



ENDING THE TORTURE TRADE

THE PATH TO GLOBAL CONTROLS
ON THE 'TOOLS OF TORTURE'



Omega Research Foundation

AMNESTY
INTERNATIONAL



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EXECUTIVE SUMMARY

Freedom from torture is an absolute right. In all circumstances, in all countries. It is shocking that in spite of this universal ban, the ‘tools of torture’ continue to be freely traded across the globe. It is time to match the global consensus on the need to eliminate torture with concrete action to end this trade.”¹

Michelle Bachelet, UN High Commissioner for Human Rights, September 2018.

One of the cornerstones of the international human rights framework are states’ positive obligations to prevent and eradicate torture and other cruel, inhuman or degrading treatment or punishment in all its forms and in all circumstances. One now well-established aspect of the fight against torture and other ill-treatment are national, regional and international efforts to establish and enforce prohibitions and controls on the manufacture of and trade in the ‘tools of torture’; these efforts include within their scope similar controls on death penalty goods.

THE ‘TOOLS OF TORTURE’ CAN BE DIVIDED INTO TWO DISTINCT CATEGORIES:

- Inherently cruel, inhuman or degrading (abusive) law enforcement equipment and weapons which must be prohibited. This encompasses a relatively narrow range of goods, such as spiked batons, body-worn electric shock devices and leg irons, currently manufactured and/or promoted by a limited number of companies, albeit in all regions of the world.
- Law enforcement equipment and weapons that can have a legitimate function, when used in strict accordance with international use-of-force standards, but which can be, and readily are, misused by law enforcement officials to torture or ill-treat people. This encompasses a broad range of goods – including pepper spray, tasers and even simple batons, which are produced and marketed on a significant scale by companies throughout the world. The trade in such equipment and weapons does not need to be prohibited, as above, but instead must be strictly controlled.

After presenting a range of illustrative cases of the use and abuse of law enforcement equipment and death penalty goods from across the world, this report presents an **Anti-Torture Trade Framework** – the culmination of years of research, advocacy and policy collaboration between Amnesty International and the Omega Research Foundation.

The **Framework** outlines the essential elements required to effectively regulate the trade in law enforcement equipment and death penalty goods. These include prohibitions on a well-defined list of inherently abusive equipment, such as body-worn electric shock devices and spiked batons; and robust human rights controls on the trade in standard-issue policing equipment such as handcuffs, batons and tear gas. They also include prohibitions on devices specifically designed to carry out executions – for

¹ Statement by Michelle Bachelet, UN High Commissioner for Human Rights, First Ministerial Meeting of the Alliance for Torture Free Trade, 24 September 2018, <http://webtv.un.org/assets/rss/video3804186128001/watch/first-ministerial-meeting-of-the-alliance-for-torture-free-trade/5839498628001/?term=&sort=popular&page=11>



**OVER THE LAST FIVE YEARS
AMNESTY INTERNATIONAL HAS REPORTED ON
TORTURE AND OTHER ILL-TREATMENT IN OVER**

140 COUNTRIES

instance gallows, electric chairs or automatic lethal injection devices - and trade controls on dual use pharmaceutical goods used in lethal injection protocols.

Global trade controls on the 'tools of torture' and death penalty goods have never been more urgent.

The rise in global prison populations has exposed more and more people to the risk of torture and other ill-treatment. Over the last five years, Amnesty International has reported on torture and other ill-treatment in over 140 countries – a likely underestimate given the secretive nature of such abuse – despite these being absolutely prohibited under international law. While in some countries there is evidence only of isolated cases, in others torture is routine and systematic.

But the risk of torture and other ill-treatment is not just limited to detention settings; police equipment is also used for torture and other ill-treatment on the street. Recent years have seen a global upsurge in public protest, driven by diverse grievances, from endemic corruption to threats to basic rights and freedoms. From Hong Kong to Lebanon, Sudan to Chile and the USA, France to Belarus, people exercising their right to protest have been met by violent suppression by law-enforcement agencies.

Police forces have used a range of “less lethal” equipment and weapons, particularly chemical irritants and kinetic impact projectiles, in a wholly inappropriate manner. In some instances, the use of such weapons may have constituted torture or other ill-treatment. Such abuse includes the deliberate and repeated targeting of peaceful protesters with rubber bullets, plastic bullets and other potentially lethal projectiles; the gratuitous and punitive use of chemical irritants such as pepper spray against individuals posing no threat; and the use of large quantities of tear gas in confined spaces.

THE PATH TO GLOBAL REGULATION

Over the past decades there has been steady development at national and regional levels of regulation on the trade in torture and death-penalty goods. A series of statements, studies and resolutions in the UN system from the early 2000s onwards have highlighted the obligations upon all states to regulate the trade in law-enforcement and other goods to prevent their use in torture and other ill-treatment.

It was against this backdrop that in 2006 legally binding regulations on the trade came into force across the EU. Under the EU Anti-Torture Regulation the trade in and promotion of goods with no practical use other than for torture, other ill-treatment or capital punishment, such as weighted leg restraints, spiked batons, thumb cuffs or gallows is prohibited, while law enforcement equipment which has a legitimate use, such as pepper spray, tasers and some forms of restraint are subject to export controls. Dual-use pharmaceuticals used for the death penalty are also controlled.

A series of parallel processes, supported by the work of Amnesty International and the Omega Research Foundation, have advanced similar controls in other regions. For example, following extensive consultations, the Council of Europe looks set to adopt strong recommendations in early 2021 for regulating trade in a wide range of law enforcement equipment to prevent their use in torture, other ill-treatment and the death penalty.

At the global level, in September 2017, the EU, Argentina and Mongolia launched the Alliance for Torture-Free Trade at the margins of the UN General Assembly in New York. The Alliance currently comprises over 60 states from all regions of the world pledging to “act together to further prevent, restrict and end trade” in goods used for torture, other ill-treatment and the death penalty.

In June 2019, the UN General Assembly adopted Resolution A/73/L.94, *Towards torture-free trade, initiating a process for “examining the feasibility, scope and parameters for possible common international standards” for regulating international trade in this area.* The first stage in this UN process resulted in the July 2020 publication of a UN Secretary General’s study of member states’ positions, which found that the majority of respondent states supported international standards, with most believing these should be legally binding. The second stage is now underway with the current establishing of a Group of Governmental Experts which will explore the feasibility, scope and parameters of international standards and present its recommendations to the UN General Assembly in the summer of 2021.

Before introducing the **Anti-Torture Trade Framework**, this report makes the case for regulation by presenting recent cases documented by Amnesty International and other sources, such as the European Committee for the Prevention of Torture, on the abuse of law enforcement equipment in detention and in the policing of public protest. For example, Amnesty International has been documenting guards using electric shock devices against Ethiopian migrants held in prisons in Saudi Arabia since March 2020. In other parts of the world, law enforcement officers have meted out beatings with batons both in detention and on the street in Azerbaijan, Belarus, Burundi and Hong Kong; and abusively used restraints in China, Spain and the USA. The report then looks at efforts to control the trade in death penalty goods, which have restricted the use of pharmaceuticals used in lethal injection procedures in the USA.

While trade controls relate to state obligations, this does not absolve companies of their own responsibilities to respect all human rights, including freedom from torture and other ill-treatment, wherever they operate. The report analyses the role of companies in the trade and the lack of transparency in the way they operate, and it cites good-practice examples of companies taking proactive human rights due-diligence initiatives to prevent their products from being misused.

The final chapter surveys the advances that have been made towards regional and potentially global instruments to control the trade in the ‘tools of torture’ and goods used to carry out the death penalty, before presenting the **Anti-Torture Trade Framework**.

Amnesty International and the Omega Research Foundation are urging states to use the **Anti-Torture Trade Framework** to:

- introduce regulations or strengthen existing national controls on the trade in goods used for capital punishment, torture or other forms of ill-treatment;
- aid the development of regional and international instruments in this area, including through the current UN process.

Amnesty International and the Omega Research Foundation support the creation of a global, legally binding instrument to regulate the trade in torture and death penalty goods. National measures, though vital, will not be sufficient to ensure that law enforcement agencies engaged in torture and other ill-treatment do not continue to receive law enforcement equipment and related goods imported from countries lacking effective national trade controls. Concerted action by states working in cooperation with partners through sub-regional and regional organizations to develop common standards can help to combat such activities, while the ongoing process in the UN provides all states the unique opportunity to establish international standards in this area for the first time.

1. USE OF 'TOOLS OF TORTURE' IN CUSTODIAL SETTINGS

A wide variety of restraints, “less lethal” weapons and other equipment is traded around the world, provisioning police forces, other security agencies and places of detention. While some of this equipment can be used for legitimate law enforcement purposes, this is not always the case. The following chapters bring together a sample of recent cases from all regions of the abusive use of such equipment for torture or other ill-treatment in both custodial and non-custodial contexts, and end by looking at the issue of controls on dual-use pharmaceuticals used to carry out the death penalty.

1.1 INHERENTLY ABUSIVE EQUIPMENT

Certain types of equipment, such as spiked batons, thumb-cuffs and body-worn electric shock devices, should be considered inherently abusive under the UN Convention Against Torture (CAT) or international standards on policing and detention.² Consequently, all states should prohibit the manufacture, promotion, import, export, transit and use of such equipment as repeatedly reiterated by the biennial UN General Assembly resolution on torture and other cruel, inhuman or degrading treatment, most recently adopted in 2019.³ Unfortunately despite existing state obligations, human rights organizations have documented employment of such equipment for torture and other ill-treatment.

1.1.1 DIRECT CONTACT ELECTRIC SHOCK WEAPONS

Due to their intrinsic nature and design, direct contact electric shock weapons and devices carry an unacceptable risk of arbitrary force. 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 person. 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 these weapons a favored tool of torture or other ill-treatment.

UN and regional torture monitors, Amnesty International and other non-governmental anti-torture organizations have documented incidents of electric-shock abuse in all regions of the world.

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- 2 See in particular 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-7 September 1990, www.ohchr.org/en/professionalinterest/pages/useofforceandfirearms.aspx; Standard Minimum Rules for the Treatment of Prisoners Adopted by the First United Nations Congress on the Prevention of Crime and the Treatment of Offenders, held at Geneva in 1955, and approved by the Economic and Social Council by its resolutions 663 C (XXIV) of 31 July 1957 and 2076 (LXII) of 13 May 1977, www.unodc.org/pdf/criminal_justice/UN_Standard_Minimum_Rules_for_the_Treatment_of_Prisoners.pdf; UN, Guidance on less lethal weapons in law enforcement, HR/PUB/20/1, https://www.ohchr.org/Documents/HRBodies/CCPR/LLW_Guidance.pdf
- 3 UNGA, Resolution 74/143. Torture and other cruel, inhuman or degrading treatment or punishment, UN Doc. A/RES/74/143.

“They used an electric shock baton to electrocute me when they were questioning me, by shoving it into my side. I told them I just had a baby and asked them not to do it anymore, so they eventually stopped... The electric shock baton was so painful and made me feel completely exhausted. I begged him not to do it again.”



