enforcement use,²³ although they are inappropriate for such use. The UN Committee against Torture has recommended the abolition of “restraint chairs as methods of restraining those in custody”, as “[t]heir use almost invariably leads to breaches of Article 16 [the prohibition against cruel, inhuman or degrading treatment].”²⁴

23 Amnesty International and the Omega Research Foundation, *Grasping the nettle: Ending Europe's trade in execution and torture technology* (Index: ACT 01/1632/2015); *China's trade in tools of torture and repression* (Index: ASA 17/042/2014).

24 Conclusions and Recommendations of the Committee against Torture: United States of America, UN Doc. CAT/C/24/6, 15 May 2000, para. 6(c).



NEW ZEALAND: ABUSIVE USE OF “TIE-DOWN BEDS” AND WAIST RESTRAINTS

Separate reviews by New Zealand’s Ombudsman²⁵ and an independent expert commissioned by the country’s Human Rights Commission, Dr Sharon Shalev,²⁶ highlighted the high use of prolonged solitary confinement and restraint practices in places of detention and the overrepresentation of the indigenous Maori people in these incidents. The use of “tie-down beds” and/or waist restraints in prisons and the use of restraint chairs in police custody was particularly concerning, and it was not clear that these extreme forms of restraint were reserved as a last resort when all else had been tried and failed.

Tie-down beds are multi-point restraint systems used to bind prisoners by the torso, arms, and legs, purportedly to prevent self-harm. By law, they can only be used as a last resort and with medical approval. The Ombudsman detailed cases where the use of restraints amounted to cruel, inhuman or degrading treatment or punishment. There was under-resourcing and prisoners lacked access to adequate mental health care services, contributing to the use of restraints to manage prisoners. In one case, a prisoner was restrained in a tie-down bed for almost 600 hours, and in another case the prisoner was kept in a waist restraint with his hands cuffed behind his back for an average of 21 hours a day over a period of more than three months.²⁷

The use of “tie-down beds” and/or waist restraints in prisons and the use of restraint chairs in police custody was particularly concerning, and it was not clear that these extreme forms of restraint were reserved as a last resort when all else had been tried and failed.

25 Ombudsman findings under the Optional Protocol to the Convention against Torture (OPCAT) 2017: A question of restraint, 1 March 2017, <http://www.ombudsman.parliament.nz/resources-and-publications/documents/a-question-of-restraint>.

26 Dr Sharon Shalev, “Thinking outside the box? A review of seclusion and restraint practices in New Zealand”, <http://www.seclusionandrestRAINT.co.nz/>

27 Ombudsman report, “A question of restraint”, opt cit. Page 24 onwards for more detail of the specific cases. Ombudsman found that the use of the tie-down bed and/or waist restraints in the circumstances of five prisoners amounted to cruel, inhuman or degrading treatment or punishment for Article 16 of the Convention against Torture.

3.2.3 KINETIC IMPACT WEAPONS and DEVICES



KINETIC IMPACT WEAPONS/DEVICES

INCLUDING BATONS, PLASTIC AND RUBBER BULLETS



Image of range of batons
(© Robin Ballantyne/Omega Research Foundation).

Amnesty International and the Omega Research Foundation have identified companies throughout all regions of the world that have manufactured or promoted hand-held kinetic impact (or striking) weapons, notably batons and truncheons; or launched kinetic impact weapons and projectiles such as plastic and rubber bullets.²⁸ Such hand-held or launched weapons and projectiles are widely employed by law enforcement officials mostly in public order policing as well as in places of detention. If employed in conformity with international human rights law and standards, in particular regarding the use of force, certain types of such weapons can have a legitimate role in law

enforcement.²⁹ However, equipment relying on kinetic energy should not be designed to penetrate the skin by, for example, reducing the contact area. Serious injuries may also be caused by a non-penetrating impact. Moreover, human rights organizations have regularly documented their widespread abuse to inflict unnecessary or excessive force, which has amounted in certain cases to torture or other ill-treatment, or has resulted in serious injury or death.³⁰



UKRAINE: BEATINGS WITH BATONS

Police used batons to beat protestors during the EuroMaydan protests in Ukraine, between 21 November 2013 and 22 February 2014. The protests started peacefully but escalated into a series of violent and often deadly confrontations between protestors and law enforcement officials. Police abuses significantly fuelled the EuroMaydan protests and in many instances led to further escalation of violence.

