

Supporting International Regulation of the Production and Trade of Law Enforcement Equipment to Help Prevent Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

28 April 2023

Non-governmental organizations from around the globe have joined forces to call for an international treaty to control the trade in tools of torture used to suppress peaceful protests and abuse detainees around the world.

In this submission we, the 57 undersigned organizations, provide information relevant to the Special Rapporteur's call for inputs on *the nature, scope and regulation of the production and trade of law enforcement equipment and weapons and the relationship with torture and other cruel, inhuman or degrading treatment or punishment from an international perspective*.¹ We are part of the Torture-Free Trade Network, which issued the [Shoreditch Declaration for a Torture-Free Trade Treaty](#) included in Appendix I. Appendix II contains a summary of a position paper, [Essential Elements of a Torture-Free Trade Treaty](#), outlining the potential content for a future treaty regulating trade in law enforcement equipment.²

Types of law enforcement equipment

The Special Rapporteur, building on the 2004 report from the then-Special Rapporteur on Torture,³ has identified two distinct categories of equipment: first, equipment that is inherently abusive (meaning equipment that has no practical use other than for the purpose of torture or other cruel, inhuman or degrading treatment or punishment); and second, equipment that has a legitimate law enforcement purpose, but that can be used other cruel, inhuman, and degrading treatment or punishment (“other ill-treatment”).⁴ To help prevent torture and other ill-treatment, the trade and production of inherently abusive equipment should be prohibited and the trade in other equipment should be subject to human rights-based trade controls.

From our collective research we have identified contemporary production, promotion, and/or use of these two equipment types. Examples of inherently abusive equipment we have uncovered include spiked batons, spiked shields, electric shock ‘stun’ belts and other body-worn electric shock devices, electric shock batons, ‘stun’ guns, shock shields and other direct contact electric shock devices, as well as unnecessarily painful, injurious, or humiliating devices used to restrain people, such as leg irons, and wall-, thumb-, and finger-cuffs.⁵ We have frequently documented possession by law enforcement officials of equipment that is not inherently abusive but could be

¹ Available at <https://www.ohchr.org/en/calls-for-input/2023/call-input-nature-scope-and-regulation-production-and-trade-law-enforcement>.

² Amnesty International, Harvard Law School's International Human Rights Clinic, and the Omega Research Foundation, [Essential Elements of a Torture-Free Trade Treaty](#), (Index Number: IOR 40/5977/2022), 23 September 2022.

³ UN Special Rapporteur on the question of torture, *Report: Civil and Political Rights, Including the Questions Of Torture and Detention*, 15 December 2004, E/CN.4/2005/62, paras 37-39.

⁴ See [Essential Elements of a Torture-Free Trade Treaty](#) (previously cited), pp 11-12 for discussion on the phrase “inherently abusive” and its meaning.

⁵ For example, Amnesty International and Omega Research Foundation, [Ending the Torture Trade: the path to global controls on the ‘Tools of Torture’](#), (Index Number: ACT 30/3363/2020), 11 December 2020.

readily - and often is - used for torture or other ill-treatment and encompasses the range of tools that law enforcement officials ordinarily have access to.⁶ This equipment includes instruments and weapons used for crowd control,⁷ for dealing with violent conduct, for arrest, and in detention settings. Examples include batons,⁸ crowd control shields, tear gas,⁹ water cannons, pepper spray, electric shock projectile weapons, kinetic impact projectiles,¹⁰ and a wide variety of restraints, such as handcuffs. The *Essential Elements* position paper includes comprehensive lists of inherently abusive goods and of law enforcement equipment that can be used for torture and other ill-treatment.¹¹

We support the Special Rapporteur's approach in the call for input of differentiating between these two categories and call for this structure to be maintained in a future Torture-Free Trade Treaty.

Lack of transparency

Currently, there is a lack of transparency regarding the prevalence, nature, and extent of the trade in law enforcement equipment that is either inherently abusive or can be used for torture or other ill-treatment. However, it is well established that equipment is used in acts of torture and other ill-treatment and routinely transferred to states with poor human rights records.¹² Information about national trade controls is also challenging to obtain and relatively few states provide clear public information on the types of law enforcement equipment that are subject to state import, export, and transit trade controls.

A major concern is the lack of transparency in reporting exports, which prevents effective scrutiny of exports' human rights consequences. The availability and accessibility of clear and disaggregated information on the type of equipment exported, the location and identity of the end user and the parties to the transaction, as well as the amount paid for the goods is vital in facilitating greater accountability and oversight of the trade in law enforcement equipment, which would help prevent human rights violations. Businesses involved in the production and trade of equipment also have a role to play. Putting robust due diligence mechanisms in place can help companies to mitigate the risk of equipment being used for torture or other ill-treatment and show their commitment to respecting human rights. However, there is limited evidence that companies producing law enforcement equipment routinely undertake human rights due diligence.¹³

⁶ Examples include the reports cited in notes 5 and 7-10.

