

# Manufacturing torture?

## South Africa's trade in electric shock equipment

Omega Research Foundation

### Recommendations

- 1** The trade in law-enforcement equipment that has no practical purpose other than for the purpose of torture and other cruel, inhuman or degrading treatment or punishment should be prohibited.
- 2** Body-worn electric shock devices (e.g. stun belts) have no legitimate law enforcement purpose and should be banned for import and export.
- 3** Hand-held direct contact electric shock devices designed for law enforcement (e.g. stun shields and stun batons) are prone to abuse and should be banned for import and export.
- 4** Wired projectile electric shock weapons should be regulated in the same way as firearms.
- 5** A targeted end-use control mechanism for policing and security equipment would help prevent the transfer of weapons that could contribute to internal repression.

### Summary

In South Africa, the trade in certain kinds of firearms and military equipment is controlled for reasons of safety and security. However, there is a gap in legislation when it comes to the control of law enforcement equipment that can facilitate torture and ill treatment. This brief examines electric shock devices as an example of security equipment that needs stronger trade-control measures. The brief outlines concerns over the use of electric shock equipment, and discusses the manufacture of these items in South Africa and their trade with other countries. It also looks at trade controls currently used elsewhere, and provides recommendations for changes in the control measures surrounding these products in South Africa.

VARIOUS TYPES OF ELECTRIC shock devices are authorised for use by South African law enforcement officials, including stun belts, stun shields, stun batons and stun guns. The perception of these devices as less-lethal alternatives to firearms means that there are weaker controls on their use and trade. However, the use of electric shock devices by law enforcement officials has been associated with serious abuses, resulting in torture, cruel, inhuman or degrading treatment, injury and, in some cases, death.

Although there are no trade controls for these devices in South Africa, the use of certain electric shock equipment has been internationally condemned by UN and European torture prevention monitors. The European Commission has imposed an import and export ban on body-worn electric shock equipment, and subjects other types of electric shock equipment to trade restrictions. The prohibition on torture and other cruel, inhuman or degrading treatment or punishment is a norm of customary international law and, as such, is binding on all states. South Africa has ratified the 1987 UN Convention against Torture and passed its own legislation aimed at combating and preventing torture. Yet the use of body-worn electric shock weapons is in clear breach of these norms, while other electric shock devices are also prone to abuse.

## What is electric shock equipment?

Some types of stun devices deliver an electric shock through direct contact with the human body. They are designed to achieve compliance through pain. These devices include body-worn electric shock equipment, commonly referred to as stun belts, stun cuffs or stun sleeves. They are activated by remote control and are often used during transportation of prisoners, in court room settings or to control prisoner work groups.

Other types of direct contact electric shock devices, such as stun shields, stun batons and stun guns, require close proximity to the individual. They deliver a painful shock on contact. Electric shock belts and other direct contact stun devices have been available for use in South African prisons since 1999,<sup>1</sup> while electrified riot shields have been supplied to the Department of Correctional Services since 1994.<sup>2</sup>

Another category of stun weapons delivers on impact a powerful electric shock with projectile darts. An example of such a device is the Taser International branded smart weapon. These are pistol-shaped weapons that cause almost immediate neuromuscular incapacitation.

## Concerns over use of electric shock equipment

Unlawful beatings and assault of convicted prisoners and detainees awaiting trial by prison guards and police officials are commonly reported in the South African press. These include instances of the misuse of electric shock devices. A number of legal cases have been launched against officials in relation to the abuse of electric shock devices and other forms of ill-treatment in South Africa.

