A review of less lethal weapons manufacturers, trade and misuse – human rights and trade control implication

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Introduction

- The UN Code of Conduct for Law Enforcement Officials and the UN Basic Principles for the Use of Force and Firearms by Law Enforcement Officials (the Basic Principles) lay out principles under which law enforcement officials can use force in the course of carrying out their duties.
- Principle 2 of the Basic Principles encourages States to “Develop a range of means as broad as possible and equip law enforcement officials with various types of weapons and ammunition that would allow for a differentiated use of force and firearms” and recommends that States should include “non-lethal incapacitating weapons for the use in appropriate situations, with a view to increasingly restraining the application of means capable of causing death or injury to the persons”
- A range of less lethal weapons and equipment are used by law enforcement officers in custodial settings and in the policing of public assemblies. Some of these weapons have a legitimate law enforcement use whereas the manufacture, trade and use of other weapons should be prohibited due to human rights concerns surrounding their use.

Less lethal weapons: electric shock weapons

Direct contact electric shock weapons (electric shock batons, shields, stun guns, stun gloves and electric shock capture devices)
- Weapons carry an intrinsic risk of delivering arbitrary force due to their nature and design.
- Potential injuries include: burns, puncture wounds and welts, as well as the risk of secondary injuries should the target fall.
- Weapons are open to conscious abuse, including for torture and ill-treatment; as they allow the user to inflict extreme pain, often without leaving long-lasting identifiable physical traces, at the touch of a button.
- Manufactured and promoted around the world.
- Documented examples of the abuse include the application of sustained or multiple shocks or shocks to sensitive and inappropriate areas of the body, and their use as a punishment.
- UN and regional torture monitors, and non-governmental anti-torture organizations have recorded incidents of abuse in all regions of the world.

Body worn electric shock weapons (stun belts, stun vests and stun cuffs activated by remote control)
- Stun belts can deliver a 50,000 volt shock, via electrodes placed near the detainee’s kidneys, resulting in severe pain for the duration of the shock and causing muscles to contract involuntarily, rendering the subject immobile.
- Have been manufactured by companies in the Americas, Africa and Asia, and have been promoted by companies in all regions of the world.
- Used to control prisoners in certain countries including South Africa, and some states of the United States of America.
- Use has been condemned by the UN Committee against Torture and the CPT and they have recommended such practices be halted.

Projectile electric shock weapons.
- Developed for law enforcement officials to incapacitate an individual at a distance. Models hold one or more cartridges which can fire two barbed darts attached by thin wires to the launch device, at an individual, from several metres.
- Darts attach to a person’s body or clothing, delivering an incapacitating high voltage electric shock that causes the target to lose neuro-muscular control and collapse.
- Can be a legitimate alternative to firearms when deployed by highly trained police officers as a projectile in a stand-off situation to prevent an imminent threat of serious injury or death.
- The UN Committee against Torture has recommended that “electrical discharge weapons are used exclusively in extreme and limited situations – where there is a real and immediate threat to life or risk of serious injury – as a substitute for lethal weapons and by trained law enforcement personnel only”.

Less lethal weapons: riot control agents

- Toxic chemicals designed to deter or disable an individual by producing temporary irritation of the eyes and upper respiratory tract. Include CN or CS (commonly called tear gas) and OC and RN (commonly called pepper spray).
- Generally delivered through aerosol spray, hand-thrown grenades, weapon launched projectiles/grenades, as well as via water cannon.
- Launched irritant projectiles are the most widely used less lethal munition globally.
- Can provide an alternative to other applications of force when used in accordance with manufacturers’ guidelines and in line with international human rights standards.
- Can easily be misused, including in prison cells and detention centres, and during large scale policing of public assemblies.
- Cases of RCAs being used in excessive quantities or in confined spaces where people cannot escape. This can result in serious injury or death, particularly to vulnerable individuals, due to either the toxic properties of the chemical agents or through asphyxiation.

Less lethal weapons: Kinetic impact weapons

Hand held kinetic impact weapons
- Includes batons and other clubs. They are usually made of rubber, wood, plastic or metal and can be short or long (20cm – 2m), telescopic, collapsible or side-handled.
- If employed in conformity with international human rights standards and use of force guidelines, certain types of such weapons can have a legitimate role in law enforcement.
- However human rights organizations have regularly documented their abuse to inflict unnecessary or excessive force through beating – which has included their employment in ill-treatment and torture- and in certain cases this has resulted in serious injury or death.
- There are also inherently abusive kinetic impact weapons including spiked batons and spiked shields; sjamboks and other strengthened whips; weighted gloves and weighted batons. Their use would lead to severe physical pain, mental suffering and serious injury and they therefore clearly cannot legitimately be used for law enforcement purposes.

Launched kinetic impact projectiles (ammunition that can contain single or multiple projectiles propelled on firing and are intended to cause blunt or non-penetrative trauma)
- If employed in conformity with international human rights law and standards, in particular regarding the use of force, certain types of such weapons can have a legitimate role in law enforcement.
- However, most launched projectiles are relatively inaccurate, particularly at longer ranges and consequently cannot be safely used without the risk of impacting a person on a vulnerable part of the body leading to severe injury.
- Ammunition containing multiple projectiles is both inherently inaccurate and indiscriminate, and poses a high risk of hitting anyone in the vicinity of the person targeted, as well as hitting vulnerable areas of the body e.g. head. Furthermore, ammunition containing small pellets poses a significant risk of severe eye injury and blinding.

Manufacture and Trade

- The manufacture, production and transfer of less lethal weapons has traditionally been dominated by companies in a small number of countries with well-established production of military and police munitions, largely concentrated in Europe and North America, particularly the USA, UK, France and Germany.
- However, over the last 10 years use of less lethal weapons and ammunition has increased dramatically both in the numbers used and also in the geographic scope of their use. New manufacturing centres include: Brazil, China, Turkey and certain Middle East States,
- This growth in the number of manufacturing companies may pose challenges in attempting to regulate the manufacture and trade.

Recommendations

Regulating the development and use of less lethal weapons
- Less lethal weapons and equipment used should comply with international human rights law and standards.
- Law enforcement officers should be appropriately trained in use and the training must be human rights based.
- Specific regulations and detailed operational guidance should be developed and publicly disseminated on the use of tactical options in assemblies.
- States should declare publicly which less lethal weapons and devices are permitted for use.
- Use of non-standard or personal weapons should be prohibited.

Regulating the trade in less lethal weapons
- States should establish effective national measures to regulate the trade in less lethal weapons and associated law enforcement equipment. This should:
  - Prohibit the trade of any less lethal weapons and equipment that has no practical use in law enforcement other than for the purpose of torture and other cruel, inhuman or degrading treatment or punishment; or where its use in practice has revealed a substantial risk of unwarranted injury.
  - Strictly regulate the trade of less lethal weapons and equipment that can be used legitimately in a manner consistent with international human rights standards for law enforcement, but nevertheless could also be misused to conduct or facilitate unlawful killings, torture or other cruel, inhuman or degrading treatment or punishment, or other human rights violations or abuses.
- Establish lists of prohibited and controlled less lethal weapons and equipment which must be regularly reviewed and updated to take account of new data and technological developments.
- Establish a comprehensive national trade control system to vet prospective transfers of controlled equipment.