Sreyneang, who was tortured during interrogation

COLLECTIVE ELECTRIC SHOCK PUNISHMENT

Amnesty International has documented the torture and other ill-treatment of Ethiopian migrants held in Saudi Arabian prisons and detention centres since March 2020.⁴ This has included the use of direct contact electric shock devices to punish detainees criticizing their poor living conditions. *“If we complain, they apply some device on you and you fall down. It’s like when you touch something with electricity. It leaves a red mark on your skin,”* said one prisoner, Solomon. He claimed that guards used electric shock devices against him in Jizan Central Prison and in Jeddah Prison because he complained and protested with other detainees about the lack of health care: *“They used this electric device. I had a red mark on my back. It made a small hole on my clothes. I saw a man whose nose and mouth were bleeding after that. Since then, we don’t complain anymore because we’re afraid they’ll do again the electric thing on our back. We keep quiet”.*

Another prisoner, Tesfay, recounted how such weapons were used for “collective punishment” in Jeddah Prison after he and his fellow inmates refused to take bread because there was not one piece for each man in their room: *“They took us all outside, except an old man. They were 20 and told us to face the wall. They used the device on all of us on our back. My skin became red. It was very painful for two days, I couldn’t sleep. The day before, I heard crying in the room next door. We asked what happened. They said that one man was beaten with the same stick.”*⁵

“I BEGGED HIM NOT TO DO IT AGAIN.”

In May 2017, Sreyneang was at home with her two young children in Dangkao Commune, Cambodia, where she rented a small room in a building housing mostly low-income garment and construction workers. A large group of police officers arrived outside and conducted a drug raid, arresting two men who lived upstairs. They then searched other rooms in the building. When they entered her room, they arrested Sreyneang and took her to the local police station, where they questioned her. She recalled: *“They used an electric shock baton to electrocute me when they were questioning me, by shoving it into my side. I told them I just had a baby and asked them not to do it anymore, so they eventually stopped. They asked me how many times I sold drugs and when was the last time. I said I never sold any drugs and don’t know anything about it. The police officer said If I didn’t confess it, he would use electric shock baton on me again. The electric shock baton was so painful and made me feel completely exhausted. I begged him not to do it again.”*⁶

4 Amnesty International, *“This is worse than covid-19”: Ethiopians abandoned and abused in Saudi prisons*, (Index: MDE 23/3125/2020), www.amnesty.org.uk/files/2020-09/Report.pdf?ofpXkfgKj_IEX2E2UrWjxmp_ZcloJYda=

5 Amnesty International, *“This is worse than covid-19”*, p. 15.

6 Amnesty International, *Substance Abuses: The Human Cost of Cambodia’s Anti-Drug Campaign*, (Index: ASA 23/2220/2020), p. 40 “Electric shock baton” was originally translated as “taser” in the testimony published in the *Substance Abuses* report but later corrected.

STRAPPED DOWN AND SHOCKED

According to media reports, 18-year-old Jordan Norris was arrested on 3 November 2016 by Cheatham County police in Tennessee, USA, for possession of drugs and weapons. On 5 November 2016 while in detention, he began to suffer a “mental health episode” and banged his head against the door. He was put on “suicide watch” while a nurse was called to attend to him. During this period, he was placed in a restraint chair and his arms, chest, waist and legs were strapped down. While he was restrained, a cloth gag was placed in his mouth and two deputies held him down while a third used a taser four times in direct contact mode against his chest, close to his heart. The incident was filmed by the Cheatham County Police Department video surveillance camera, which recorded the deputy with the projectile electric shock weapon telling Norris: “I’ll keep on doing that until I run out of batteries.”⁷



TORTURED WITH ELECTIC SHOCK WEAPONS

Amnesty International documented multiple cases of torture and other ill-treatment by Egypt’s National Security Agency (NSA) in the context of counter-terror operations in 2015 and 2016.⁸ According to former detainees, their families and lawyers, techniques used were beating; prolonged suspension by the limbs from a ceiling or door while handcuffed and blindfolded; and the application of electric shocks, mostly using electric shock weapons, to the genitals and other sensitive areas of the body and face. Some detainees reported that they were subjected to the “grill”, a method in which the victim is rotated over a rod inserted between his tied hands and legs and balanced between two chairs. Some detainees say that while detained in NSA premises they were handcuffed to another detainee on one side and on the other side to a high wall to prevent them from sleeping, which damaged their wrists, arms and shoulders.⁹

1.1.2 ABUSIVE RESTRAINTS

In his 2013 report to the UN General Assembly the UN Special Rapporteur on Torture stated that “the use of physical restraints that are inherently inhuman, degrading or painful (such as electro-shock stun belts and restraint chairs) has humiliating and degrading effects and has been condemned and prohibited by both the Special Rapporteur and the Committee against Torture as methods of restraining those in custody.”¹⁰ Unfortunately a range of inherently abusive restraints including hoods, leg irons, restraint chairs and restraint beds continue to be employed in all regions of the world.¹¹

RESTRAINT BEDS

Following its 2016 mission to Spain, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) raised concerns regarding the use of restraint beds in juvenile detention centres and called for an end to such practices. In Tierras de Oria centre “Juveniles were fixated to the bed face down, with their wrists and ankles (and sometimes the torso)

7 “Deputies tortured a restrained teenager by using a stun gun on him, lawyers say”, *Washington Post*, 2 August 2017, www.washingtonpost.com/news/post-nation/wp/2017/08/02/would-you-like-to-comply-deputies-used-torture-by-tasering-a-restrained-inmate-lawyers-say/

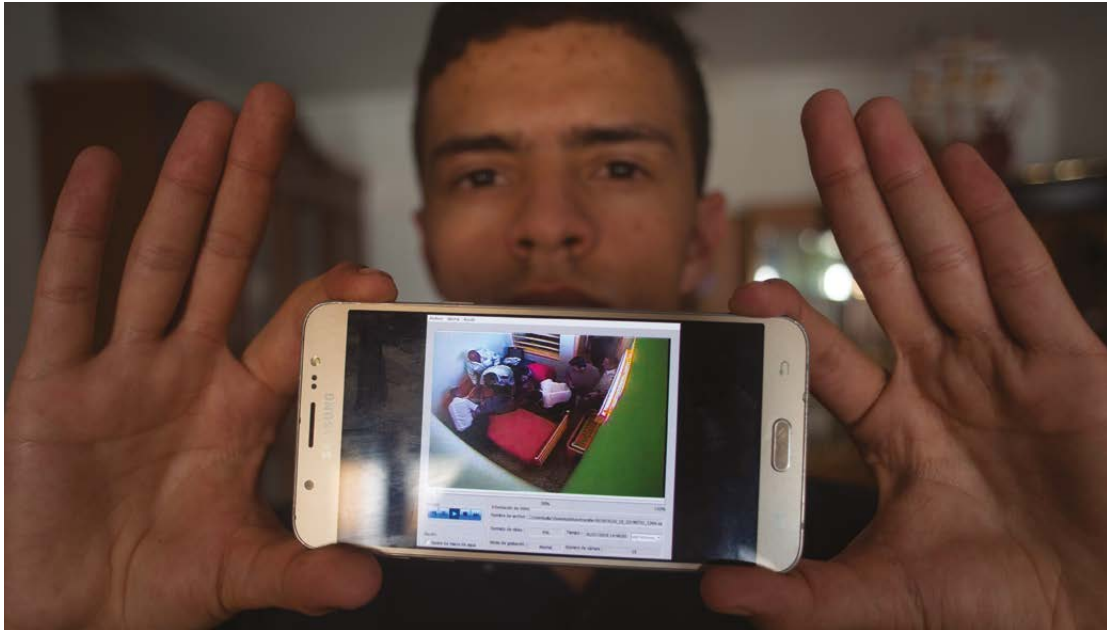
8 Amnesty International, *Egypt: ‘Officially, you do not exist’: disappeared and tortured in the name of counter-terrorism*, (Index: MDE 12/4368/2016)

9 Amnesty International, *Egypt: ‘Officially, you do not exist’*,

10 Interim Report to the General Assembly, Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, UN Doc. A/68/295, (2013), para. 58

11 Although use of restraint chairs and restraint beds for law enforcement is inappropriate and should be prohibited, they may 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.

attached to the bed with straps and their legs wide open.”¹² The episodes normally lasted between one and two hours, with juveniles denied access to the toilet, resulting in cases of self-urination. Some juveniles alleged they had been strapped down even though they had not been at all agitated and perceived this as a punishment. Juveniles also claimed to have been threatened with fixation as a punishment if they did not comply with the rules of the establishment. The CPT stated that “fixation was repeatedly used in respect of juveniles who visibly suffered from breathing difficulties”¹³. Subsequently, the 2019 report from the Spanish National Preventive Mechanism recorded the deaths of two young people in juvenile detention facilities in Melilla and Almería, noting they had both been fixated in restraint beds.¹⁴



Anass Tahiri, 22, shows a video on his mobile phone capturing the death of his brother Iliass, who died on 1 July 2019 at the Tierras de Oria detention centre in Spain's Almería province as security staff forcibly strapped him to a bed.

“FOUR PIECE SUITS”

Amnesty International, Human Rights Watch and international media have documented the extensive use of a range of inherently abusive restraint equipment in Chinese prisons, detention centres and re-education and internment camps, including metal “Tiger” restraint chairs, Diaodiaoyi’ (hanging restraint chairs), weighted restraints, combined restraints and blindfolds for torture and other ill-treatment.¹⁵ In August 2020, the BBC and the Canadian newspaper *Globe and Mail* reported the conditions faced by Uighur detainees held in Xinjiang internment camps, including secretly filmed testimony and text

12 CPT, Report to the Spanish Government on the visit to Spain carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 27 September to 10 October 2016, CPT/Inf (2017) 34, 16 November 2017, paragraph 128.

13 CPT, Report to the Spanish Government on the visit to Spain carried out by the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) from 27 September to 10 October 2016, CPT/Inf (2017) 34, 16 November 2017, paragraphs. 127-131,

14 Defensor del Pueblo: Mecanismo Nacional de Prevención. 2019, *Informe anual 2019 Mecanismo Nacional de Prevención. Supervisión de lugares de privación de libertad en España, de acuerdo con el Protocolo facultativo a la Convención de las Naciones Unidas contra la tortura y otros tratos o penas crueles, inhumanos o degradantes* (OPCAT), 2020, p. 7

15 See for example Amnesty International, *No end in sight: torture and forced confessions in China*, (Index: ASA 17/2730/2015); Human Rights Watch, *Tiger Chairs and Cell Bosses, Police Torture of Criminal Suspects in China*, 13 May 2015, <https://www.hrw.org/report/2015/05/13/tiger-chairs-and-cell-bosses/police-torture-criminal-suspects-china>

messages from Merdan Ghappar, a Uighur man, who had been held in custody since January 2020.¹⁶ Through smuggled text messages, he described how he was initially imprisoned in a police jail in Kucha. *"I saw 50 to 60 people detained in a small room no bigger than 50 square metres, men on the right, women on the left... Everyone was wearing a so-called 'four-piece suit', a black head sack, handcuffs, leg shackles and an iron chain connecting the cuffs to the shackles."* Ghappar claimed that he was forced to wear the restraint device and held in a confined and overcrowded cell with no room to lie down and sleep. *"I lifted the sack on my head and told the police officer that the handcuffs were so tight they hurt my wrists... He shouted fiercely at me, saying 'If you remove your hood again, I will beat you to death.' And after that I dared not to talk."*¹⁷ The whereabouts of Ghappar and circumstances of his detention are currently unknown.