During an otherwise overwhelmingly peaceful protest on 1 December 2013, a small group of protestors in Bankova Street, near the Presidential Administration Building, in Kiev, engaged in violence while the police charged the crowd a number of times, indiscriminately beating fleeing protestors. Berkut (special police force) police officers beat with batons and kicked repeatedly those who fell while fleeing and continued to beat individuals who were apprehended,

28 See for example: Amnesty International and the Omega Research Foundation, *China's trade in tools of torture and repression* (Index: ASA 17/042/2014); Amnesty International and the Omega Research Foundation, *Grasping the nettle: Ending Europe's trade in execution and torture technology* (Index: ACT 01/1632/2015); Omega Research Foundation, "Manufacture, trade and use of 'tools of torture' in the Council of Europe", June 2018; Omega Research Foundation, "Tools of torture and repression in South America: Use, manufacture and trade", July 2016.

29 For more information on the human rights impact of kinetic impact projectiles, see Amnesty International and the Omega Research Foundation, *The human rights impact of less-lethal weapons and other law enforcement equipment* (Index: ACT 30/1305/2015).

30 See for example, Omega Research Foundation, "Manufacture, trade and use of 'tools of torture' in the Council of Europe", June 2018.

Dozens of people were killed and at least 1,000 seriously injured during the protests,..

surrounded and putting up no resistance. Among them was **Oleksandr Ostaschenko**, aged 32, who was forced to kneel and was beaten with batons.³¹ He and others were arrested and charged with “organizing mass disorder”, and as soon as their remand hearing was over, all but one had to be hospitalized because of their injuries.

Other victims included **Iryna Rabchenyuk**, aged 51, who suffered a fractured skull and lost the sight in one eye when a passing Berkut officer hit her in the face with a baton while she was watching the protests from the nearby Institutska Street.

Dozens of people were killed and at least 1,000 seriously injured during the protests, and although the post-EuroMaydan Ukrainian authorities have promised justice for the victims, those responsible for these human rights violations have for most part enjoyed almost complete impunity for their actions.³² Criminal proceedings against unspecified Berkut officers were initiated in connection with this event, but no suspects have been identified and no one has been prosecuted.



VENEZUELA: BLINDED BY A RUBBER BULLET

“I went out and as soon as the police officer saw me on the balcony, he raised his gun and fired immediately”,

John Michael Ortiz Fernández.

Amnesty International has documented many cases in which law enforcement officials used excessive force in the context of the pro- and anti-government protests that took place in various parts of Venezuela between February and July of 2014. On several occasions officers fired rubber bullets at people who were clearly unarmed at close range and without giving a clear warning, with the apparent intention of causing maximum injury. On 21 April 2014, 16-year-old **John Michael Ortiz Fernández** was hit in the left eye by a rubber bullet, when he went out onto the balcony of his home in San Cristóbal (Táchira State). The bullet burned his retina and doctors believed he would not retain more than 30% of his sight in his left eye.³³

31 Video footage of the incident is available from: <https://www.youtube.com/watch?v=fIMFIA55SBg>

32 Amnesty International, *Ukraine: A year after EuroMaydan, justice delayed, justice denied* (Index: EUR 50/001/2015), <https://www.amnesty.org/download/Documents/EUR5000012015ENGLISH.pdf>

33 Amnesty International, *Report 2014/15 – Venezuela section*, POL 10/001/2015, <https://www.amnesty.org/en/latest/research/2015/02/annual-report-201415/>

3.2.4 RIOT CONTROL AGENTS

CONTROL RIOT CONTROL AGENTS

INCLUDING TEAR GAS, PEPPER SPRAY



Images of multi-barrel projectile launcher and drone with RCA projectile launcher (© Robin Ballantyne/Omega Research Foundation).

Riot control agents (RCAs) are a range of toxic chemicals, including pepper spray and tear gas, which are commonly used (for example in hand-thrown or weapon-launched RCA grenades and cartridges, or via water cannon) for controlling or dispersing crowds. They are also employed (in hand-held sprays) against an individual or a small number of people, rather than in a crowd control situation. RCAs can pose a risk of unnecessary harm if used without following the manufacturer's instructions or in contravention of human rights standards. Of particular concern is the use of RCAs in excessive quantities or in confined spaces where people cannot disperse and the toxic properties of the agents can lead to serious injury or death, particularly to vulnerable individuals.

The majority of RCA delivery devices currently manufactured, traded and employed by law enforcement officials (such as RCA grenades and cartridges, hand-held chemical irritant sprayers or single RCA projectile launchers) individually disperse a limited amount of RCA over relatively short distances. However, there have been many reports of excessive use of force where RCAs were used directly targeting individuals in the street, against individual prisoners or in other situations within detention centres sometimes constituting torture or other ill-treatment. In addition RCAs have been used in excessively large quantities, during policing of public assemblies, sometimes resulting in serious injuries, like in Gaza (see below), in Venezuela³⁴ and the Democratic Republic of Congo (see page 21).

