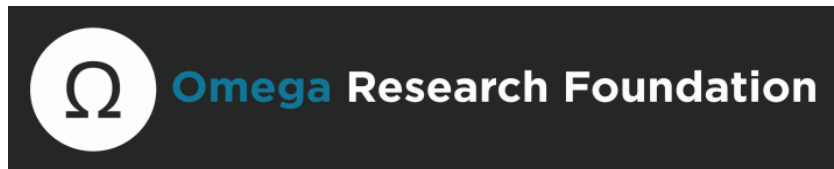


Submission to the United Nations Committee
Against Torture and Other Cruel, Inhuman or
Degrading Treatment or Punishment in
Advance of the 54th Session (April – May 2015)
Concerning equipment which could be used for torture or other
cruel inhuman or degrading treatment or punishment in **China**

by the Omega Research Foundation
March 2015



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**Submission in Advance of the UN CAT 54th Session, 20th April – 15th May 2015
Concerning equipment which could be used for torture or other cruel, inhuman or degrading
treatment or punishment in China**

*From The Omega Research Foundation
March 2015*

The following is a submission from the Omega Research Foundation in advance of the UN CAT 54th Session (20th April – 15th May 2015) concerning equipment which could be used for torture or other cruel, inhuman or degrading treatment or punishment in China.

Founded in 1990, the Omega Research Foundation (henceforth Omega) is a UK-based NGO. We conduct research on the development, manufacture, trade and use of military security and policing equipment including less lethal weapons and restraints. We promote effective mechanisms to prevent the proliferation and use of such weapons through information sharing, awareness raising workshops and advocacy activities targeting, amongst others, the strengthening of export control regimes and use of force policies. Over the last 25 years, we have developed unique expertise and resources to aid our research which has been used by, and provided to, a number of organisations including Amnesty International, Oxfam, the UN Special Rapporteur on Torture, the UN Subcommittee for the Prevention of Torture, the European Committee for the Prevention of Torture and a number of National Preventive Mechanisms (NPMs).

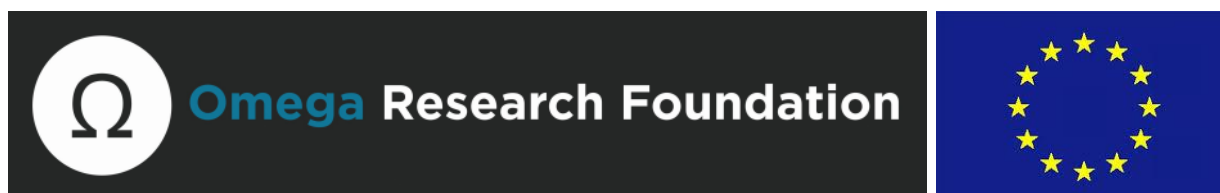
For further information about our work, please visit our website at www.omegaresearchfoundation.org or contact us on info@omegaresearchfoundation.org.

Acknowledgements

Omega would like to acknowledge the support of the European Instrument for Democracy and Human Rights (EIDHR), the Sigrid Rausing Trust, the Oak Foundation and the Joseph Rowntree Charitable Trust.

Disclaimer

This publication has been produced with the assistance of the European Union. The contents of this publication are the sole responsibility of the Omega Research Foundation and can in no way be taken to reflect the views of the European Union.



Introduction

This briefing, submitted to the United Nations' Committee against Torture (henceforth UN CAT) prior to its 54th Session to be held in Geneva from 20th April to 15th May 2015, outlines a number of items of concern in relation to the manufacture, trade and use of certain types of military, security and policing equipment which could be deemed to contravene Articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment (henceforth the Convention).

Articles 2 and 16 of the Convention require each State party to “take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction” (Article 2) as well as the requirement to take the same measures against “other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in Article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity” (Article 16).

This briefing contains information concerning the manufacture, acquisition, or use of a number of different types of military, security or police equipment deemed “of concern” by the Omega Research Foundation. It is drafted on the understanding that:

- (a) *Certain types of equipment have no legitimate law enforcement function and as such can only be used to commit torture or other cruel, inhuman or degrading treatment or punishment in violation of Article 2 or 16 of the Convention. This equipment includes, but is not limited to: spiked batons, weighted leg cuffs, body worn electric shock equipment and direct contact electric shock weapons.*
- (b) *Certain types of equipment deemed to have the potential to have a legitimate law enforcement function can also be used to commit torture or other cruel, inhuman or degrading treatment or punishment in violation of Articles 2 or 16 of the Convention. This equipment includes, but is not limited to: handcuffs, batons and certain crowd control weapons.*
- (c) *The use of excessive force by law enforcement or correctional officials can constitute torture or other cruel, inhuman or degrading treatment or punishment and as such can violate Articles 2 or 16 of the Convention; this includes during the dispersal of protests using riot control agents or other chemical irritants or weapons.¹*
- (d) *All States have a responsibility to ensure equipment manufactured or traded in/from their territories is not used to commit human rights abuses at home or abroad. Robust, transparent and accountable export controls, end-use certification processes, and internal legislative, administrative and judicial mechanisms should be implemented to help prevent such abuses.*