1.2 EQUIPMENT WITH A LEGITIMATE FUNCTION

Common forms of law enforcement equipment, such as batons, handcuffs and pepper spray are now standard issue for police forces across the world. While often playing a legitimate role when used in line with international use of force standards,¹⁸ this equipment is also widely misused for torture and other ill-treatment. Indeed, this equipment's very ubiquity can make it a favoured tool of torture, used singly or in combination, with, for example, detainees often first restrained and then subject to abusive use of force through beatings or repeated exposure to chemical irritants.

1.2.1 KINETIC IMPACT WEAPONS: BATONS AND TRUNCHEONS

The simple police baton, carried by police forces across the world, has been routinely used for torture and other ill-treatment in places of detention.

BEATINGS WITH BATONS

Various human rights bodies, including the UN's Human Rights Council Commission of Inquiry on Burundi, have recorded the misuse of hand-held kinetic impact weapons in that country.¹⁹ Amnesty International documented various cases in 2015, including of a prisoner who reported police "made us lie on the ground, with our arms stretched out in front of us and with our hands handcuffed. Policemen dressed in full blue uniforms beat the boy and myself with their batons. They beat us on our back, buttocks and feet for 20 minutes. They were six policemen and they took turns. I had problems walking for a week. I couldn't put my shoes on, because my feet were so swollen. Even putting my feet on the ground was difficult."²⁰

16 "China Uighurs: A model's video gives a rare glimpse inside internment", BBC News, 4 August 2020, www.bbc.com/news/world-asia-china-53650246; "Inside a Uyghur's 'quarantine' room: Video shows shackles, filthy conditions and propaganda", *Globe and Mail*, 4 August 2020, www.theglobeandmail.com/world/article-inside-a-uyghurs-quarantine-room-video-shows-shackles-filthy/; "China says detained Uyghur model was 'aggressive' after he described mistreatment in detention", *Globe and Mail*, 17 August 2020, www.theglobeandmail.com/world/article-china-says-uyghur-model-who-described-detention-in-xinjiang-was/

17 "China Uighurs: A model's video gives a rare glimpse inside internment," *BBC News*, 4 August 2020, www.bbc.co.uk/news/world-asia-china-53650246

18 See in particular *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-7 September 1990, www.ohchr.org/en/professionalinterest/pages/useofforceandfirearms.aspx; *UN Code of Conduct for Law Enforcement Officials*, adopted by UN General Assembly resolution 34/169 of 17 December 1979, www.ohchr.org/en/professionalinterest/pages/lawenforcementofficials.aspx

19 UN, Human Rights Council Commission of Inquiry on Burundi, A/HRC/39/CRP.1, 12 September 2018, para. 338.

20 Amnesty International, *"Just tell me what to confess to": Torture and other ill-treatment by Burundi's police and intelligence service since April 2015* (Index: AFR 16/2298/2015)

Policemen dressed in full blue uniforms beat the boy and myself with their batons. They beat us on our back, buttocks and feet for 20 minutes. They were six policemen and they took turns. I had problems walking for a week. I couldn't put my shoes on, because my feet were so swollen. Even putting my feet on the ground was difficult.”

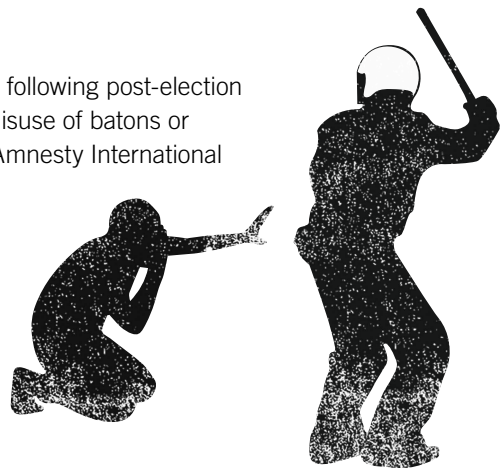
A local human rights activist in Burundi, who was beaten by police.



Minsk, Belarus – 13 September 2020: Riot police form a human chain during a protest of opposition supporters in Minsk. Valery Sharifulin/TASS (Photo by Valery Sharifulin/TASS via Getty Images)

KICKED AND BEATEN WITH TRUNCHEONS

In Belarus, torture and other ill-treatment was widespread following post-election protests in August 2020, with many cases involving the misuse of batons or truncheons by security forces. Katsyaryna Novikava told Amnesty International that she spent 34 hours at the Centre for Isolation of Offenders, where she saw that the entire yard of the facility was filled with arrested men who had been forced to lie down in the dirt. Inside the centre, dozens of men were told to strip naked and get down on all fours while officers kicked and beat them with truncheons. She said she was also forced to kneel and listen to the screams of other victims.²¹



²¹ Amnesty International, *Belarus: Mounting evidence of a campaign of widespread torture of peaceful protesters* (Press Release, 13 August 2020), www.amnesty.org/en/latest/news/2020/08/belarus-mounting-evidence-of-a-campaign-of-widespread-torture-of-peaceful-protesters/

“PUNCHED, KICKED AND STRUCK WITH TRUNCHEONS”

During its field mission in 2017, a delegation from the Committee for the Prevention of Torture (CPT) documented numerous cases of the misuse of truncheons for torture and other ill-treatment in places of detention in Azerbaijan. A. E., interviewed by the delegation at Zabrat Pre-trial Detention Facility on 24 October 2017, claimed he had been struck on his head with truncheons upon arrest in the port of the city of Lenkoran on 10 October 2017. According to the CPT, “He was then taken to Police Station No. 1 in Lenkoran and reportedly punched, kicked and struck with truncheons while he was handcuffed behind his back. He stated that he had been thrown on the ground and struck approximately 50 times with truncheons on the soles of his feet (falaka) and over his back, as a result of which he had lost consciousness. The purpose of the torture was reportedly to make him confess to a series of criminal offences. He told the delegation that he still suffered from constant headaches and impaired vision in his right eye.”²²

1.2.2 RESTRAINTS

Commonplace restraints, such as ordinary handcuffs, are often misused for torture and other ill-treatment in places of detention, in many instances in conjunction with other policing equipment such as truncheons or electric shock batons.

HANDCUFFED TO FIXED OBJECTS

Following a mission to Ukraine in 2017, the Committee for the Prevention of Torture (CPT) reported: “In different regions, the delegation once again received a number of allegations from detained persons that they had been held in local police stations in the offices of operational police officers, on a stool or chair, whilst being handcuffed to fixed objects and without being offered anything to eat or drink, for periods ranging from a few hours to three days.”²³ In 2019, the UN Special Rapporteur on Torture reported that “several allegations were also received of excessive use of force at the time of or immediately following apprehension [by police], including kicks and truncheon blows after the apprehended person had been placed face down on the ground and handcuffed, of unduly tight handcuffing during transportation.”²⁴

1.2.3 CHEMICAL IRRITANTS

Chemical irritants are substances that produce sensory irritation and pain in the eyes and upper respiratory tract. They can also cause inflammation of the mucous membranes, including in the respiratory tract. The chemicals most commonly used are the irritant agents CN or CS – often called tear gas – and the inflammatory agents OC/Pepper or PAVA – often called pepper spray. Chemical irritants are generally delivered through aerosol sprays, hand-thrown grenades, weapon launched projectiles, as well as via water cannon.

22 CPT, Report to the Azerbaijani Government on the visit to Azerbaijan carried out by the CPT from 23 to 30 October 2017, 18 July 2018, rm.coe.int/16808c5e46

23 CPT, Report to the Ukrainian Government carried out by the CPT from 8 to 21 December 2017, 6 September 2018, rm.coe.int/16808d2c2a

24 UN, Visit to Ukraine: Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Human Rights Council, UN Doc. A/HRC/40/59/Add.3, 17 January 2019.



Screengrab from phone footage taken in Moria Camp on 18 July 2017

PEPPER SPRAYED WHILE RESTRAINED

Following a March 2017 mission to Croatia, the Committee for the Prevention of Torture's (CPT) 2018 report described how "at Osijek County Prison an inmate who had been placed ankle- and hand-cuffed in a 'rubber room' was in addition pepper sprayed by custodial staff after having thus been immobilised."²⁵ The CPT concluded that "to administer pepper spray to a prisoner trussed up in the manner described above can only be for punitive reasons and the CPT considers that the staff members responsible should be investigated for the ill-treatment of this prisoner."²⁶

BEATEN AND TEAR GASED

Amnesty International documented cases of police ill-treatment and use of excessive force against asylum seekers during a protest on 18 July 2017 in Moria camp near Mytilene in Greece, which included the reported discharge of chemical irritants inside a container where asylum seekers were accommodated. One of the asylum seekers arrested that day, identified as "F", told Amnesty International: *'The police fired a lot of tear gas and I felt like I was suffocating... Ten police officers beat me everywhere with their batons for three minutes. I was on the ground trying to protect myself, trying to make myself small... They hit me on the righthand and on the head with their batons and kicked me with their boots... The police officer who took me to the car spat on my face and called me 'stupid African''*²⁷

25 CPT, Report to the Government of Croatia on the visit to Croatia carried out by the CPT from 14 to 22 March 2017, 2 October 2018, para. 28, rm.coe.int/16808e2a0e

26 CPT, Report to the Government of Croatia on the visit to Croatia, para. 59

27 Amnesty International, *Greece: Authorities must investigate allegations of excessive use of force and ill-treatment of asylum-seekers in Lesbos*, (Index: EUR 25/6845/2017), www.amnesty.org/download/Documents/EUR2568452017ENGLISH.pdf

2. TORTURE AND OTHER ILL-TREATMENT IN NON-CUSTODIAL SETTINGS

2.1 THE POLICING OF PUBLIC PROTEST

Over the last decade there has been a significant number of public protests across the world. People from all walks of life have poured onto the streets to demonstrate against corruption, poor governance, repressive laws, abusive policing, racial discrimination, rises in the cost of living and environmental degradation, among other issues.

In many instances, far from facilitating the right to peaceful assembly, security forces have used chemical irritants such as tear gas and pepper spray, kinetic impact projectiles – often called “rubber bullets” – and batons to clear the streets. In some cases, the conduct of law enforcement officials could be said to amount to torture or other ill-treatment.