⁷ See International Network of Civil Liberties Organizations (INCLLO) and Physicians for Human Rights (PHR) in collaboration with the Omega Research Foundation, [Lethal in Disguise 2: How Crowd Control Weapons Impact Health and Human Rights](#) (2023).

⁸ See the Amnesty International and Omega Research Foundation [investigation into the use of batons and related equipment](#) (2021).

⁹ See the Amnesty International and Omega Research Foundation [investigation into the use of tear gas](#) (2020).

¹⁰ See Amnesty International and Omega Research Foundation, [My Eye Exploded!: The Global Abuse of Kinetic Impact Projectiles](#), (Index Number: ACT 30/6384/2023), 14 March 2023.

¹¹ *Essential Elements of a Torture-Free Trade Treaty* (previously cited), pp 23-26.

¹² See examples in the reports cited in notes 5 and 7-10.

¹³ For examples of companies that have taken action to prevent their products from facilitating human rights abuses, see *Ending the Torture Trade* (previously cited), pp 25-26.

We support the Special Rapporteur's efforts to bring greater transparency to the trade and production of law enforcement equipment, as well as relevant national trade control measures, through her forthcoming report.

Future international regulation of the trade and production of law enforcement equipment

Although the relationship between law enforcement equipment and torture or other ill-treatment is well recognized, trade and production of law enforcement equipment remains largely unregulated at the international level. A treaty would fill this gap in the international legal architecture. It would align with existing international obligations to prevent torture and other ill-treatment, and it would help advance recognition of torture and other ill-treatment as human rights violations that law enforcement officials inflict in a variety of different custodial and extra-custodial settings.

A legally binding instrument is necessary to establish a credible, transparent, and predictable international framework for trade regulation and to ensure that inherently abusive equipment prohibitions (including on production) are effective. Non-binding guidance would be insufficient to achieve this purpose. A treaty would create international obligations and a shared framework for states parties to work within. Monitoring and reporting mechanisms established through a treaty would also help to address the lack of transparency in the trade and hold states parties accountable to their commitments.

The ongoing harm survivors of torture and other ill-treatment experience reinforces the need for the strongest possible international regulation to help prevent these abuses. In 1998, at the first UN International Day in Support of the Victims of Torture, former UN Secretary-General Kofi Annan said: "This is a day on which we pay our respects to those who have endured the unimaginable. This is an occasion for the world to speak up against the unspeakable."¹⁴ Twenty-five years later, the international community has a unique opportunity to stand with victims and survivors and regulate the trade in goods that are used in torture and other ill-treatment.

We urge the Special Rapporteur to recommend that states develop a Torture-Free Trade Treaty.

Submitting organizations

Amnesty International

Article 36

Association for the Prevention of Torture (APT)

AVVDH (Amis des Victimes des Violations des Droits Humains) (Democratic Republic of the Congo)

Campaign Against the Arms Trade (CAAT)

CELS (Centro de Estudios Legales y Sociales)

Centre for Human Rights (University of Pretoria, South Africa)

Centre for Community and Youth Development (CCYD) (Malawi)

Center for Victims of Torture (CVT)

Centre for Psychotraumatology (Helsinki)

Comisión Mexicana de Defensa y Promoción de los Derechos Humanos (Mexico)

¹⁴ See United Nations Press Release, "International Community to Mark First United Nations Day in Support of Torture Victims on 26 June," HR/4372 OBV/51, 24 June 1998.