Equipment of Concern in China

There is a growing market for different types military, security and police equipment in China and worldwide. In 2014 Amnesty International and Omega published a report, entitled *China's Trade in Tools of Torture and Repression* which documented the growing number of Chinese companies that

¹ See for example, Physicians for Human Rights (2012) *Weaponizing Tear Gas: Bahrain's Unprecedented Use of Toxic Chemical Agents Against Civilians*, https://s3.amazonaws.com/PHR_Reports/Bahrain-TearGas-Aug2012-small.pdf, Mendez, J (2013) *Report of the Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment: Mission to Morocco*, A/HRC/22/53/Add.2, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-53-Add-2_en.pdf, Amnesty International (2015) *Open for Business? Corporate Crime and Abuses at Myanmar Copper Mine*, AI Index: ASA 16/003/2015, <https://www.amnesty.org/download/Documents/ASA1600032015ENGLISH.PDF>, all accessed 05/03/2015

manufacture and trade in this equipment, as well as the reported use of the equipment within China and its export abroad.²

Omega is concerned about the use of, and trade in, a number of different types of military, security and policing equipment in China; the use of which has been documented by civil society.³ Whilst some of this equipment can have a legitimate role to play in law enforcement work, much of it has been implicated in facilitating torture or other cruel, inhuman or degrading treatment or punishment. Worryingly, a further selection of equipment has entered the marketplace which can only be deemed to be inherently cruel and as such have no legitimate law enforcement function.

Omega is particularly concerned about:

- (a) **Equipment deemed inherently cruel**, that has no legitimate law enforcement function and as such can only be used to commit torture or other cruel, inhuman or degrading treatment or punishment in violation of Articles 2 and 16 of the Convention including:

- ***Direct Contact Electric Shock Weapons including body worn electric shock weapons, stun batons, stun shields, stun “grabbers” and stun gloves***

Direct contact *electric shock batons* are designed to be placed in direct contact with a subject in order to deliver an electric shock; they work by causing compliance through pain and are often used on sensitive areas of the body including the neck, throat, ears, underarms, and groin. It is very easy for an officer to use a direct contact stun baton to apply extremely painful shocks on those in detention and such weapons can be used to inflict repeated or prolonged electric shocks. Given there is a substantial risk that the use of these weapons, as currently designed, can amount to arbitrary force, torture or other cruel, inhuman or degrading treatment and punishment, they should never be used for law enforcement or correctional purposes.

The use of direct contact stun batons has been documented in China⁴ and they are known to be manufactured locally and offered for sale at national and international military, security and policing exhibitions.

Electric shock shields are shields that deliver an electric shock when contact is made with an individual; concave models are designed for cell extractions and convex models are designed for riot control. Like other direct contact electric shock stun weapons, the shock can create intense pain and multiple shocks may be inflicted with one shield.

Body worn electric shock equipment – also referred to as stun cuffs, stun sleeves, or stun belts – are designed to deliver an electric shock to the wearer when activated by remote control. They are used to encourage compliance through the fear of being shocked or, if activated, compliance through pain.

Stun gloves are currently manufactured in China and the US. Models vary but they generally feature a built-in direct contact stun feature which can be activated at the press of a button. As a relatively new item, little is known about their use however the shock is designed to create intense pain and multiple shocks may be inflicted with one glove.

² See: Amnesty International and the Omega Research Foundation (2014) *China's Trade in Tools of Torture and Repression*, AI Index ASA 17/042/2014, 23 September 2014, <http://www.omegaresearchfoundation.org/assets/downloads/publications/asa170422014en.pdf> accessed 24/03/2015

³ *ibid*

⁴ *ibid*

Stun “grabbers” – also referred to as “capture stick/poles”, “restraint sticks/poles” or “riot forks” – are designed to allow the restraint of a subject at a distance. They generally feature a long metal pole with a half circle at one end large enough to pin a subject to a wall or floor by the waist or wrist. Whilst non-stun versions are available on the market, products which feature a direct contact electric shock capacity within the half circle do exist.