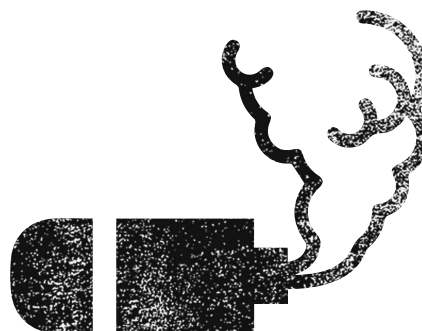
The COVID-19 pandemic has heightened risks in the policing of public assembly. The use of chemical irritants, such as tear gas and pepper spray, can provoke heavy coughing or streaming eyes and nose, risking complications for COVID-19-infected people as well as potentially increasing the risk of spreading the disease, though systematic studies into these issues are lacking. The COVID-19 pandemic could also result in changes to police tactics, including greater use and abuse of stand-off “less lethal” weapons such as kinetic impact projectiles and tasers.

2.1.1 CHEMICAL IRRITANTS

In a major study documenting the misuse of tear gas published in June 2020, Amnesty International verified close to 500 videos of around 80 events in 22 countries and territories where tear gas has been misused.²⁸ These incidents included cases of security forces firing canisters through the windscreen of a car, inside a school bus and in hospitals, residential buildings, metro stations and shopping centres. The UN Committee Against Torture has stated that use of tear gas in confined spaces is unacceptable.²⁹

ABUSIVE USE OF TEAR GAS OR PEPPER SPRAY

On 1 June 2020, in central Philadelphia in the USA, state and city police used large amounts of tear gas and pepper spray to remove dozens of peaceful protesters from the Vine Street Expressway. One affected protester, Lizzie Horne, a Rabbinical student, told Amnesty International: “*They started gassing in a kettle formation – we were against a big fence that people had to jump over up a steep hill.*”



²⁸ Amnesty International, *Tear gas: an investigation*, [teargas.amnesty.org/#top](https://www.amnesty.org/en/latest/news/2020/06/tear-gas-an-investigation/)

²⁹ See Committee against Torture, Concluding observations on the second and third periodic reports of Bahrain, 29 May 2017, CAT/C/BHR/CO/2-3 at paras 24-25, <https://undocs.org/en/CAT/C/BHR/CO/2-3>

The fence was maybe six feet tall. People started putting their hands up – but the cops wouldn't let up. It was can after can after can [of tear gas]. We were encapsulated in gas. We were drooling and coughing uncontrollably. Then the cops came from the other side of the fence and started gassing from that direction. After that the police started coming up the hill and... they were hitting and tackling people. They were dragging people down the hill and forcing them down on their knees, lining them up, kneeling on the median on the highway with their hands in zip ties – and pulling down their masks and spraying and gassing them again.”³⁰

“We were encapsulated in gas. We were drooling and coughing uncontrollably. Then the cops came from the other side of the fence and started gassing from that direction. After that the police started coming up the hill and... they were hitting and tackling people.”

Protester in the Vine Street Expressway, Philadelphia, USA, 1 June 2020



Philadelphia, PA – 1 June 2020: Protesters race up a hill after being shot by tear gas after a march on 1 June 2020 in Philadelphia, Pennsylvania. (Photo by Mark Makela/Getty Images)

As protests escalated in 2019 in Hong Kong, police used chemical irritants in large quantities – firing 800 tear gas canisters in a single day – and in some cases in circumstances which could amount to ill-treatment. For example, on 11 August 2019, police repeatedly fired tear gas inside the Kwai Fong Mass Transit Railway station – a confined space with limited exits.³¹ Footage from HK Apple Daily shows a police officer in protective gear spraying 14 shots of suspected pepper spray at close range in the face of a man sitting alone on the edge of an outdoor planter during the daytime on 12 June in Lung Wo Road. The use of sprays was clearly unnecessary and disproportionate as the man posed no threat and in fact behaved passively through the whole ordeal.³²

30 Amnesty International, *USA: The world is watching mass violations by U.S. police of Black Lives Matter protesters' rights*, (Index: AMR 51/2807/2020) p. 30

31 YouTube, Hong Kong police fire tear gas in Kwai Fong MTR station, 11 August 2019, www.youtube.com/watch?v=baulep4aXck

32 Amnesty International, *How not to police a protest: unlawful use of force by Hong Kong police*, (Index: ASA 17/0576/2019)



Police fire teargas in the MTR station at Kwai Fong on 11 August, 2019, Hong Kong. Credit: Gonzales Photo/Alamy Live News

THE USE OF SPRAYS WAS CLEARLY UNNECESSARY AND DISPROPORTIONATE AS THE MAN POSED NO THREAT AND IN FACT BEHAVED PASSIVELY THROUGH THE WHOLE ORDEAL.



2.1.2 KINETIC IMPACT PROJECTILES/DEVICES

The misuse of various types of kinetic impact projectiles, commonly known as rubber bullets and kinetic impact devices, such as batons and truncheons, in the policing of public assembly has been widely documented. Some instances may amount to torture or other ill-treatment.

OCULAR TRAUMA

In Chile from 18 October to 30 November 2019, security forces harshly confronted protestors across the country. Of particular concern was the reckless use of a variety of kinetic impact projectiles, which, according to the Human Rights National Institute (INDH), caused at least 347 cases of ocular trauma.³³ One type of ammunition, the locally produced TEC Harseim, whose design made the projectiles heavier and denser than standard “less lethal” ammunition, and which were fired as highly inaccurate multiple projectiles (12 per cartridge), was eventually withdrawn from use as a result of the injuries.

³³ Amnesty International, *Eyes on Chile: Police violence and command responsibility during the period of social unrest*, (Index: AMR 22/3182/2020)



Riot police fire rubber bullets during clashes with demonstrators during protests in Santiago, on 8 November 2019 (Photo by Rodrigo Arangua/AFP via Getty Images)

SHOOTING TO HARM

In Lebanon, Amnesty International monitored the largely peaceful protests on 8 August 2020 where rubber bullets were fired recklessly into crowds. Protesters reported seeing security and military forces shooting rubber bullets directly into the crowd at chest level and from close range, indicating that they were shooting to harm. Protesters also reported suffering injuries from small rubber pellets fired from an unidentified source. Doctors reported at least six cases of eye injuries. The medical team at the Department of Ophthalmology at the American University of Beirut removed the eye of one young man completely, while others lost their sight to varying degrees.³⁴

CLUBBED FROM BEHIND

During the 2019 mass protests in Hong Kong, Amnesty International documented unlawful use of kinetic impact devices to beat protesters who posed no threat and who in some cases were already restrained or attempting to leave a demonstration. For instance, a young woman arrested at a protest in Sheung Wan in the Central & Western District of Hong Kong in July 2019 described being clubbed from behind with a police baton as she was running away from a police charge; she was knocked to the ground and police officers continued to beat her after her hands were zip-tied.³⁵



34 Amnesty International, *Lebanon: Military and security forces attack unarmed protesters following explosions – new testimony* (Press Release, 11 August 2020), www.amnesty.org/en/latest/news/2020/08/lebanon-military-and-security-forces-attack-unarmed-protesters-following-explosions-new-testimony/

35 Amnesty International, *Hong Kong: Arbitrary arrests, brutal beatings and torture in police detention revealed*, (Press Release, 19 September 2019), www.amnesty.org/en/latest/news/2019/09/hong-kong-arbitrary-arrests-brutal-beatings-and-torture-in-police-detention-revealed/

IN LEBANON, PROTESTERS REPORTED SEEING SECURITY AND MILITARY FORCES SHOOTING RUBBER BULLETS DIRECTLY INTO THE CROWD AT CHEST LEVEL AND FROM CLOSE RANGE, INDICATING THAT THEY WERE SHOOTING TO HARM.



2.1.3 ELECTRIC-SHOCK PROJECTILE WEAPONS

While electric shock projectile weapons (commonly known as tasers after a leading brand), can play a legitimate law enforcement role in specific situations when used as stand-off weapons in place of firearms, but in direct contact (“drive-stun”) mode they effectively become inherently abusive direct contact electric shock weapons.

REPEATED ELECTRIC SHOCKS

On 9 September 2020, Javier Ordoñez was stopped by police near his home Bogotá, Colombia, for allegedly violating the selective isolation rules established in the context of the COVID-19 pandemic. The officers pinned him to the ground and administered repeated electric shocks to his body for approximately five minutes using a USA-manufactured Axon Taser X2. Javier Ordoñez, who was heavily restrained and posing no threat to the officers, repeatedly pleaded with them to stop, as did witnesses who were filming the incident a few metres away. He died in the hospital hours later as a result of the blunt trauma injuries.



Handwritten protest notes alluding to police abuse during the third day of unrest sparked by the killing of Javier Ordoñez by the police of Bogota on 11 September 2020 in Bogotá, Colombia. (Photo by Diego Cuevas/Vizzor Image/Getty Images)

3. DEATH PENALTY EQUIPMENT

By the end of 2019, 106 countries (a majority of the world's states) had abolished the death penalty in law for all crimes, and a further 36 countries had abolished the death penalty in law or practice.³⁶ However at least 657 executions were carried out in 2019 and at least 2,307 death sentences were handed down. Iran, Saudi Arabia and Iraq accounted for 81% of confirmed executions worldwide in 2019, with 20 countries known to have executed people. This does not include thousands of executions thought to have taken place in China.³⁷ Prohibitions and controls on death penalty goods (including dual-use pharmaceuticals) are now in place across the EU and discussions at the UN on options to regulate the international torture-trade have raised potential inclusion of death penalty goods within its scope.

A limited range of devices specifically and solely intended for use in the execution of human beings have previously been developed including gallows, hanging ropes, gas chambers, electric chairs and automatic lethal injection devices. The exact nature and scale of the trade in such goods is unknown.

BY THE END OF 2019

106 countries had abolished the **DEATH PENALTY**



36 COUNTRIES ABOLISHED THE DEATH PENALTY IN LAW OR PRACTICE.

HOWEVER AT LEAST

657 EXECUTIONS WERE CARRIED OUT IN 2019

WITH AT LEAST **2,307 DEATH SENTENCES** HANDED DOWN.

Iran

Saudi Arabia

Iraq



20 COUNTRIES in total known to have executed people.

³⁶ Amnesty International, *Death sentences and executions 2019*, (Index: ACT 50/1847/2020), Annex II: Abolitionist and retentionist countries as of 31 December 2019.

³⁷ Amnesty International, *Death sentences and executions 2019*, (Index: ACT 50/1847/2020), p. 6

3.1 LETHAL INJECTION EXECUTIONS

In contrast, other goods that were not produced in the first instance to carry out executions have subsequently been misused for this purpose, the most notable example being the application of certain pharmaceutical chemicals as part of lethal injection executions. Currently, in at least five countries – China, Guatemala, Thailand, Vietnam and the USA – the intravenous administration of a lethal dose of certain pharmaceutical chemicals (“lethal injection”) is a legal method of execution.³⁸ In all countries for which lethal injection protocols are known, a sedative or anaesthetic agent (normally a short-acting barbiturate) is administered either as the sole element of, or as a component of the lethal injection. The dual-use chemicals misused for lethal injection executions are normally employed for a wide range of (often life-saving) medical, as well as veterinary and other legitimate purposes, and their trade is global in nature.

