



Omega Research Foundation briefing for the Special Rapporteur on extrajudicial, summary or arbitrary executions: police use of force and less lethal weaponry.

The Omega Research Foundation is a UK based research organisation founded in 1990, specialising in analysing the market for, trade in, and use of, specialist military, policing and security equipment that can be used for torture and other human rights abuses and can result in lethal outcomes. We are currently working on a European Commission funded project containing the following elements:

- Developing and delivering specialist training (both face to face and remote / internet based) highlighting issues surrounding equipment that can be used for torture to a wide range of torture prevention and detention monitoring bodies-- including; the staff of the UN Special Rapporteur on Torture, the Council of Europe's Committee for the Prevention of Torture and various European National Preventative Mechanisms—and to civil society worldwide.
- Applying our unique knowledge of this equipment, and the trade surrounding it, to provide research support to various Special Procedures.
- Co-ordinating a project developing practical, context-specific norms and guidelines for the application of the CAT, Basic Principles on the use of force and firearms, the Code of Conduct for Law Enforcement Officials and the Standard Minimum Rules for the Treatment of Prisoners by law enforcement officials. In particular, this project focuses on producing guidance for the use of less lethal equipment and restraints, two categories of equipment that are widely abused and can result in, or contribute to, lethal outcomes. The project will also produce recommendations for the selection, testing and evaluation of such equipment.

The use of force project:

This project covers a wide range of less lethal equipment including batons, kinetic impact projectiles (e.g. rubber and plastic projectiles), electroshock devices, riot control agents and new and emerging technologies, focusing on their appropriate use in a range of situations (including during arrest, for crowd control, and in places of detention), and effective selection, testing and evaluation procedures. It presents a framework within which to analyse the risk portfolios presented by different technologies and to present strategies for risk mitigation. This framework incorporates:

- International law and standards, and recommendations from regional and international human rights bodies.
- National case law.
- Best practice from police policies, including the International Association of Chiefs of Police (IACP) – and consultation with law enforcement agencies in South Africa, UK, Canada, USA.
- Medical and academic literature and expertise.
- Technical expertise on the weapons, and existing patterns of misuse and abuse worldwide.
- Research showing seven “flashpoints” – times when abuse may be more likely to occur.

Points of interest to the Special Rapporteur and the report on police use of force.

- This project picks up on the Special Rapporteur’s observation that “civil society... has an on-going responsibility in terms of defining and monitoring applicable norms” on the use of force and makes an attempt to do just that.
- It underscores that “less lethal” weapons—from projectile electroshock devices to kinetic impact projectiles—have the potential to directly cause, or contribute to, lethal outcomes. Other technologies—such as electro-shock stun belts (devices which attach to the wearer’s body and deliver an electric shock when a remote control is pressed)—can be considered in contravention of the Convention Against Torture, as their use has been deemed inherently cruel, inhuman or degrading by various bodies.ⁱⁱ
- It highlights the need for an effective selection and testing process in order to ensure that such weapons do: “increasingly restrain... the application of means capable of causing death or injury to persons” (Basic Principles on the Use of Force and Firearms, Article 2).
- It emphasises the need for clear standards, guidelines and policies on the *use* of less lethal force, which can all too often be lethal. Whilst the project makes specific recommendations for the appropriate use of particular technologies in order to minimise the risk of lethal outcomes and / or to prevent human rights abuses, it also presents some more general recommendations. This includes the recommendation that Article 11 of the Basic Principles on the Use of Force and Firearms should apply to less lethal equipment, not just firearms.
- Our research also highlights that, in order to minimise the risk of lethal outcomes, each use of force (for example, one spray of riot control agent or one use of a Taser) should be considered as a separate, discrete application of force. Additional applications (e.g. spraying someone two or three times) should be applied only under the same standard as the initial application, and should be separately justifiable. Training and guidelines should also clearly stress that force used must be the minimum amount that is effective.
- In addition to recommending measures at the national level, the project underscores the need for continuing efforts at the international level on this crucial issue. We support the call of the Special Rapporteur on Extrajudicial Executions that “the basic principles for managing demonstrations should be elaborated more clearly ... with special reference to the use of (deadly) force by the police during demonstrations”ⁱⁱⁱ – but would urge the process to look at the whole use of force continuum from less lethal to lethal force.
- We also see merit in an additional protocol / annex to the Basic Principles on the Use of Force and Firearms which, whilst not affecting the original text, provides a way to update and expand the provisions on the use of less (but potentially) lethal force.
- In addition to the development of international standards on appropriate use, there is also an urgent need for national, regional and international trade controls on equipment which can be used for torture, ill-treatment and can result in lethal outcomes, and a prohibition on the trade in equipment which has no practical use other than torture and ill-treatment.

For further information contact Abi Dymond, Research Associate, Omega Research Foundation. Omega.abi@googlemail.com; 0044 161 273 8875. We would be more than happy to provide a more detailed briefing on particular aspects in advance of the Special Rapporteur’s report on the police use of force on request, and look forward to further engagement in the future.

References:

ⁱ These had previously been identified as;

1. At the scene, for example a demonstration, or an incident with a particular individual;
2. Whilst arresting / restraining an individual or individuals.
3. During travel to the police post or other destination..
4. At the place of detention which may or may not be official.
5. During interrogation.
6. Judicial hearing and pre-trial detention
7. Detention or release

ⁱⁱSee, for example, the Council of Europe (2010) Press release: Council of Europe anti-torture committee calls for strict regulation of electrical discharge weapons <http://www.cpt.coe.int/en/annual/press/2010-10-26-eng.htm> [Accessed 26/11/2010]. See also the visit report of the Committee Against Torture visit to the USA in 2000.

ⁱⁱⁱ Special Rapporteur on extrajudicial, summary or arbitrary executions, Christof Heyns (2011) *Human Rights Council Seventeenth session Agenda item 3 Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development Report of the Special Rapporteur on extrajudicial, summary or arbitrary executions* Christof Heyns A/HRC/17/28