



Submission to the United Nations Universal Periodic Review
12TH Session of the Working Group on the UPR (3-14 October 2011)

United Republic Of Tanzania

Executive Summary

In this submission, The Omega Research Foundation (Omega) provides information under Sections B, C and D as stipulated in *the General Guidelines for the Preparation of Information under the Universal Periodic Review*.

Section B: Omega highlights the obligations imposed on the government of Tanzania to prevent torture and cruel, inhuman and degrading treatment or punishment (CIDTP). Omega goes on-to describe the international standards laid down for the treatment of prisoners and highlights the gap between those standards and the provisions in the legislation of Tanzania.

Section C: Omega is concerned at the apparent lack of controls over the trade and deployment of specific police and security equipment, highlighting specific equipment of concern currently being marketed in Tanzania, and describes how specific equipment types are incompatible with international standards or may facilitate abuse.

Section D: Omega outlines a set of recommendations based on the observations made in Sections B and C respectively.

B: Background of country under review, normative and institutional framework:

1. Obligations to prevent torture and inhuman or degrading treatment or punishment.

The Constitution of Tanzania expressly prohibits torture or CIDTP¹ Article 5 of the African [Banjul] Charter on Human and Peoples' Rights, and Article 7 of the UN International Covenant on Civil and Political Rights (ICCPR) both acceded to and ratified by Tanzania also expressly prohibit torture and CIDTP. Whilst the Government of Tanzania has yet to ratify the Convention Against Torture (CAT) there are clear obligations on the Government of Tanzania to prevent instances of torture and CIDTP occurring within its borders. It is therefore of concern that instances of torture and ill treatment by members of government agencies, such as the police and prison services, continue to be reported.²

2. Obligations on the treatment of individuals in places of detention.

The UN Standard Minimum Rules on the Treatment of Prisoners (UN SMR) and the UN Rules for the Treatment of Women Prisoners and Non-custodial Measures for Women Offenders (the Bangkok Rules) list a minimum baseline set of standards for the treatment of detainees, and in particular, sets out guidelines detailing when force may be used by prison officers in execution of their duties. Article 33 of the UN SMR and Section 7(c) Rule 24 of the Bangkok Rules give specific guidance on the circumstances in which restraints may and may not be used, as well as the prohibition of certain types of restraints in any circumstances. Article 31 of the UN SMR prohibits corporal punishment in all circumstances.

The Prisons Act (1967) which lays out the regulations for the governance of prisons in Tanzania and the powers and duties of prison officers gives sweeping powers to prison officers in relation to the use of force and the treatment of prisoners. Omega has particular concerns about Article 13 (1) of the act which authorises prison officers to use such force against a prisoner as they deem reasonably necessary, either to force a prisoner to obey an order, or to maintain discipline within the prison. Omega considers the specific provisions on the use of force,³ and also Article 70 on the application of solitary confinement and mechanical restraints, to be too broad in their wording and thus potential application. This puts the Prisons Act at odds with the principles laid out in both the UN SMR and the Bangkok Rules, and does not provide adequate protection for detainees. The provision of corporal punishment (Article 33 (3)(a) of the Prisons Act) for misdemeanours by prisoners is clearly in breach of Article 31 of the UN SMR.

C. Promotion and Protection of Human Rights on the Ground:

1. The Trade in Equipment that could be used for Torture and other CIDTP.

Given the obligations outlined in section B (1) on the Government of Tanzania to prevent torture and CIDTP, and the issues surrounding the use of force, Omega is concerned that there appears to be a lack of robust controls over the trade in certain equipment that has either no practical use other than to facilitate torture or CIDTP, or because of their utility, may facilitate abuse. The UN Special Rapporteur on Torture has examined the use of and trade in law enforcement equipment, and called on states to, “*designate and prohibit the manufacture,*

¹ Article 13, Paragraph 6 (e).