THE BATTLE AGAINST LETHAL INJECTION

In the USA, several executions set in recent years have been delayed, in part as a result of legal challenges linked to the revision of lethal injection protocols, or of problems faced by state authorities in obtaining substances used in lethal injection procedures. In 2019 executions were completely or in part on hold in Arizona, California, Idaho, Indiana, Kentucky, Louisiana, Nevada, Ohio, Oklahoma and South Carolina because of litigation on these states’ lethal injection procedures. On 25 July 2019, US Attorney General William Barr directed the Federal Bureau of Prisons to adopt a new lethal injection protocol and to schedule the first federal executions after a nearly two-decade hiatus, but this move was initially blocked in the courts.³⁹ Following the exhaustion of legal challenges, the first execution was carried out on 14 July 2020.⁴⁰ Outside the USA, Thailand executed a 26-year-old man by lethal injection for aggravated murder on 18 June 2018, in the country’s first execution since August 2009.⁴¹

Amnesty International and the Omega Research Foundation oppose the death penalty in all cases, regardless of the method used to carry out executions, and call for its global abolition. Proponents of the death penalty have promoted lethal injections as pain-free and humane, when in fact there is potential for this method to cause intense, sometimes prolonged physical suffering – on top of the terrible mental suffering endured in the build-up to an execution.

In certain countries, acquisition of anaesthetic agents from domestic sources for lethal injection executions has proven difficult, in large part because of national and international due diligence measures introduced by pharmaceutical manufacturers to ensure their products are not misused for such purposes (see following chapter). Consequently, a number of US states have attempted to source stocks of such chemicals held in other countries. This has led certain states and regional organizations, (notably the EU) to adopt or (in the case of the Council of Europe) to undertake the process of adopting trade control measures to prevent transfers of these chemicals for such purposes.

38 See Amnesty International, *Execution by lethal injection: a quarter century of state poisoning*, (Index: ACT 50/007/2007); Amnesty International, *Maldives to resume executions after over 60 years*, Urgent Action, (Index: ASA 29/6764/2017), www.amnesty.org/download/Documents/ASA2967642017ENGLISH.pdf; Amnesty International, Further information: *Papua New Guinea plans for executions*, Urgent Action, (Index: ASA 34/003/2013), www.amnesty.org/es/documents/asa34/003/2013/en/ Taiwan also lists lethal injection as a legal method of execution, though execution by gunshot is the default method and no lethal-injection executions have been carried out in Taiwan to date. However, the regulations on executions as most recently amended in 2020 also foresee the administration of a sedative before an execution by shooting is carried out. See Ministry of Justice of the Republic of China, Decree No. 10904514050, Amendments to the “Execution of Death Penalty Rules”, 15 July 2020. The death penalty in Guatemala has been abolished for ordinary crimes. See Amnesty International, *Guatemala: Court decision ruling death penalty unconstitutional for most crimes is a key step on path to full abolition* (Public Statement, 7 November 2017), <https://www.amnesty.org/en/documents/act50/7412/2017/en/>

39 Amnesty International, *Death sentences and executions 2019*, (Index: ACT 50/1847/2020), p.19

40 Amnesty International, *USA: Senseless pursuit of US federal executions calls for review of proceedings and immediate halt to use of death penalty* (Public Statement, 21 August 2020), <https://www.amnesty.org/download/Documents/ACT5029222020ENGLISH.pdf>

41 Amnesty International, *Thailand: Country’s first execution since 2009 a deplorable move*, (Press Release, 19 June 2018), www.amnesty.org/en/latest/news/2018/06/thailand-countrys-first-execution-since-2009-a-deplorable-move/

4. THE RESPONSIBILITIES OF COMPANIES

4.1 THE TRADE IN LAW ENFORCEMENT EQUIPMENT

Law enforcement equipment is manufactured and promoted around the world by a wide range of companies. Some are large state-owned enterprises; many are small businesses that are not publicly listed and do not publish financial or trade data. A minority of states regulate the trade in certain relevant types of law enforcement equipment.⁴² Few, however, provide public information on this licensed trade, and where made public this information is often only partial and infrequent.⁴³ Consequently, there are no accurate, independently verifiable, global figures on the number of companies involved in the manufacture, promotion, and supply of law enforcement equipment of concern.

Certain commercial organizations have attempted to forecast market developments and give an indication of the current scale in the global trade in “non-lethal” weapons.⁴⁴ For example, according to Allied Market Research, “the non-lethal weapons market is expected to garner \$9,656 million by 2022, registering a compound growth rate of 8% during the forecast period 2016-2022”.⁴⁵ Owing to lack of reliable data and disparities in reporting practices, any such estimates should be treated with caution.

NGOs, including Amnesty International and the Omega Research Foundation, along with human rights activists and journalists have pieced together aspects of the trade through open source investigations of equipment filmed or photographed at protest sites and documented in places of detention.⁴⁶ Equipment sales have tended to follow historical colonial ties – for example, French equipment is found widely in Francophone Africa and Lebanon – as well as regional influence, hence the predominance of manufactured or licenced equipment from Brazil, Spain and the USA across Latin America or of Chinese equipment in Africa.⁴⁷ While companies based in large manufacturing states such as China, the USA and major European states dominate parts of the market, companies in emerging economies, such as Brazil and Turkey, also produce for their domestic market and export widely. Increasingly sophisticated law enforcement equipment is now evident in most parts of the world.

42 UN, Report of the Secretary General, *Towards torture-free trade: examining the feasibility, scope and parameters for possible common international standards*, UN Doc. A/74/969, 28 July 2020, paras 6-8, (hereinafter, UN, Report of the Secretary General, *Towards torture-free trade*) www.undocs.org/en/A/74/969

43 On lack of transparency, see, for example, Omega Research Foundation, *Tools of Torture and Repression In South America: use, manufacture and trade*, June 2016, p. 5, https://omegaresearchfoundation.org/sites/default/files/uploads/Publications/South%20America%20Report_ENG_FINAL.pdf; Omega Research Foundation, *Review of the EU Anti-Torture Regulation and its implementation*, November 2020.

44 Amnesty International, the Omega Research Foundation, the UN and other intergovernmental bodies use the term “less lethal weapons” to reflect the fact that there have been fatalities as a result of the misuse of these weapons – particularly due of blunt trauma head injuries from misdirected projectiles.

45 Allied Market Research, *Non-Lethal Weapons Market- Global Opportunity Analysis And Industry Forecast, 2014–2022*, www.alliedmarketresearch.com/press-release/non-lethal-weapons-market.html

46 Amnesty International, *Police Riot Gear, Old and New*, (Digital Verification cases studies, 8 September, 2020), citizenevidence.org/2020/09/08/police-riot-gear-old-and-new/; Forensic Architecture, *Detecting tear gas: vision and sound*, 20 February, 2020, <https://forensic-architecture.org/investigation/detecting-tear-gas>

47 See, for instance, Omega Research Foundation, *Tools of Torture and Repression in South America: Use, manufacture and trade*, July 2016, omegaresearchfoundation.org/sites/default/files/uploads/Publications/South%20America%20Report_ENG_FINAL.pdf

The Omega Research Foundation has documented over

50 ARMS AND SECURITY EQUIPMENT TRADE FAIRS,

which are held regularly in at least **36 countries**, most on an annual or biennial basis.

ARMS AND SECURITY EQUIPMENT TRADE FAIRS

States around the world regularly permit or facilitate arms and security equipment trade fairs and other related exhibitions where law enforcement equipment that could be misused for torture and other ill-treatment is promoted. The Omega Research Foundation has documented over 50 of such established trade fairs and exhibitions, which are held regularly in at least 36 countries, mostly on an annual or biennial basis.⁴⁸ In certain cases, investigations by Amnesty International and the Omega Research Foundation have uncovered the promotion of inherently abusive equipment at these events.

Milipol Paris is a major biennial arms and security exhibition organized by commercial company Comexposium and the French Government's CIVIPOL. Amnesty International and Omega researchers have repeatedly documented the promotion of a range of law enforcement equipment, including inherently abusive equipment and weapons, at Milipol Paris. In recent years, this has included direct contact electric shock weapons, body-worn electric shock devices, spiked batons and weighted restraints. While most of these goods were promoted in exhibitors' product catalogues distributed at the event, researchers have discovered the physical display of certain inherently abusive items on exhibitors' stalls.

At Milipol 2015, a Chinese company, China Garments Co., Ltd., was photographed displaying weighted leg irons.⁴⁹ At Milipol 2017, a Chinese company, Origin Dynamic, displayed its remotely operated "Constraint", an electric shock device that can be attached to a prisoner's arm or leg, and advertised that "One click will bring down the person and the wearer will lose capability to act and attack".⁵⁰ At Milipol 2019, a spiked arm shield was discovered on the stand of a Chinese company, Jiangxi Great Wall Protection Equipment Industry Co. Ltd.⁵¹ In all three cases, once discovered, the Milipol organizers ensured that the offending goods were removed from display, though in none of these cases were the goods confiscated from the offending exhibitors.

States around the world regularly permit or facilitate arms and security equipment trade fairs and other related exhibitions where law enforcement equipment that could be misused for torture and other ill-treatment is promoted.

48 For more information about particular trade fairs see Omega Research Foundation, Arms fairs interactive map, <https://omegaresearchfoundation.org/resources/arms-fairs>

49 Amnesty International and the Omega Research Foundation, *Why the EU Should Ban the Commercial Marketing of Inhumane Policing and Prison Equipment* (EUR 01/3636/2016)

50 Omega Research Foundation, *Manufacture, trade and use of "tools of torture" in the Council of Europe*, June 2018, p. 23, <https://omegaresearchfoundation.org/sites/default/files/uploads/Publications/CoE%20Tools%20of%20Torture%20Report%20January%202018%20Omega%20Research%20Foundation.pdf>

51 Omega Research Foundation, *Review of the EU Anti-Torture Regulation and its implementation*, November 2020, <https://omegaresearchfoundation.org/sites/default/files/uploads/Publications/Omega%20EU%20Anti-Torture%20Report%202020.pdf>

4.2 THE RESPONSIBILITY OF COMPANIES

States have clear obligations to combat and prevent torture and other ill-treatment, including through national and regional legal prohibitions and controls on the trade in law enforcement equipment and other related goods that could be readily misused for such purposes. States must also protect against human rights abuse within their territory by third parties, including business enterprises.⁵² For instance, the Council of Europe Committee of Ministers Recommendation on Business and Human Rights states that “*member States should ensure that business enterprises domiciled within their jurisdiction do not trade in goods which have no practical use other than for the purpose of capital punishment, torture or [other ill-treatment].*”⁵³

This, however, does not absolve companies of their responsibility to respect all human rights, including freedom from torture and other ill-treatment, wherever they operate. This is expressly recognized in global standards such as the UN Guiding Principles on Business and Human Rights (UN Guiding Principles), unanimously endorsed by the UN Human Rights Council in June 2011, and the Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises.⁵⁴

Of particular importance in this regard are responsibilities upon businesses to:

Halt the trade in inherently abusive equipment: All business enterprises have a responsibility to respect human rights. According to UN Guiding Principle 11 “*[t]his means that they should avoid infringing on the human rights of others and should address adverse human rights impacts with which they are involved.*” Companies that manufacture, promote or trade in inherently abusive law-enforcement equipment that could only be used for torture, other ill-treatment or the death penalty would not be able to fulfil Principle 11 and should cease such activities immediately.

