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TO THE UNITED NATIONS AND
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The Permanent Mission of the Islamic Republic of Pakistan accredited to the United Nations and other International Organizations in Geneva presents its compliments to the Office of the High Commissioner for Human Rights (OHCHR) and with reference to its note verbale no.NP/RO dated 10 March 2020, has the honour to submit the enclosed feedback by the Government of Pakistan for the UN Secretary-General's report to the General Assembly on torture-free trade: examining the feasibility, scope and parameters for possible common international standards.

The Permanent Mission of the Islamic Republic of Pakistan avails itself of the opportunity to renew to the esteemed Office the assurances of its highest consideration.



Office of the High Commissioner for Human Rights (OHCHR),
Geneva

**Report to the UN General Assembly on Torture-free Trade: Examining
the feasibility, scope and parameters for possible common
international standards**

Inputs by the Islamic Republic of Pakistan

In principle, Pakistan agrees with the need to regulate trade of goods and equipments which are or can be used for inflicting torture, and other cruel, inhuman and degrading treatment or punishment. Torture has often been employed as a systematic instrument to commit grave violations of basic rights and fundamental freedoms in different contexts and situations.

The definition of torture, in Article-1 of the UN Convention against Torture, includes direct or indirect involvement of ‘a public official or other person acting in an official capacity’ as a constitutive element of this human rights abuse. Accordingly, the 1979 UN Code of Conduct for Law Enforcement Officials, the 1990 Basic Principles on the Use of Force and Firearms, and the 2019 UN Guidance on Less-Lethal Weapons, which form building blocks of norms in this thematic area, inherently apply the lens of torture while elaborating ‘dos’ and ‘don’ts’ for law enforcement officials.

Though the three UN guiding documents are result of a continued effort to expound and update basic principles and common standards for appropriate consideration by the Member States, the extent and degree of their effectiveness in combating and preventing torture remains a moot point because of their legally non-binding nature, rapid advancement in weapons technology often outpacing development of corresponding required guidelines, and the changing global public security landscape. Excluding the 2019 UN Guidance, the 1979 Code of Conduct and the 1990 Basic Principles do not even consider trade aspects of goods and equipment, which are or can be used for torture and degrading treatment and punishment.

In recent times, there has been growing focus at the UN on regulating the ‘supply side’ of goods and equipment which are or can be used for torture. However, in order to address this menace on sustainable basis, there should be an equally robust focus on the ‘demand side’. In this regard, there is a need for focused attention towards internationally recognized situations of foreign occupation, where, as documented and reported by the UN and its human rights machinery, international media and civil society organizations, torture has become an institutionalized tool at the hands of occupying power for suppressing indigenous people, struggling for their inalienable right to self-determination. The violation of people’s inherent right to life, liberty, dignity, and freedom of expression and peaceful assembly through torture, coinciding with denial of their fundamental right to self-determination, completely undermines the principles

and purposes enshrined in the UN Charter and the international human rights law, and thus, should be codified in a legally binding international instrument.

Given the gaps-some of which have been highlighted above, Pakistan is of the view that building on the evolving norms, the international community should positively consider the feasibility of elaborating an international instrument in this area, focusing on both supply and demand sides of the problem, in particular on situations of foreign occupation, which are on the UN's agenda.

With regards to the scope of the international instrument, Pakistan broadly agrees with the proposed categorization of goods as well as with the idea of listing them under each category. In this regard, this work should be guided by impartial legal, technical, medical, and scientific expertise and evidence. Such an instrument can be based on the existing work done in this area, in particular the 2019 UN Guidance, which outlines specific risks associated with unlawful use of less-lethal weapons and associated equipments, many of which potentially fall under the second category (i.e. goods/equipment that can be misused for the purpose of torture and ill-treatment and punishment).

In this regard, Pakistan wishes to draw special attention towards misuse of kinetic impact projectiles, in particular highly inaccurate ones like metal pellets fired from shotguns, for the purpose of torture and degrading treatment and punishment. There is growing evidence that pellet shotguns are being employed in different parts of the world, as an instrument of crowd control, to 'torture' and 'punish' peaceful protestors through wilfully targeting them above the waist-line, in particular head, face, or neck. Research conducted by the International Network of Civil Liberties Organizations (INCLO) and Physicians for Human Rights has found that more than 70% of the 11,925 documented cases of injuries caused by kinetic impact projectiles (like rubber bullets and pellet rounds) over a period of 25 years resulted in permanent vision loss, blunt injuries to the brain, sprain, bruises and fractures¹. Moreover, victims have to struggle for the rest of their lives due to permanent disabilities caused by pellets. Many suffer from post-traumatic stress disorder and depression, and therefore, need sustained psycho-social and economic rehabilitation support.

Legally speaking, the unwarranted, unnecessary and disproportionate risk which the use pellets and pellet shotguns pose to life, and physical and mental health of its victims and by-standers, clearly violates principle 5 (a), and 11 (b) &(c) of the 1990 UN Basic Principles. This risk is compounded by crowd's volatility, and inaccuracies in hitting the target due to dispersal of multiple projectiles over a wide area. Therefore, the 2019 UN Guidance has advocated that

¹ <https://www.inclo.net/issues/lethal-in-disguise/>

metal pellets, such as those fired from shotguns, should never be used under any circumstance.

Given the above legal, technical and medical/scientific reasons, Pakistan proposes that strict control measures should be applied on trade of metal pellets and associated equipment under the international instrument. These measures should include public awareness-raising campaigns about well-established risks associated with pellets use by manufacturers; instituting end-user certification requirements from buying Member States which oblige them not to use pellets for purpose of torture and degrading treatment and punishment; banning technology transfer related to manufacturing of pellets and associated equipment; and in the long-term, urging Member States to phase out indigenous manufacturing and production as well as stockpiles of pellets and associated equipment, with a view to halting their use on permanent basis.

Pending finalization of a legally binding international instrument, updating of the 2019 UN Guidance should be immediately undertaken on periodic basis because use of weapons, goods, and associated equipment for torture and punishment carry serious ramifications for global human rights agenda.