Whilst it is unclear if electric shock shields, body worn electric shock weapons, stun gloves or stun “grabbers” are in use in China, they are known to be manufactured within China and offered for sale at Chinese-based military, security and policing exhibitions. Given that there is a substantial risk that the use of these weapons can amount to arbitrary force, torture or other cruel, inhuman or degrading treatment or punishment in violation of Articles 2 and 16 of the Convention, they should never be used for law enforcement or correctional purposes.

- ***Spiked Batons***

A range of batons with spiked heads or shafts are widely manufactured in China. Omega, alongside Amnesty International, the United States Bureau of Industry and Security, and the European Commission, considers these weapons to be inherently cruel, and considers their use tantamount to torture or other cruel, inhuman or degrading treatment or punishment and as such, their use violates Articles 2 and 16 of the Convention. Although reports detailing the use of these weapons are rare, they do occur, and these products are actively promoted to an international audience by companies at Chinese-based military, security and policing exhibitions.

- ***Mechanical Restraints incl. Weighted Leg Cuffs, Restraint Chairs, Thumbcuffs***

A range of mechanical restraints, the use of which Omega believe to breach Articles 2 and 16 of the Convention, are manufactured in China. These include weighted leg cuffs, restraint chairs and thumbcuffs.

Leg cuffs weighing up to 8kg are widely manufactured and used in China.⁵ These types of weighted restraints significantly increase the risk of ankle injury and lacerations which can, if left untreated, lead to long term physical impairments. In Omega’s opinion their use amounts to torture or other cruel, inhuman or degrading treatment or punishment. Further, in his 2005 visit to China, the UN Special Rapporteur on Torture highlighted the practice of prolonged cuffing of death row prisoners in weighted leg cuffs and stated that their use was “*inhuman and degrading and serves only as an additional form of punishment...*”⁶ However, despite these concerns, the Chinese authorities have not sought to restrict or ban the use of weighted leg cuffs.

Restraint chairs, in which a detainee is restrained to a specially-designed chair by multiple straps or cuffs including at the wrists, elbow, shoulder, chest, waist, thigh or ankle, are widely manufactured and used in China.⁷ In 2000, the UN CAT recommended the complete abolition of the use of restraint chairs for those in custody as “*their use almost invariably leads to breaches of article 16 of the Convention.*”⁸

⁵ Amnesty International and the Omega Research Foundation (2014) op. cit. pp.7

⁶ Report of the Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment, Manfred Nowak: Mission to China, UN Doc. E/CN.4/2006/6/Add.6, 10 March 2006, para.68. <http://daccess-dds-ny.un.org/doc/UNDOC/GEN/G06/117/50/PDF/G0611750.pdf?OpenElement> accessed 24/03/2015

⁷ A recent news item produced by the French broadcaster Canal Plus shows chairs being shipped around China for use in places of detention. See *Chine, Mal in China*, Canal Plus, <http://video.capatv.com/index.php?Lien=d33e6aeb753b11c5536430ddcdc5a9266db8e1e3> accessed 30/03/2015

⁸ UN, Conclusions and Recommendations of the Committee against Torture: United States of America, 24th Session, 1st-19th May 2000, Report of the Committee against Torture, A/55/44. (Concluding Observations/Comments), pp. 32.

Chinese companies also manufacture *thumbcuffs*. Whilst Omega has no reports of their recent use, it was reported that thumbcuffs were used historically by Chinese authorities in Tibet when arresting subjects and to help facilitate torture in detention;⁹ and they are still frequently advertised for sale nationally and internationally by Chinese companies at trade fairs and on the internet. As they have no legitimate law enforcement use that could not be fulfilled by ordinary handcuffs, Omega considers that the manufacture, trade and use of thumbcuffs should be prohibited especially considering their propensity for use in “stress positions”. Furthermore, some types of thumbcuffs manufactured and advertised for sale in China have serrated inner edges that can penetrate the skin if tightened. These types of thumbcuffs certainly have no legitimate law enforcement function and their use amounts to torture or other cruel, inhuman or degrading treatment or punishment in violation of Articles 2 or 16 of the Convention.

(b) **Equipment which could have a legitimate law enforcement role** but which has been reportedly used for, or to facilitate, torture or other cruel, inhuman or degrading treatment in contravention of Articles 2 or 16 of the Convention, such as:

- ***Handcuffs***

Handcuffs are widely considered a legitimate tool for law enforcement however they are prone to misuse and can be easily used to facilitate torture or other cruel, inhuman or degrading treatment or punishment in contravention of Article 2 or 16 of the Convention. Reports from China indicate the use of handcuffs in “stress positions”, for prolonged cuffing, cuffing to a fixed object, and over-tightening of cuffs.¹⁰