Undertake effective human rights diligence: UN Guiding Principle 15 states that “*In order to meet their responsibility to respect human rights, business enterprises should have in place... A human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights.*” According to the UN Guiding Principles, this responsibility applies “*to all business enterprises, both transnational and others, regardless of their size, sector, location, ownership and structure.*”⁵⁵ Companies must consequently address the risks involved not just in their company operations and across their supply chain, but through their entire value chain, including risks associated with how their products are being and are likely to be used once they are deployed by law enforcement officials. This is especially the case if companies are supplying law enforcement equipment to countries experiencing political upheaval or which have poor human rights records, such as a long history of torture or other ill-treatment in custodial or non-custodial settings. The importance of such responsible business practices were underlined in the July 2020 UN Secretary General’s Report, *Towards torture-free trade: examining the feasibility, scope and parameters for possible common international standards, which called on states to ensure that “companies involved in trading goods that could be used for capital punishment, torture or other forms of ill-treatment ... carry out human rights due diligence.”*⁵⁶

52 UN, Office of the High Commissioner for Human Rights, Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect and Remedy’ Framework, UN Doc. HR/PUB/11/04, p. 3

53 Council of Europe, Business and Human Rights Recommendation CM/Rec(2016)3 of the Committee of Ministers to member States, adopted on 2 March 2016, rm.coe.int/human-rights-and-business-recommendation-cm-rec-2016-3-of-the-committee/16806f2032

54 UN, Office of the High Commissioner for Human Rights, Guiding Principles on Business and Human Rights: Implementing the United Nations ‘Protect, Respect and Remedy’ Framework, UN Doc. HR/PUB/11/04 www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf; Organization for Economic Cooperation and Development (OECD), OECD Due Diligence Guidance for Responsible Business Conduct, 31 May 2018, mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-for-Responsible-Business-Conduct.pdf

55 UN Guiding Principles, p. 1

56 UN, Report of the Secretary General, *Towards torture-free trade*.

Like all companies, those operating in the law enforcement sector must put in place proactive preventive measures to address the human rights risks that the misuse of their products and services pose. These measures should include robust human rights due diligence policies and processes – separate from those of the state – to identify, prevent, mitigate and account for how these companies address both their potential and actual human rights impacts. Adequately conducted human rights due diligence might require companies to go beyond what is legally required in a given jurisdiction; it might also require them to refrain from engaging in business that would otherwise be permitted under state licensing laws. If its product does contribute to gross human rights violations or serious violations of international humanitarian law, a company must endeavour to provide or facilitate prompt and effective reparation, including restitution, compensation, rehabilitation, satisfaction and guarantees of non-repetition.

Some companies have acted proactively to stop products and services being used for torture and other ill-treatment and the death penalty.

DUTCH COMPANY HALTS PROMOTION OF RESTRAINT CHAIR

According to the USA-based manufacturer, Safety Restraint Chair, Inc, its *“restraint chair has been sold across the U.S., in Canada, and internationally in countries like Australia, New Zealand, the Netherlands, and South Korea.”*⁵⁷ The restraint chair manufactured by this company was previously promoted by the Dutch company, De Ridder Products⁵⁸, which has offices in Belgium, France, Germany, and the Netherlands, as highlighted in a previous Amnesty International and Omega Research Foundation report. On 29 April 2015, in response to an information request from Amnesty International and the Omega Research Foundation, De Ridder Products stated: *“After reading your report we have decided to delete the mentioned chair out of our assortment and we have also removed it from our website. After taking everything in consideration we come to the conclusion that this product does not match our vision on safety for the prisoners when used wrongly.”*⁵⁹

DANISH COMPANY PREVENTS TRANSFER OF SHOCK BATONS TO SUDAN

According to media reports, on 29 May 2019 a container ship owned by Danish transportation company, Maersk, left the port of Shanghai, China, bound for Port Sudan, carrying 5,000 direct contact electric shock batons within its cargo. Although the cargo was identified and red-flagged, it was mistakenly loaded and shipment commenced. En route to Sudan, however, the shipping company discovered its mistake. It subsequently informed the Danish authorities of its discovery. The 5,000 electric shock batons were never delivered to the intended purchaser – an un-named Sudanese company; instead, according to Maersk, they were subsequently re-exported out of Sudan and disposed of legally.⁶⁰ Although the identity of the manufacturer/trader and the recipient/intended end user of the shock batons are unknown, the use of electric shock batons for torture and ill-treatment by the Sudanese police and military has been reported by the media and human rights organizations, including Amnesty International.⁶¹

57 Safety Restraint Chair, Inc. company website, <https://restraintchair.com/our-company.php> (accessed 30 October 2020).

58 De Ridder Products, 2015 Was available at: http://www.deridderproducts.com/index.php?route=product/product&product_id=1336. See Amnesty International and Omega Research Foundation, *Grasping the Nettle: Ending Europe's Trade in Execution and Torture Technology* (Index number: EUR 01/1632/2015). As stated in its response to Amnesty International and the Omega Research Foundation, De Ridder Products subsequently removed all details of the safety restraint chair from its website.

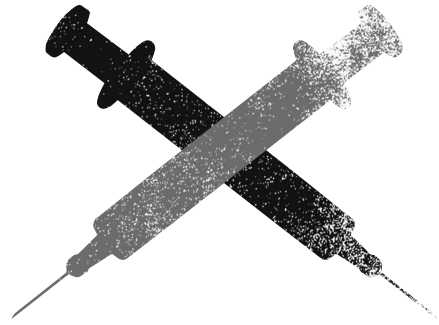
59 Email correspondence with Amnesty International and the Omega Research Foundation from representative of De Ridder Products, 29 April 2015.

60 Nikolaj Houmann Mortensen and Charlotte Aagaard, “Mærsk får bøde for at sejle 5000 torturinstrumenter til Sudan”, Danwatch, 1 October 2020, <https://danwatch.dk/undersogelse/maersk-faar-boede-for-at-sejle-5000-toturinstrumenter-til-sudan/>

61 See, for example, Amnesty International, *“They descended on us like rain”: Justice for victims of protest crackdown in Sudan*, (Index: AFR 54/1893/2020); “Sudanese teacher was ‘raped and killed by special torture unit’”, *Middle East Eye*, 14 February 2019, <https://www.middleeasteye.net/news/sudanese-teacher-was-raped-and-killed-special-torture-unit>

PHARMACEUTICAL COMPANIES HALT SUPPLY OF DRUGS FOR LETHAL INJECTION

Some sectors, such as the pharmaceutical industry, have already introduced due-diligence measures to prevent their goods from being used to carry out lethal injection executions in countries that employ this method of capital punishment, notably the USA. Such due diligence measures have included monitoring the distribution and use of their products, explicitly barring products from being sold to correctional facilities, inserting clauses in customer contracts barring use for the death penalty, auditing contract compliance and making strong public statements against the use of their products for capital punishment.⁶²



Other companies and sectors should follow this good practice. Companies producing law enforcement equipment have at their disposal a range of measures to identify and address potential human rights risks before, during and after a given transfer of goods. These include vetting clients' past performance against human rights benchmarks, building high expectations of compliance with international human rights law into contracts, continuous monitoring and periodic auditing of client performance, and using leverage to influence the behaviour of clients up to and including suspending or even ceasing the business relationship where risks cannot be adequately mitigated.

However, many companies in the law enforcement equipment and weapons manufacturing and promotion sector lack even rudimentary human rights policies. Companies contacted by Amnesty International have incorrectly stated that it is not their responsibility to monitor the use of their goods or decide on the suitability of export markets.⁶³

62 Reprieve, *Lethal Injection Information Centre* contains a compilation of public statements made by pharmaceutical manufacturers, distributors and outsourcing facilities on their opposition to the misuse of medicines for lethal injection executions, lethalinjectioninfo.org/industry-statements/

63 See company responses to letters from Amnesty International in the methodology section of *Tear Gas: an Investigation*, teargas.amnesty.org/#about Tippmann Sports, a manufacturer of "less lethal" launchers wrote in relation to alleged misuse of its products in Istanbul, Turkey: "We abide by the rigorous debarment policies established by the United States of America government and rely on the government to make determinations on the fitness of states to be able to receive such less lethal products... Tippmann cannot monitor the use of its product in the field and as such does not collect any data on the injuries or deaths caused by its equipment."

5. THE PATH TO GLOBAL CONTROLS ON THE 'TOOLS OF TORTURE'

5.1 WORK IN PROGRESS

While law enforcement equipment continues to be traded without adequate regulation in many parts of the world and inherently abusive equipment is still being manufactured and exported, legal and administrative restrictions have been steadily introduced over the past two decades. Since the UN Commission on Human Rights first highlighted member states' obligations to prohibit the production, trade, export and use of equipment which is specifically designed to inflict torture or other cruel, inhuman or degrading treatment in 2001, there has been steady progress towards global regulations which capture not just inherently abusive equipment, but also wide a range of controlled law enforcement equipment.

In Europe, the EU adopted legally binding prohibitions on the trade of inherently abusive goods and restrictions on the export of law enforcement equipment in 2005 (which came into force in 2006),⁶⁴ and the Council of Europe is set to introduce similar guidance for its member states in 2021. In Africa, the African Union adopted guidelines in 2002,⁶⁵ and is now developing measures to encourage and facilitate effective national implementation. But outside of these regions, with the notable exception of the USA which has introduced national trade control legislation covering law enforcement equipment, individual states have at best a patchwork of export regulations covering a limited range of relevant goods, but which do not adequately address this issue.

...law enforcement equipment continues to be traded without adequate regulation in many parts of the world, and inherently abusive equipment is still being manufactured and exported...

64 EC Regulation 1236/2005 of 27 June 2005 concerning trade in goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment, published in Official Journal of the European Union, L200/1, 30 July 2005.

65 African Commission on Human and People's Rights, Resolution on Guidelines and Measures for the Prohibition and Prevention of Torture in Africa, ACHPR/ Res. 61(XXXII) 02, Appendix 1 [Robben Island Guidelines].

