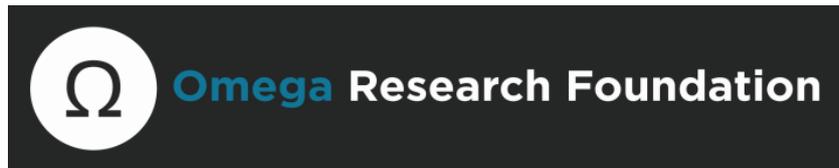

TURKEY

by the Omega Research Foundation

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The Omega Research Foundation is an independent UK-based research organisation. We are dedicated to providing rigorous, objective, evidence-based research on the manufacture, trade in, and use of, military, security and police (MSP) technologies.

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I. Executive Summary

1. Turkish law enforcement agencies have used excessive force at some peaceful public gatherings, and people in places of detention have reported abuses constituting torture and other forms of ill-treatment. The equipment used to carry out these human rights violations variously includes kinetic impact projectiles, chemical irritants, electric shock devices, and handcuffs. Turkish companies import and export such equipment, and, having recently voted in favour of the UN General Assembly resolution on the trade in the tools of torture, Turkey must now ensure its legislation adequately controls the trade in equipment. The Omega Research Foundation (Omega) is concerned that the 2018 introduction of Law No. 7145 has effectively legally enshrined the culture of impunity for excessive use of force that was developed during the state of emergency.

II. Excessive force used against those participating in public gatherings

2. One of the recommendations resulting from the second UPR cycle called on Turkey to “revise the practice of excessive use of force to dissolve crowds and protect its inhabitants’ rights to freedom of assembly and association” (149.38, Norway, source of position: A/HRC/29/15 – para.149; similar recommendations around the right to peaceful assembly: 149.41, France; 148.123, Costa Rica; 148.124, Botswana; 149.36, Germany; 149.35, Austria; 149.39, Czech Republic; 150.23, Ireland). Despite this, there continue to emerge reports that document instances of the misuse of law enforcement equipment against people participating in public gatherings in Turkey.

3. Kinetic impact projectiles have been used to disperse peaceful public gatherings. At Istanbul Pride 2015, for example, police used **kinetic impact projectiles** (frequently referred to as ‘rubber bullets’) against peaceful participants, and one person hit with a rubber pellet reportedly received a serious eye injury.ⁱ At another peaceful Pride event in Ankara in May 2019, police reportedly used chemical irritants and kinetic impact projectilesⁱⁱ, with one account stating an attendee was shot in the faceⁱⁱⁱ. The use of launched kinetic impact projectiles to disperse peaceful assemblies runs counter to international standards.^{iv} They should only be used by trained marksmen capable of targeting only those posing a risk of serious injury or death, should an assembly turn violent. Ammunition firing multiple projectiles, such as rubber pellets, is inaccurate, indiscriminate, and arbitrary, and should be prohibited.

4. **Chemical irritants** have been used by law enforcement agencies at peaceful protests.^v In March 2016, tear gas and water cannons were reportedly used by police at a peaceful protest in response to the government seizure of the Zaman newspaper, and accounts state that one woman received a head injury.^{vi} Launched projectiles containing chemical irritants can, if they hit a person directly, cause a range of injuries, concussion, and, in severe instances, death.

5. **Water cannons**, have been used inappropriately by Turkish law enforcement, for example at Istanbul Pride 2015, where the force of the water, fired from close range, lifted a person off their feet and threw them to the ground.^{vii} Water cannons should not be used at close range due to the increased risk of serious injury.

III. Misuse of law enforcement equipment against those in places of detention

6. The government’s response to the July 2016 attempted coup led to the arrest and detention of thousands of people.^{viii} In the time since the attempted coup, there have been ongoing allegations of the misuse of law enforcement equipment in Turkish places of detention. Reports documenting some of the mistreatment of those arrested immediately following the attempted coup include various cases of prisoners being blindfolded, whipped with plastic handcuffs, and beaten.^{ix}

7. Reports detail allegations of the inappropriate use of standard **handcuffs** by Turkish authorities in places of detention as well as at the moment of arrest.^x For example, some of those detained following the attempted coup reported being made to kneel for several hours with their hands cuffed behind them, others of being beaten while handcuffed, and still others of being blindfolded and/or handcuffed for several days.^{xi} In other cases unrelated to the coup, people report being handcuffed for prolonged periods of time^{xii}, including some individuals detained at the August 2018 vigil^{xiii}. In a separate case, Cemal Aslan, Abdulselam Aslan, and Halil Aslan, suspected members of the Kurdistan Workers' Party (PKK), were reportedly handcuffed from behind and beaten for a prolonged period while in police custody.^{xiv} Handcuffing people for extended periods of time, or handcuffing people in stress positions, may cause lacerations and increase the risk of blood poisoning. These practices are unlikely to serve a legitimate law enforcement objective that cannot be accomplished with safer alternatives.