² <http://www.humanrights.or.tz/wp-content/uploads/2010/10/Tanzania-Human-Rights-Report-2009.pdf> (Accessed 14.03.2011)

³ The Prisons Act, 1967, Article 13.

transfer and use of certain forms of equipment “specifically designed for” or “which has no or virtually no, practical use other than for the purpose of” torture, or whose use is inherently cruel, inhuman or degrading” and; “to suspend the manufacture, transfer and use of equipment whose medical effects are not fully known or whose use in practice has revealed a substantial risk of abuse or unwarranted injury.”⁴ Omega has specific concerns regarding the trading of mechanical restraints, riot control agents such as pepper spray, and Electrical Discharge Weapons (EDW) – specifically stun batons and stun guns. Whilst the Arms and Ammunition Act 1991⁵ lists specific military equipment that is controlled (for import, export or manufacture), it appears that equipment commonly carried by police and security officials, in particular restraints, kinetic impact devices (batons, tonfas), riot control agents (irritant sprays), and electroshock weapons, are not subject to any trade controls.

2. The Use of Equipment by Police and Prison Officials

Omega is concerned that specific equipment may be issued to police and prison officials that either through its design may be in breach of the UN SMR or its use (without proper training, testing and oversight), may contribute to the facilitation of torture or CIDTP. Tanganyika Arms, a subsidiary of Crown Holdings is a supplier of arms, ammunition and policing equipment. The ‘Tanganyika Arms’ page on the Crown Holdings website states that; “... We supply the Tanzanian Police Force with all of the equipment they require in their line of duty, these range from defensive to assault items...”⁶

The range of equipment listed includes, “Batons and night sticks, handcuffs, High power Stun Guns, Anti riot gear” and a range of self-defence items including “pepper spray and paralyzers.”⁷ Of particular concern are the weighted leg cuffs/irons pictured below and hosted on the website of Tanganyika Arms⁸



These leg cuffs appear to be visually similar to the FT-22 leg cuffs manufactured by the Jiangsu Anhua Police Equipment Manufacturing Company who give the following information:

Name Legcuffs
Model FT-22
Material Steel
Weight 7500g
Chain Length 60cm
Diameter 8.0cm

Source: <http://en.anhuapolice.com/ProductShow.asp?ArticleID=259> (Accessed 4.03.2011)

⁴ UN Economic and Social Council Commission on Human Rights (2004) Civil and political rights, including the questions of torture and detention. Torture and other cruel, inhuman and degrading treatment: Report of the Special Rapporteur on Torture, Theo van Boven Sixty-first session 15 December 2004 E/CN.4/2005/62 – Language reiterated in annual GA Resolution.

⁵ The Arms and Ammunition Act, 1991, Part I, 3(I)

⁶ <http://www.crownholdings.net/pages/policedef.htm> (Accessed 1.03.2011)

⁷ Ibid.

⁸ <http://www.tanganyikaarms.com/products/POLICE%20&%20PERSONAL%20SECURITY%20REQUISITES/ANHUA%20POLICE%20EQUIPMENTS/FT-22.jpg> (Accessed 14.03.2011)

Omega considers that weighted leg cuffs have no legitimate place in any type of law enforcement action and are a clear breach of Article 33 of the UN Standard Minimum Rules, regarding the prohibition on the use of chains and irons in all circumstances. The product list on the Tanganyika Arms website,⁹ section “9.0-Police and Personal Security Requisites,” also gives the following information:

COY CODE	ART#SKU	SECURITY EQUIPMENTS	MAKE
TA15anh003	FT-04	Fetters-LEG CUFFS	Anhua-China

A manufacturer of model FT-04 Leg-cuffs is the Jiangsu Anhua Police Equipment Manufacturing Company Limited.¹⁰ The FT-04 Leg cuffs resemble more traditional ‘handcuff style’ restraints secured with a chain. The use of leg cuffs should be tightly controlled and should be only used in line with existing international standards such as the UN SMR and the Bangkok Rules.¹¹