The Omega Research Foundation has documented the development and promotion of a growing range of systems capable of delivering significant amounts of RCA over wide areas or extended distances, which have the potential to cause substantial injuries. These include large-capacity spraying devices,

34 During 2017, Venezuelan security forces and government-sponsored civilian armed groups carried out a series of "nights of terror" violently breaking into people's homes as a way of intimidating them against taking part in demonstrations or any other form of protest. Officials fired indiscriminately into houses using riot control equipment and weapons (for example, tear gas and pellet guns). Many people experienced breathing difficulties and some required medical treatment for the effects of tear gas as well as for gunshot injuries. See Amnesty International, *Nights of terror: Attacks and illegal raids on homes in Venezuela*, (Index: AMR 53/7285/2017), <https://www.amnesty.org/download/Documents/AMR5372852017ENGLISH.PDF>

automatic grenade launchers, multi-barrel projectile launchers and large calibre RCA projectiles.³⁵ A contemporary trend has been the development of unmanned ground vehicles or unmanned aerial vehicles (drones) capable of carrying RCA-spraying devices or RCA projectile launchers. Their use raises serious questions as to whether and under what circumstances such use can be in line with international human rights law and standards. Other forms of wide-area RCA delivery mechanisms previously developed by companies in Asia and Europe including RCA artillery and mortar shells and cluster munitions are inherently inappropriate for law enforcement.



DEMOCRATIC REPUBLIC OF CONGO: TEAR GAS USED WITH LIVE BULLETS AGAINST PEACEFUL CHURCH PROTESTS

Between December 2017 and February 2018, the Lay Co-ordination Committee, a group affiliated to the Catholic Church, carried out peaceful protests once a month, after Sunday mass to demand the implementation of the 31 December 2016 Agreement³⁶ which provided confidence building measures including the opening of the civic space. Protests were held across the DRC on 31 December 2017, 21 January and 25 February 2018. These protests were met with brutal and systematic repression by the security forces. In many cases, the security forces did not engage in any dialogue with the protesters. In some instances, they blocked the parishioners' access to the church. Security forces used tear gas and live bullets against unarmed protesters. Fifteen peaceful protesters were killed, dozens were injured and many more arbitrarily arrested.³⁷



Riot policemen fire tear gas to disperse a Catholic priest and other demonstrators during a protest against President Joseph Kabila, organized by the Catholic church in Kinshasa, Democratic Republic of Congo 21 January 2018. (© REUTERS/Kenny Katombe).

35 Crowley, M., *Drawing the line: Regulation of "wide area" riot control agent delivery mechanisms under the Chemical Weapons Convention*, Bradford University/Omega Research Foundation, April 2013, <http://www.css.ethz.ch/en/services/digital-library/publications/publication.html/163630>; Crowley, M., *Tear gassing by remote control: The development and promotion of remotely operated means of delivering or dispersing riot control agents*, Bradford University/Omega Research Foundation/Remote Control Project, December 2015, <https://omegaresearchfoundation.org/sites/default/files/uploads/Publications/Tear%20Gassing%20By%20Remote%20Control%20Report.pdf>

36 Amnesty International, DRC: Persistent suppression of civic space despite official rhetoric (Index: AFR 62/8395/2018), <https://www.amnesty.org/download/Documents/AFR6283952018ENGLISH.pdf>

37 Amnesty International, DRC: "They came with the intention to do harm." Brutal repression of peaceful protests, 10 May 2018, <https://www.amnesty.org/en/latest/campaigns/2018/05/brutal-repression-of-peaceful-protests-in-drc/>



ABUSIVE USE OF TEAR GAS IN GAZA



Palestinians run for cover from tear gas during clashes with Israeli security forces near the border between Israel and the Gaza Strip, east of Jabalia on May 14, 2018, as Palestinians protest over the inauguration of the US embassy following its controversial move to Jerusalem. (Photograph ©Mohammed Abed/AFP/Getty Images)