8. Some people detained in Turkish prisons have reportedly been subject to **electric shocks**.^{xv} One man reported having been given electric shocks twice on his leg, as well as having been subjected to electric shocks once hooded, blindfolded, and beaten, while in anti-terror police custody in 2017.^{xvi} Additionally, some of those arrested following a May 2019 clash between security forces and the armed PKK were allegedly subjected to electric shocks applied to their genitals while in police custody.^{xvii} The European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) has expressed strong reservations about the use of electric shock weapons in secure settings such as prisons, stating that they should only be used in very exceptional circumstances (e.g. a hostage-taking situation).^{xviii} The use of electric shock against detainees who have been brought under control and pose no threat, such as in these cases, does not meet this threshold.

9. **Blindfolds** have also been used in places of detention, including the case of Hasan Kobalay, who, during interrogation in 2016, was reportedly stripped naked, blindfolded, gagged, handcuffed, sprayed with cold water, and sexually assaulted.^{xix} In 2016, Eyüp Birinci was also reportedly blindfolded before being beaten and sexually assaulted while in prison.^{xx} Blindfolding can be used as an attempt to ensure that people cannot identify officials who may be subjecting them to inhuman and degrading treatment, and both the UN Special Rapporteur on torture and the CPT have called for the prohibition of this practice.^{xxi}

10. Some people held in Turkish places of detention report that they have been beaten with **police batons**. For example, in 2016, one prison detainee reported being beaten on the testicles with a baton, while Eyüp Birinci, in prison in 2016, reported being beaten on both arms with a baton.^{xxii} These cases appear to demonstrate excessive use of force, with both cases involving the beating of subjects already under the control of law enforcement officials and posing no threat of harm.

11. In addition to the use of **chemical irritants** at protests, reports suggest pepper spray has been used against non-Turkish nationals detained in removal centres. The CPT noted with concern that custodial staff used pepper spray in a confined room containing women and children, groups that may be at increased risk of serious harm from the use of chemical irritants.^{xxiii}

IV. Impunity for Excessive Use of Force

12. The state of emergency imposed after the 2016 attempted coup, in addition to decrees issued throughout its duration, extended the power of the executive into the legislature and the judiciary, limited civil society, and promoted impunity.^{xxiv} The state of emergency resulted in “profound human rights violations against hundreds of thousands of people”, with the Office of the United Nations High Commissioner for Human Rights (OHCHR) documenting “numerous cases of excessive use of force... [and] torture” in 2017 and 2018 reports.^{xxv} The OHCHR noted that the emergency decrees fostered “impunity and lack of accountability”, and suggested that the state of emergency may “have long-lasting implications on the institutional and socio-economic fabric of Turkey”.^{xxvi} Indeed, allegations of torture

were reportedly dismissed under one such decree (KHK/667, 22 July 2016), which seemingly “exempts public officials from criminal responsibility for acts undertaken in the context of the state of emergency”.^{xxvii} Similarly, Law No. 6722, adopted in June 2016, granted “counter-terrorism forces immunity from prosecution for acts carried out in the course of their operations,” thereby undermining the possibility of investigating allegations of torture or ill-treatment made against any involved security forces.^{xxviii}