THE PATH TO GLOBAL CONTROLS ON THE 'TOOLS OF TORTURE': TIMELINE

The following timeline summarises the milestones along the path for global controls on the trade in equipment that can be used for torture, other ill-treatment and the death penalty.

2001

At the **UN Commission on Human Rights**, the UN Special Rapporteur on Torture calls upon “all Governments to take appropriate effective legislative, administrative, judicial or other measures to prevent and prohibit the production, trade, export and use of equipment which is specifically designed to inflict torture or other cruel, inhuman or degrading treatment.”⁶⁶ Repeated calls on states to introduce such measures are made as part of the biennial UN General Assembly resolution on torture and other cruel, inhuman or degrading treatment, most recently in 2019.⁶⁷



2005

The **UN Special Rapporteur on Torture** recommends that – in addition to prohibiting manufacture, transfer and use of equipment which “has no or virtually no, practical use” other than for torture or ill-treatment – states should also introduce “strict controls on the export of other security and law enforcement equipment to help ensure that it is not used to inflict torture or ill-treatment” and should “consider the development of an international regulatory mechanism”.⁶⁹



2002

The **African Commission on Human and Peoples' Rights** adopts Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (The Robben Island Guidelines), incorporating a comprehensive recommendation that states “prohibit and prevent the use, production and trade of equipment or substances designed to inflict torture or ill-treatment and the abuse of any other equipment or substance to these ends”.⁶⁸



2006

The **EU Anti Torture Regulation** comes into force, instituting the first legally binding regional control regime.⁷⁰ Directly applicable in all member states, it prohibits the trade (import/export/transit) into, from or through, the EU of equipment and products from/to third countries (that is, non-EU states) that have “no other practical use other than for the purposes of capital punishment, torture or other cruel, inhuman or degrading treatment”. It also prohibits the provision of technical assistance, brokering of deals between third countries or promotion of such goods; and requires EU states to license the export and transit to third countries of law enforcement equipment that could be misused for torture and ill-treatment. EU states must refuse export authorization when there are “reasonable grounds to believe” that the goods might be used for torture or other ill-treatment.



2017

The EU, Argentina and Mongolia launch the **Alliance for Torture-Free Trade** at the margins of the **UN General Assembly** session in New York. The Alliance currently comprises over 60 states from all regions of the world. All members have signed its Political Declaration, acknowledging that “the availability of goods used for capital punishment, torture and other cruel, inhuman or degrading treatment or punishment enables such practices”, and committing themselves to “act together to further prevent, restrict and end trade” of such goods.⁷¹



2020

In July the **UN Secretary General's report** analysing states views is published. It notes that most responding states supported the proposal to establish common international standards and that a majority were in favour of a legally binding instrument.⁷⁵ As of November 2020, the **Group of Governmental Experts** is being established and will shortly commence its work to explore options for establishing common international standards in this area, presenting its findings to the UN General Assembly in the summer of 2021.



2019

The **UN General Assembly** adopts Resolution A/73/L.94, *Towards torture-free trade: examining the feasibility, scope and parameters for possible common international standards*. The resolution calls on the UN Secretary General to gather member states' views on the feasibility and scope of options to establish common international standards and to establish a Group of Governmental Experts to examine a range of options for establishing common international standards in this area.⁷³



2018

The **Parliamentary Assembly of the Council of Europe (CoE)** calls on member states to strengthen “international regulations against trade in goods used for torture and the death penalty”. After the adoption of a feasibility study proposing the development of CoE standards,⁷² a recommendation, broadly in line with the EU framework, is developed in 2020 for adoption by the Committee of Ministers in February 2021.



2020

The **African Commission on Human and Peoples Rights', Committee for the Prevention of Torture in Africa (CPTA)** adopts as its theme “the prohibition of the use, production, and trade of tools of torture”.⁷⁴ A thematic report on the subject is being prepared by the CPTA and will be presented at a forthcoming Session of the Commission.



66 UN Commission on Human Rights, Torture and other cruel, inhuman or degrading treatment or punishment, 77th meeting, Resolution 2001/62, 25 April 2001, Article 8.
 67 UN, General Assembly, Resolution on torture and other cruel, inhuman or degrading treatment or punishment, UN Doc. A/RES/74/143, para. 20.
 68 African Commission on Human and Peoples' Rights, Resolution on Guidelines and Measures for the Prohibition and Prevention of Torture in Africa, ACHPR/ Res. 61(XXXII) 02 (2002), 23 October 2002, Appendix 1 [Robben Island Guidelines] para. 14.
 69 UN Commission on Human Rights, Report of the Special Rapporteur on the question of torture, UN Doc. E/CN.4/2005/62, 15 December 2004, Article 37.
 70 EC Regulation 1236/2005 of 27th June 2005 concerning trade in goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment, published in Official Journal of the European Union, L200/1, 30th July 2005. The EU Anti-Torture Regulation has subsequently been revised and strengthened over time; the latest consolidated version, Regulation (EU) 2019/125, was published in January 2019 and came into force on 20 February 2019.

71 Alliance for Torture-Free Trade, “Political Declaration”, 18 September 2017, <http://www.torturefreetrade.org>.
 72 Council of Europe, Committee of Ministers, “Towards a recommendation to ban the trade in goods used for torture and the death penalty”, 12 February 2020.
 73 UN General Assembly, Resolution Towards torture-free trade: examining the feasibility, scope and parameters for possible common international standards, 21 June 2019, Seventy-third session, UN Doc. A/73/L.94. The Resolution was adopted with 81 states voting in favour, 20 against and 44 abstaining.
 74 Committee for the Prevention of Torture in Africa, Statement Announcing the CPTA Annual Theme for 2020, <https://www.achpr.org/pressrelease/detail?id=509>
 75 UN Report of the Secretary General, *Towards torture-free trade*, para 36.

5.2 PRESENTING AN ANTI-TORTURE TRADE FRAMEWORK

There is a growing recognition within the international community of the important role that regulating trade in law enforcement equipment and other related goods can play in preventing their use in torture, other ill-treatment and the death penalty – and consequently in contributing to holistic international measures combating these abuses.

Amnesty International and the Omega Research Foundation recognize that discussions through the UN on the elaboration of international measures to regulate the trade in law enforcement equipment and related goods used in torture are at an early stage with several fundamental issues yet to be fully explored. These issues and the contrasting initial views of member states on these matters were identified during the UN Secretary General's survey of member state positions, detailed in his July 2020 report, *Towards torture-free trade: examining the feasibility, scope and parameters for possible common international standards*.⁷⁶ They include questions regarding the nature of the most appropriate measures – that is, whether a legally binding international instrument is required or instead whether general principles should be developed to inform introduction of national measures in this area – and the consequent forum and process by which appropriate measures should be agreed.

Amnesty International and the Omega Research Foundation support the creation of a global, legally binding instrument to regulate the trade in torture and death penalty goods. Whatever the final agreed nature, scope and parameters of the international measures will be, Amnesty International and the Omega Research Foundation believe that there are certain essential elements required for effective action in this area whether it be taken by states through the UN, through regional organizations or at the national level.

Consequently, at this pivotal moment, in order to stimulate, inform and facilitate effective state discourse and action at the national, regional and international levels, Amnesty International and the Omega Research Foundation have developed a list of essential elements required to effectively regulate trade in law enforcement equipment and related goods.

Amnesty International and the Omega Research Foundation are urging states to use this framework to:

- introduce regulations or strengthen existing national controls on the trade in goods used for torture, other forms of ill-treatment or capital punishment;
- aid the development of regional and international instruments in this area, including through the current UN process.

National measures, though vital, will not be sufficient in themselves to ensure that law-enforcement agencies engaged in torture and other ill-treatment do not continue to receive law enforcement equipment and related goods imported from countries lacking effective national trade controls. Concerted action by states working in cooperation with partners through sub-regional and regional organizations to develop common standards can help to combat such activities, while the ongoing process in the UN provides all states the unique opportunity to establish international standards in this area for the first time.

⁷⁶ UN, Report of the Secretary General, *Towards torture-free trade*.

ESSENTIAL ELEMENTS OF AN ANTI-TORTURE TRADE FRAMEWORK

1. NATIONAL TORTURE TRADE LAW

HALT ALL TRANSFERS OF INHERENTLY ABUSIVE LAW ENFORCEMENT EQUIPMENT AND SERVICES

States should introduce national legislation and regulations that:

- Prohibit and prevent the manufacture⁷⁷ and transfer (export, import, transit, or trans-shipment) of equipment and related services (technical assistance and training) that has no practical use in law enforcement other than for the purpose of torture and other cruel, inhuman or degrading treatment or punishment. The prohibition applies to all transfers irrespective of whether undertaken by individuals, commercial companies, states or other entities. The prohibition includes related brokering activities (that is, organizing transfers between third countries) and also transport, financial, insurance and advertising services in relation to such equipment, related technical assistance and training in torture or other ill-treatment.
- Destroy any stock of prohibited equipment discovered within their jurisdiction.
- Establish a list of prohibited equipment and services, which should include, as a minimum the categories specified in Annex 1. To accommodate or take into account new data and technological developments, the list of prohibited equipment should be regularly reviewed by appropriate experts and updated according to a specific procedure.

CONTROL TRANSFERS OF LAW ENFORCEMENT EQUIPMENT AND SERVICES TO PREVENT THEIR MISUSE FOR TORTURE OR OTHER ILL-TREATMENT

States should introduce national legislation and regulations that:

- Control and license the transfer of law enforcement equipment and related services that can be used in a manner consistent with international human rights law and standards including on the use of force, but which can also be (and have been) readily misused by law enforcement officials to torture and otherwise ill-treat people.
- Establish a list of controlled law enforcement equipment and related services which are at risk of misuse by law enforcement officials to torture or otherwise ill-treat people, which should include, as a minimum, the categories specified in Annex 2. The list should be regularly reviewed in order to consider changes in the development and in the nature of the use and misuse of such equipment and goods as well changes in their international markets.

⁷⁷ Although this framework is intended primarily to regulate trade-related activities, Amnesty International and the Omega Research Foundation consider that the manufacture of inherently abusive equipment should also be prohibited. This is in line with existing state obligations enunciated in the UN General Assembly Torture Resolution and also established under certain regional instruments, notably the Robben Island Guidelines.