Consortium des Associations des Jeunes pour la Défense des Victimes de Violences en Guinée
 (COJEDEV) (Guinea)
 Counselling Services Unit (Zimbabwe)
 CSVR (Centre for The Study of Violence and Reconciliation) (South Africa)
 Dejusticia
 El Colectivo Contra la Tortura y la Impunidad, A.C (Mexico)
 FIACAT (International Federation of ACATs)
 Freedom from Torture (United Kingdom)
 Fundación Regional de Asesoría en Derechos Humanos – Inredh
 Harvard Law School's International Human Rights Clinic
 INCLO, the International Network of Civil Liberties Organizations
 Independent Medico-Legal Unit (IMLU) (Kenya)
 International Council of Jurists
 International Rehabilitation Council for Torture Victims (IRCT)
 Irídia - Human Rights Centre (Spain)
 Jiyān Foundation for Human Rights
 Justiça Global
 KontraS (Indonesia)
 Liberia Association of Psychosocial Services (LAPS)
 Malawi Human Rights Youth Network (MHRYN)
 Medical Action Group, Inc (Philippines)
 National Institute for Health Service Delivery and Development (NIHSD) (Malawi)
 Observatorio Ciudadano (Chile)
 OMCT (World Organisation Against Torture)
 Omega Research Foundation
 PARI (Pan African Reparations Initiative)
 PAX (Netherlands)
 Physicians for Human Rights
 Redress
 Restart Center for Rehabilitation of Victims of Violence and Torture (Lebanon)
 SiRa, Center for Forensic Documentation and Rehabilitation of Torture Survivors (Spain)
 Society for Social Research Art and Culture (India)
 Solidarity with Victims and for Peace -SOVIP
 Temblores (Colombia)
 The African Centre for Treatment and Rehabilitation of Torture Victims (ACTV)
 The Albanian Rehabilitation Center for Trauma and Torture
 The Federation of Women for Integral Development in Congo (FEDICONGO)
 The Irish Council for Civil Liberties
 The Kenya Human Rights Commission
 The Legal Resources Centre (LRC) (South Africa)
 The Movement for the Defense of Humanity and the Abolition of Torture (MDHAT)
 (Cameroon)
 The Public Committee against Torture in Israel
 Validity Foundation – Mental Disability Advocacy Centre
 Women's Association for Victims' Empowerment (WAVE) (Gambia)
 Women's International League for Peace and Freedom UK
 YELEF Initiative in Gambia
 Zimbabwe Lawyers for Human Rights

Appendix I:

The Shoreditch Declaration for a Torture-Free Trade Treaty¹⁵

We, a group of over 30 civil society organisations from all regions, are coming together to support the creation of a robust Torture-free Trade Treaty.

Through our work dedicated to the prevention of torture and other ill-treatment and ending police violence, we witness daily the devastating psychological and physical toll that such abuse has on people across the world.

In many cases, the use of law enforcement equipment plays a fundamental role in these acts of cruelty, repression and punishment.

Internationally-traded law enforcement equipment is routinely used abusively against protesters, human rights defenders and discriminated-against groups, among others, during the policing of protests and in places of detention.

Some equipment, like body-worn electric shock devices, is cruel and degrading by design and must be banned outright; other equipment can be readily abused and its trade must be strictly regulated.

A global, legally-binding prohibition and human rights-focused trade control regime on law enforcement equipment must be established to help prevent torture and other ill-treatment and combat police abuse.

We support prohibitions on the manufacture and trade in inherently abusive equipment such as inhumane restraints and electric shock batons. We also support effective, human rights-based trade controls on standard law enforcement equipment – such as pepper spray, rubber bullets and handcuffs – which is often used to commit acts of torture or other ill-treatment.

We call on all states to fulfil their positive obligations to prevent and eradicate torture and other ill-treatment across the world by supporting the creation of a Torture-free Trade Treaty.

We will work together in different regions to raise awareness around this issue and build support for the strongest possible global treaty to put an end to the torture trade.

¹⁵ Signatories as of April 2023 available at <https://humanrightsclinic.law.harvard.edu/the-shoreditch-declaration>.

Appendix II:

The 2022 position paper [*Essential Elements of a Torture-Free Trade Treaty*](#) outlines the potential content and structure of a Torture-Free Trade Treaty.

In its essential elements, a Torture-Free Trade Treaty should:

- **Establish high standards through new obligations aimed towards torture-free trade**, while complementing and reinforcing existing regional and international law, standards and guidance.
- Lay out a clear scope for the law enforcement equipment it covers.
- Require states parties to incorporate law enforcement equipment into **national trade control systems** or establish new systems and **set a floor for national regulation** of the trade in law enforcement equipment.
- **Prohibit law enforcement equipment that has no practical use other than for the purpose of torture or other ill-treatment**, including through prohibitions on transfer (export, import, and transit), production, technical assistance, and related services, such as brokering and advertising.
- **Mandate human rights trade controls for law enforcement equipment** and related technical assistance and services **that could be used for torture or other ill-treatment**, requiring states to deny exports and transits when they pose clear or substantial risks of torture or other ill-treatment, while ensuring robust end-user documentation for approved exports and transits and taking measures to prevent diversion.
- **Oblige states parties to keep records and report nationally and internationally**, to ensure transparency and accountability that supports strong treaty implementation, alongside **international cooperation and assistance** and other measures that should be part of the treaty regime, such as **mechanisms to monitor and support implementation**.