- ***Leg cuffs***

Leg cuffs can be considered to be a legitimate tool for law enforcement in exceptional circumstances but only when they are humanely designed with a light leg restraint rather than a rigid and/or weighted chain or bar, however they are prone to misuse and can easily be used to facilitate torture or other cruel, inhuman or degrading treatment or punishment. Reports from China indicate the use of leg cuffs in “stress positions”, for prolonged cuffing, and cuffing to a fixed object.¹¹

- ***Crowd Control Weapons such as chemical irritants, baton rounds, water cannon***

A range of crowd control weapons such as *chemical irritants* (often referred to as “tear gases” or “pepper sprays”), *baton rounds* (often referred to as “rubber bullets”), their associated *launchers*, and *water cannon*, are widely manufactured in, used in, and exported from China. There have been widespread reports of incidences of excessive use of force in China utilising such equipment.¹² Such use can constitute torture or other cruel, inhuman or degrading treatment or punishment and as such can violate Articles 2 or 16 of the Convention.

(c) **The lack of adequate controls on:**

- ***The use of military, security and policing equipment in China***

⁹ See for example: Human Rights Watch (1997) *China: State Control of Religion*, <http://www.hrw.org/reports/1997/china1/> and Leube, M (2002) *Las Ramblas's Lamas*, Peace Magazine, Apr-Jun 2002, pp. 13, <http://peacemagazine.org/archive/v18n2p13.htm> both accessed 24/03/2015

¹⁰ Amnesty International and the Omega Research Foundation (2014) op. cit. pp.19-20

¹¹ *ibid*

¹² See for example: Tibet Today (2013) *Chinese Police Fire on Unarmed Tibetan Protesters in Driru*, October 8, 2013, <http://www.tibetoday.com/Chinese-Police-Fire-on-Unarmed-Tibetan-Protesters-in-Driru.html> and Amnesty International (2010) *Justice Justice: The 2009 Protests in Xinjiang, China*, AI Index: 17/027/2010 <https://www.amnesty.org/download/Documents/36000/asa170272010en.pdf> both accessed 30/03/2015

Omega is concerned that the Chinese authorities have failed to control the use of the above mentioned equipment by law enforcement and corrections officials in-country and as such are permitting the use of equipment which can facilitate torture and other cruel, inhuman or degrading treatment or punishment.

○ ***The trade in and export of military, security and policing equipment from China***

Recent research by the Omega Research Foundation indicates that there are over 100 companies either manufacturing or marketing military, security and policing equipment in China. These companies offer a range of equipment including mechanical restraints, electric shock weapons, striking weapons, and other crowd control weapons. States have a responsibility to ensure equipment exported from their territory is not used to commit human rights abuses abroad. The UN General Assembly has repeatedly called upon States *“to take appropriate effective legislative, administrative, judicial and other measures to prevent and prohibit the production, trade, export, import and use of equipment that have no practical use other than for the purpose of torture or other cruel, inhuman or degrading treatment or punishment.”*¹³ China does not appear to have adequate controls to prevent the export of this equipment from China, even when there is a substantial risk of it being used to commit serious human rights violations by the importing country.

To this end, **Omega recommends** that:

- The UN CAT encourage the relevant Chinese authorities to:
 - Immediately put an end to all incidences of, and practices amounting to, torture and other cruel, inhuman or degrading treatment or punishment, including but not limited to, all uses of equipment deemed “inherently degrading”, prolonged use of cuffing, use of “stress positions”, and use of excessive force during the dispersal of protests.
 - Disclose:
 - What devices are authorised for use by law enforcement and corrections personnel; what devices are actually used in practice
 - What training and standards are in place governing use of permitted devices
 - What records are kept over the stockpile, inventory and deployment of equipment used
 - Review all current use of force policies, training requirements and standards; where none exist or they are inadequate, initiate a process to strengthen / establish them.
 - Fully investigate all alleged incidents of torture and other cruel, inhuman or degrading treatment or punishment, ensuring all perpetrators are held accountable for their actions. In the interest of transparency and accountability, all results of such investigations and any penalties imposed should be made publicly available.
 - Immediately establish up to date export controls for security and policing equipment with a view to:
 - Prohibiting the production, promotion, trade, and transfer of all types of equipment deemed “inherently degrading” as detailed above.
 - Prohibiting the transfer of equipment deemed to have a “legitimate use” to States where there are credible allegations that such equipment may be used to commit or facilitate human rights violations.

¹³ See for instance UN General Assembly resolutions entitled *“Torture and other cruel, inhuman or degrading treatment or punishment,”* resolutions 66/150, 19 December 2011, para. 24; 67/161, 20 December 2012, para. 25; 68/156, 18 December 2013, para. 30.

- In the interest of transparency and accountability, details of all export licences granted and denied should be regularly reported and made publicly available.