Electrical Discharge Weapons (EDW) [also referred to as ‘electroshock equipment’ or ‘Conducted Energy Devices’] are increasingly being deployed by security forces. Common models include: stun guns, stun batons, and projectile fired EDW’s. Unlike projectile fired EDW which are primarily deployed as a stand-off weapon and used to incapacitate a subject through temporary paralysis, stun guns and stun batons are designed to merely inflict pain. The characteristics of both stun batons and stun guns, namely their ‘pain compliance’ function, portability and operational simplicity renders them particularly liable to abuse. Tanganyika Arms provides a range of EDW weapons, both stun batons and smaller stun guns. An example of the EDW products available is outlined below:¹²

COY CODE	ART#SKU	SECURITY EQUIPMENTS	MAKE
TA15anh010	EB-03	Baton Electrical -Anhua	Anhua-China

The designation codes given to the devices are identical to those produced by Jiangsu Anhua Police equipment factory. An example is the EB-03 stun baton (below):¹³



Omega is concerned that electroshock equipment may be available to police and prison officials without relevant safeguards to prevent abuse. The tactical utility of stun batons and stun guns in law enforcement is extremely limited, and given the concerns surrounding police

⁹ http://tanganyikaarms.com/product_list.html (accessed 28.02.2011)

¹⁰ <http://en.anhuapolice.com> (Accessed 04.03.2011)

¹¹ Omega has concerns over the utility of metal leg cuffs, especially as fabric leg cuffs are becoming more widely available.

¹² Source: http://tanganyikaarms.com/product_list.html (Accessed 2.03.2011)

¹³ Source: <http://en.anhuapolice.com/ProductShow.asp?ArticleID=221> (Accessed 2.02.2011)

use of force and ill treatment in custody (as outlined by Human Rights monitors within Tanzania),¹⁴ the availability of this equipment to security officials should be questioned. The Council of Europe Committee for the Prevention of Torture has issued some guidance on the deployment of electroshock weapons which include a prohibitions on using EDW for, “...securing compliance with an order...” and, “...there should be no question of any form of EDW being standard issue for staff working in direct contact with persons held in prisons or any other place of deprivation of liberty...”¹⁵

D: Recommendations for action by the State under Review.

Given the concerns outlined in Sections B and C, Omega calls on the Government of Tanzania to:

Obligations to prevent torture and CIDTP

- Ratify the Convention Against Torture (CAT).

Obligations to safeguard the rights of individuals in detention

- To amend the Prisons Act 1967 and ensure that regulations governing the running of prisons and in particular, the treatment of detainees, is in line with international standards, particularly the UN SMR, and ‘the Bangkok Rules’;
- To remove Corporal Punishment from the list of sanctions available to prison officials in line with Article 31 of the UN SMR;
- Incorporate the UN Standard Minimum Rules on the Treatment of Prisoners and the Bangkok Rules into training programs for prison officials and others charged with running places of detention.

Trade in equipment that could be used in the commission of torture or CIPTP

- Clarify what legislation is in place to control the trade in police and security equipment, specifically: restraints, riot control agents, kinetic impact weapons and EDW;
- Enact relevant legislation to ensure that only approved equipment is carried by properly accountable and well regulated state officials, who are subject to regular training programmes with the approved equipment.

Equipment issued to the police and prison service

- Clarify what restraint and less-lethal equipment is in use with police and prison services;
- Guarantee that weighted leg-cuffs and weighted leg irons are not in use in places of detention or issued to security forces, and enact provisions banning the use of weighted leg cuffs and leg irons in all circumstances;
- Implement a rigorous and open selection and evaluation process for any other equipment potentially being deployed by police and prison officials;
- Ensure that every member of the security forces has accesses to regular training on the use of equipment. This training should also relevant Human Rights Standards;
- Prohibit the use of EDW in places of detention and draft comprehensive guidelines on the deployment of EDW by security forces.

¹⁴ <http://www.humanrights.or.tz/wp-content/uploads/2010/10/Tanzania-Human-Rights-Report-2009.pdf> (Section 2.2) (Accessed 14.03.2011)

¹⁵ <http://www.cpt.coe.int/en/documents/eng-standards.pdf> (Accessed 2.03.2011)