13. Recommendations from the second Universal Periodic Review (UPR) cycle (149.31, Botswana, source of position: A/HRC/29/15, para 149; 150.11, Netherlands, source of position: A/HRC/29/15, para 150, and A/HRC/29/15/Add.1, para 150.11; 148.109, Switzerland, source of position: A/HRC/29/15 – para 148) called on Turkey to combat impunity and investigate allegations of torture and excessive use of force, and to punish any perpetrators; as well as to abolish statutory limits on crimes, including torture, committed by government officials. Another recommended that Turkey “bring the laws regulating the use of force by law enforcement in line with international standards... [and] create an independent oversight mechanism with respect to complaints against criminal conduct by the police” (149.11, Lithuania, source of position: A/HRC/29/15 – para 149; relatedly, recommendation 149.30, Belgium, source of position: A/HRC/29/15 – para 149). Despite the removal of the state of emergency in July 2018, these recommendations have not been achieved. In fact, many of the state of emergency structures appear to remain in force in Turkey.^{xxix} Reports suggest that with Law No. 7145 (July 2018) the Turkish Parliament effectively “transpose[d] many of the extraordinary powers granted during the state of emergency into ordinary law”^{xxx}, essentially formalising law enforcement officials’ impunity. Although it is encouraging that Turkey has established a national mechanism for preventing torture (thereby achieving recommendation 149.8, France, source of position: A/HRC/29/15 para. 149),^{xxxi} this does not appear to be functioning as would be expected. Notably, the Subcommittee on Prevention of Torture is yet to receive any reports from the Turkish NPM (currently the Human Rights and Equality Institution of Turkey [TİHEK]), although the NPM was delegated as early as 2014.^{xxxii}

V. Import and export of law enforcement equipment

14. Several Turkish companies^{xxxiii} claim to import and export law enforcement products that could be used (or misused) for torture and ill-treatment. For example, one Turkish manufacturer of equipment including plastic restraints and batons, claims to export to states including Iraq, Egypt, and Azerbaijan, as well as supplying Turkish law enforcement. The Turkish manufacturer of a newly developed wireless projectile electric shock weapon, marketed as a “non-lethal law enforcement weapon,” is reportedly seeking to establish export relationships with states including Malaysia, South Africa, and Argentina. Following their export from Turkey, there is a risk that such law enforcement equipment could be used to commit human rights abuses in the purchasing state. For instance, a report suggests that one Turkish company has previously exported law enforcement equipment, including batons, to the Egyptian government. In 2017, the UN Committee against Torture found that “torture is a systematic practice in Egypt”,^{xxxiv} and there are many allegations of torture and other forms of ill-treatment occurring in Egyptian places of detention,^{xxxv} While there is no evidence of a relationship between these human rights violations and the Turkish equipment, such allegations emphasise the importance of strict export controls on law enforcement equipment.

In July 2019, Turkey voted in favour of the UN General Assembly Resolution ‘Towards torture-free trade: examining the feasibility, scope and parameters for possible common international standards’ (A/RES73/304, adopted by the UNGA on 1 July 2019). Omega welcomes this vote and recalls that various UN Special Procedures have stated that the duty to prevent torture and other human rights violations requires states to establish effective controls to prohibit the trade of inherently abusive goods and regulate the trade of other law enforcement equipment that can be readily misused.^{xxxvi}

VI. Recommendations for action by the state under review

15. Ensure that the use of force is strictly regulated in accordance with international human rights standards in all situations, including in places of detention and during public gatherings.
16. Strictly control the design, transfer, selection, and testing of all law enforcement equipment, and ensure a thorough independent review based on international human rights law and standards, is carried out by independent medical, legal, police, and other experts to ascertain whether the equipment is fit for use in law enforcement.
17. Ensure that all law enforcement personnel, including prison staff, has access to regular training on the use of equipment. This training should be human rights- and scenario-based, prioritising the use of peaceful means to resolve situations where possible, and requiring officials to attain a minimum level of competency before being issued with equipment.
18. Fully investigate all alleged incidents of excessive use of force, torture, and other cruel, inhuman, or degrading treatment, ensuring all perpetrators are held accountable for their actions (recommendations 149.31 and 150.11, second UPR cycle). In the interest of transparency and accountability, all results of such investigations and any penalties imposed should be made publicly available.
19. Take measures to guarantee the functioning and independence of the NPM (a response to recommendation 149.8, second UPR cycle).
20. Ensure national controls on the trade of law enforcement equipment are robust and effective. They should, *inter alia*,: 1) prohibit the production, promotion, trade, transfer, and use of law enforcement equipment with no practical use other than for torture or other ill-treatment; and 2) control the trade in law enforcement equipment that could be easily used for torture and other ill-treatment, with authorisation to be withheld when there are reasonable grounds for believing that goods might be employed for torture or other ill-treatment, or other human rights violations, by the end-u

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