In response to protest during the “Great March of Return” in the Gaza Strip, from March 2018, Israeli forces employed tear gas, rubber bullets and live fire against the demonstrators resulting in deaths and thousands of injuries, including to children. Some 140 Palestinians, including at least 30 children, two journalists and three paramedics or health workers, have been killed by Israeli snipers and other soldiers during demonstrations in which people demanded their right to return and the end of Israel’s illegal blockade. According to preliminary statistics compiled by UN Office for the Coordination of Humanitarian Affairs, the cumulative number of injuries has exceeded 17,000. Of these, some 9,000 have been hospitalized, including 4,422 (47%) after they were hit with high-velocity military weapons and ammunition. Others have suffered from tear gas inhalation, or injuries caused by rubber-coated bullets. In addition to the use of standard hand-thrown or individual weapon-launched tear gas projectiles, the Israeli forces for the first time employed drones which flew above the crowds dropping tear gas projectiles onto the people below. Video footage of the protests shows how Israeli forces have used drones to fire tear gas cartridges at medical field tents³⁸ erected hundreds of meters away from the Israel/Gaza fence, journalists covering the protests, and peaceful protesters and crowds of bystanders.³⁹

38 Amnesty International, “Israel/OPT: Israeli/OPT: Israeli forces must end the use of excessive force in response to “Great March of Return” protests”, 13 April 2018, <https://www.amnesty.org/en/press-releases/2018/04/israelopt-israeli-forces-must-end-the-use-of-excessive-force-in-response-to-great-march-of-return-protests/>

39 Amnesty International, Israel/OPT: International Commission of Inquiry needed to ensure accountability for Israel’s deplorable use of excessive force in response to protests, 18 May 2018.

4. TRAINING AND TECHNICAL ASSISTANCE

Stopping torture and other ill-treatment must involve not only tackling the trade in physical “tools of torture”, but also putting an end to the transfer of potentially abusive training, technical assistance and expertise which can help create “professional torturers”. Whilst professional training of police and prison officers in the appropriate use of legitimate security equipment and restraints can reinforce and operationalize human rights standards and good practice, Amnesty International and the Omega Research Foundation have uncovered instances where law enforcement officials have been trained in abusive or dangerous methods such as hogtying or baton neck hold techniques.⁴⁰ Such training, particularly if endorsed by senior law enforcement officials in recipient countries, risks entrenching potentially abusive practices in those countries.

States should control the supply of technical assistance including instruction, advice, training and the transmission of working knowledge or skills that could aid the commission of torture and other ill-treatment. Such controls should ensure that the supply of technical assistance related to goods or working knowledge or skills which have no practical use other than for torture or other ill-treatment is prohibited. In addition, prior state authorisation should be required for any provision of training or other technical assistance relating to goods that have a legitimate law enforcement use but which could be abused for torture or ill-treatment or other human rights violations.



Images of training in the use of neck-hold baton technique, taken from a company website.

⁴⁰ Amnesty International and the Omega Research Foundation, *Grasping the nettle: Ending Europe's trade in execution and torture technology* (Index: ACT 01/1632/2015).

5. CONCLUSION

It is not enough to simply prohibit and criminalize torture and other acts of ill-treatment under national law; states must undertake a range of measures to actively protect people and prevent these forms of abuse. One important element of this comprehensive approach should be the development of effective co-ordinated and harmonized measures to tackle the continuing trade in “tools of torture”.

Consequently, Amnesty International and the Omega Research Foundation welcome the establishment of the Global Alliance for Torture Free Trade. It is now imperative for all Global Alliance Member States to fulfil their commitments to the Alliance’s goals by introducing effective national, regional and international legislative measures and associated control systems that will govern the trade in "tools of torture". In order for these measures to be effective, as part of global efforts to eradicate torture and other ill-treatment, they must be comprehensive in scope, and should therefore include:

- **A ban on the production, trade and use of inherently abusive or dangerous law enforcement equipment.**

States must include a prohibition of the manufacture, use, export, import, transit, or trans-shipment of equipment that has no practical use in law enforcement other than for the purpose of capital punishment, torture and other ill-treatment; or where its use in practice has revealed a substantial risk of injury. Such equipment includes, but not is limited to, direct contact shock weapons, body worn electric shock devices, inherently degrading or painful restraints such as thumb cuffs, weighted leg irons, cage beds; and inherently abusive or dangerous kinetic impact weapons such as whips, spiked batons, weighted gloves.

- **Adoption of strict trade controls, incorporating human rights risk assessment, on the transfer of law enforcement equipment that could be easily abused for torture and other ill-treatment.**

States must control the export and import of law enforcement equipment, like ordinary police and prison handcuffs, hand-held batons, riot control agents, such as tear gas, and electric shock projectile weapons. The risk-based assessment should follow the simple rule that: **law enforcement equipment should never be supplied to recipients who are likely to use it for torture, other ill-treatment or other human rights violations.**


Additionally, Amnesty International and the Omega Research Foundation also call on all states to


- **Agree regional and international mechanisms to regulate the trade in “tools of torture” in a harmonized manner which incorporate a transparent system for reporting and information sharing.**



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TO ONE PERSON, IT
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