- License on a case-by-case basis the transfer of law enforcement equipment and related services. The relevant license authorization should be issued only upon the provision of a detailed application from the prospective exporter that includes an end-use certificate or other official written assurance from the intended recipient detailing the nature and volume of goods, end user and nature of the intended use.
- Ensure that the evaluation of transfer applications incorporates an assessment of the risk that the law enforcement equipment and services will be used for torture or other ill-treatment or will be diverted. The evaluation should, at a minimum, take into account relevant judgments of international courts and information provided by international, regional and national bodies regarding the use and regulation of law enforcement and related services by the proposed end users. In addition, the evaluation may also consider other relevant information, including available national court judgements, reports prepared by civil society organizations and information relating to the use, misuse and regulation of law enforcement equipment and services in the country of destination.
- Ensure that the transfer authorization is withheld when there are reasonable grounds for believing that the law enforcement equipment and services applied for will be used for torture or other ill-treatment or the goods will be diverted.
- Amend, suspend or revoke the authorization of an ongoing transfer where there are reasonable grounds for believing that the law enforcement equipment and services being transferred, have been, are being or risk being used for torture or other ill-treatment; or where the diversion of such equipment and goods is likely.
- Maintain full records of all applications and licensing decisions (that is, authorizations or denials) for the transfer of law enforcement equipment and services for a period of five years.
- Publish in a timely manner an annual report containing meaningful information on the volume, value, description, destination and end user for law enforcement equipment and related services to enable appropriate oversight by elected representatives, civil society and independent bodies.
- Take all appropriate measures necessary to enforce these national laws and regulations to ensure they are fully implemented, including through the introduction of effective, proportionate and dissuasive penalties for their infringement.

“Amnesty International and the Omega Research Foundation support the creation of a global, legally-binding instrument to regulate the trade in torture and death penalty goods.”

2. ADDITIONAL PROVISIONS COVERING EXECUTION TECHNOLOGIES

States should introduce measures to:

- Prevent and prohibit the transfer of equipment which has no practical use other than the infliction of the death penalty. Brokering, transport, financial, insurance and advertising services in relation to such equipment, related technical assistance and training by state party nationals or companies should be prohibited, irrespective of the origin of such goods.
- Regulate and license the export and transit of certain pharmaceutical chemicals to ensure that they are not transferred for use in lethal-injection executions in states still applying the death penalty. States parties' action should not limit the trade of such chemicals for legitimate medical, veterinary or other purposes.
- Establish a list of prohibited equipment which should include the categories specified in Annex 3, and a list of controlled pharmaceutical chemicals as specified in Annex 4. These two lists should be regularly reviewed and updated, in order to consider changes in the development, production, trade and use of such goods.

3. ADDITIONAL ELEMENTS FOR AN INTERNATIONAL INSTRUMENT

The previous two sections outlined the basic essential elements for an effective national legal framework. They also provide the core essential elements for any regional or universal instrument in this area. However, for such instruments to function effectively, they would also require the following additional measures to facilitate effective multilateral action against the trade in the 'tools of torture'. Furthermore, if it is determined that such regional or universal instrument will include execution technologies within their scope, a separate protocol to this effect should be developed.

ANTI-UNDERCUTTING MEASURES

A denial notification and consultation mechanism should be established in order to discourage and prevent undercutting (where one state allows the transfer of essentially identical goods to an end user in a third country that another state had previously refused to authorize). Under this any state which denies a transfer authorization or annuls an existing authorization shall notify all other states parties together with the reasons for such action. Any state considering granting an essentially identical transaction to one that had been denied in the previous three years should consult the original denying state. If after such consultations the state still decides to grant authorization it shall immediately inform all states parties and explain the reasons for its decision.

URGENCY PROCEDURE

States should take immediate steps to halt the export of any equipment, related technical assistance or of training not listed in the Annexes of controlled and prohibited goods, when the state has reasonable grounds to believe that such equipment, technical assistance or training has no practical use other than for the purposes of torture or other ill-treatment or capital punishment, or would be used for such purposes by the intended or likely end user. In addition, the relevant state should inform all other states parties of their actions so that they are made immediately aware of these developments and can take appropriate measures.

ADDITIONAL NATIONAL MEASURES

A state may adopt or maintain additional national prohibitions on the trade of goods and technical assistance not listed in Annex 1 where it considers them to have no practical use in law enforcement other than for the purpose of torture or other ill-treatment. Similarly a state may adopt or maintain additional national authorization requirements on the export of equipment, related technical assistance and of training not listed in Annex 2 where it considers they can be used in a manner consistent with international human rights law and UN standards for law enforcement but nevertheless could also be misused for the purposes of torture or other ill-treatment. Any state adopting such measures should notify all other states parties to the instrument.

MEASURES TO FACILITATE INTERNATIONAL COMMUNICATION AND COOPERATION

In addition to these issue-specific measures, the regional or universal instrument should include provisions enabling effective communication, interaction and synergy between all the state parties:

- International information exchange and cooperation including in investigations and other proceedings in relation to violations of national and international measures
- Assistance provision such as capacity building and technical or financial assistance
- Conference of States Parties acting as the main oversight and decision-making body of the instrument. Meeting annually, it will examine national implementation of the instrument, and every five years undertake a strategic review of the operation and status of the instrument.
- Dispute-resolution mechanisms
- Implementation Support Unit to fulfil administrative and institutional functions; facilitate state information exchange, assistance and cooperation; coordinate annual expert review and revision of lists of prohibited and controlled goods; monitor global trade in law enforcement equipment and services, bringing significant developments to the attention of the states parties

A state may adopt or maintain additional national prohibitions on the trade of goods and technical assistance not listed in Annex 1, where it considers them to have no practical use in law enforcement other than for the purpose of torture or other ill-treatment.

4. SCOPE OF GOODS AND SERVICES COVERED BY AN ANTI-TORTURE TRADE FRAMEWORK

ANNEX ONE:

PROHIBITED GOODS AND SERVICES WITH NO PRACTICAL USE OTHER THAN FOR THE PURPOSE OF TORTURE AND OTHER ILL-TREATMENT

- Electric shock devices/weapons unsuitable for law enforcement including:
 - body-worn electric shock devices such as belts, vests, sleeves and cuffs
 - direct contact electric shock devices/weapons including shock shields, shock batons, shock (stun) guns, shock (stun) gloves and shock grabbing devices
- Mechanical restraint devices unsuitable for law enforcement including thumb cuffs, finger-cuffs, thumbscrews; leg irons; bar fetters; weighted restraints; gang chains; fixed restraints (intended for attaching to walls, floor, ceiling); neck restraints; restraint chairs, shackle boards/beds with metal restraints; restraint chairs, shackle boards/beds with fabric restraints for law enforcement purposes; cage and net beds; prisoner hoods and blindfolds
- Kinetic impact devices/weapons unsuitable for law enforcement including spiked batons, shields and any other spiked or serrated devices, weighted batons and weighted gloves and strengthened whips and sjamboks
- Inherently dangerous riot control agent (RCA) delivery mechanisms, including multiple launch systems and launchers which are intrinsically inaccurate and/or excessively powerful
- Equipment or weapons employing audible sound wave technology targeting individuals or groups from a distance, that are designed to cause long term or permanent loss or damage to hearing.
- Equipment or weapons employing millimetre wave energy technology to cause painful heat sensation on the skin of the targeted individual or group of individuals from a distance.
- Equipment or weapons employing laser or optical light, that are designed to cause long term or permanent loss or damage to sight or visual acuity of an individual or group of individuals.
- Unique components and specifically designed parts for all prohibited equipment
- Technical assistance related to any of the prohibited equipment, including any technical support related to the repair, development, manufacture, testing, maintenance, assembly or any other technical service. Such assistance may take the form of instruction, advice, training activities, transmission of working knowledge or skills
- Training in the use of any of the prohibited goods; training in the misuse of any law enforcement equipment for torture or other ill-treatment (e.g., the application of batons for choke holds or use of restraints for hog-tying); or training in other techniques employed for torture and other ill-treatment (including sleep deprivation, stress positions)

ANNEX TWO:

CONTROLLED LAW ENFORCEMENT GOODS AND SERVICES THAT CAN BE MISUSED FOR TORTURE AND OTHER ILL-TREATMENT

- Goods for restraining human beings such as ordinary handcuffs, leg-cuffs, combination cuffs, and spit guards
- Multi-point restraints with fabric restraints for medical use including restraint chairs, shackle boards and shackle beds
- Projectile electric shock weapons suitable for law enforcement
- Riot control agents (RCAs) employed for law enforcement purposes, including CS, CN, CA, CR, MPK/MPA OC, and PAVA
- RCA dispersal equipment (for example, aerosols, hand-held RCA sprayers or single-barrel RCA launchers) targeting one individual or disseminating a limited dose over a small area
- Fixed RCA dispersal equipment intended for disseminating a limited dose of RCA over a small area inside a building
- RCA dispersal equipment intended for disseminating RCAs over a wide area, including water cannons
- Hand-held striking weapons including batons, truncheons and *tonfas*.
- Launchers and non-metallic kinetic impact projectiles, including rubber bullets, plastic bullets and bean bags
- Devices employing laser or optical light designed to temporarily disrupt the sight or visual acuity of an individual or group of individuals, and not designed to cause long-term or permanent loss or damage to sight or visual acuity
- Acoustic devices or weapons employing audible soundwave technology
- Unique components and specifically designed parts for the goods listed above
- Technical assistance related to any of the controlled equipment, including any technical support related to the repair, development, manufacture, testing, maintenance, assembly or any other technical service. Such assistance may take the form of instruction, advice, training activities and transmission of working knowledge or skills
- Training in the use of controlled law enforcement equipment and use of force consistent with international human rights law and standards.

ANNEX THREE:

PROHIBITED GOODS AND SERVICES WITH NO PRACTICAL USE OTHER THAN FOR THE PURPOSE OF CAPITAL PUNISHMENT

- Gallows and specially designed hanging ropes
- Guillotines and blades for guillotines
- Gas chambers and associated chemicals
- Electric chairs
- Automatic lethal injection systems designed for capital punishment
- Unique components and specifically designed parts for the goods listed above
- Technical assistance related to any of the prohibited equipment, including any technical support related to the repair, development, manufacture, testing, maintenance, assembly or any other technical service. Such assistance may take the form of instruction, advice, training activities and transmission of working knowledge or skills
- Training in the use of any of the prohibited goods

ANNEX FOUR:


CONTROLLED PHARMACEUTICAL CHEMICALS THAT CAN BE MISUSED FOR LETHAL INJECTION EXECUTION

Short-acting and intermediate-acting barbiturate anaesthetic agents including, but not limited to:

- amobarbital and amobarbital sodium salt
- pentobarbital and pentobarbital sodium salt
- secobarbital and secobarbital sodium salt
- thiopental and thiopental sodium salt

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ENDING THE TORTURE TRADE

THE PATH TO GLOBAL CONTROLS ON THE 'TOOLS OF TORTURE'

Law enforcement equipment which is inherently abusive or which is readily misused for torture or other ill-treatment and death penalty goods continue to be traded across the world. But legal and administrative restrictions have advanced significantly over the past two decades. As the UN considers the feasibility of a global instrument, this report brings together illustrative cases of equipment misuse, and proposes an anti-torture trade framework to help states and the UN to close remaining gaps. To fulfil their obligations to prevent and eradicate torture and other ill-treatment, all states must ensure that the trade in abusive goods is prohibited, and that other law enforcement equipment is only traded under robust human-rights compliant trade controls. Similar global controls and prohibitions must also be placed on goods used to carry out the death penalty, including dual use pharmaceutical chemicals used as part of lethal injection executions.

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