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Generally, electric shock equipment causes severe pain only for the duration of the shock. However, these devices can have negative effects that extend beyond the initial shock period, and which can even lead to death. Concerns over their use include the following:

- Medical harm. The use of electric shock devices on people with underlying health problems is a particular cause for concern. Activating devices on recipients with, for example, congenital heart defects or epilepsy, or on individuals using psychotropic medication, could increase the risk of heart attacks or ventricular fibrillation.<sup>3</sup> Electric shock devices can also cause burns, welts on the skin, mental anguish, involuntary urination or defecation and secondary injuries caused by falling. The barbs of projectile electric shock weapons can also penetrate vital organs and sensitive areas. A number of factors affect the medical outcomes of deploying shock devices, such as the recipient's sex, body mass, medical history and use of medication, alcohol or other drugs.<sup>4</sup> Inevitably, law-enforcement officials will be unaware of some of these factors when they deploy electric shock equipment, making their use medically hazardous.
- Torture. There are many documented cases of electric shock devices, alongside other forms of ill treatment, having been used in South African prisons and police cells to extract confessions, coerce compliance or punish inmates. There have



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ELECTRIC SHOCK BELTS AND OTHER STUN DEVICES HAVE BEEN AVAILABLE FOR USE IN SOUTH AFRICAN PRISONS SINCE 1999

been a number of legal cases related to the use of stun shields where plaintiffs have claimed they were tortured and abused.<sup>5</sup>

- Mental suffering. Even if the electric shock component of a body-worn device (e.g. a stun belt) is never triggered, simply wearing a device that can deliver a painful shock at any moment causes profound mental suffering. A prison inmate who had a stun belt applied noted that 'this mental restraint was far worse than being beaten. The mental pain and suffering last far longer'.<sup>6</sup>
- Humiliating and degrading effects. The UN's updated Standard Minimum Rules for the Treatment of Prisoners (the so-called Mandela Rules) state that the 'use of chains, irons or other instruments of restraint which are inherently degrading or painful shall be prohibited'.<sup>7</sup> A stun belt manufacturer stated that one of the 'great advantages' of body-worn electric shock weapons is their ability to 'humiliate the wearer'<sup>8</sup> – not least through urination and defecation, which often accompany activation of such devices.
- Violating national laws, regional standards and international commitments. Internationally, body-worn electric shock devices have been condemned as having no practical use other than for the purpose of torture or other forms of degrading treatment. Other electric shock devices are also prone to misuse and may lead to torture or other forms of inhuman treatment. South Africa's Prevention and Combating of Torture of Persons Act 13 of 2013 is clear that 'no one shall be subjected to acts of torture'.<sup>9</sup> Article 14 of the Robben Island Guidelines similarly provides that 'States should prohibit and prevent the use, production and trade of equipment or substances designed to inflict torture or ill-treatment'.<sup>10</sup>

## Made in South Africa, traded abroad

South Africa is the only known manufacturer of electric shock devices for law enforcement in Africa. Johannesburg-based Force Products produces a range of electric shock equipment, including stun belts, stun shields, stun guns and stun batons. The company has supplied South Africa's Department of Correctional Services with stun belts and stun shields.<sup>11</sup> Assegai Trading, another South African company, advertises Force Products' stun equipment on its website.<sup>12</sup>

The Force Products website states that 'due to the tremendous response on [sic] International Exhibitions, we have been actively exporting our unique range of security products since 1991'.<sup>13</sup> The company has attended trade shows in, among other countries, Iran and the United Arab Emirates. The

company states that its electric shock riot shields are used by 'local and international Government Security Departments'. In correspondence with Omega Research Foundation, dated December 2015, the Hungarian Trade Licensing Office confirmed that Force Products supplied stun belts to the Hungarian Prison Service in March 2008.<sup>14</sup> These are no longer in use in Hungary, as there has been a de facto ban on body-worn shock devices in European Union (EU) member states.

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A number of foreign companies are known to distribute Force Products electric shock equipment. One US supplier states that Force Products stun belts are 'used by many institutions in the USA and worldwide'.<sup>15</sup> Indian company SRG Techno lists Force Products stun belts, stun batons and stun shields on its website. Its customers for this equipment include police forces in New Delhi, Hyderabad, Chandigarh and Kolkata.<sup>16</sup> Another Indian company, Force Group Asia, also lists Force Products' stun belts, stun batons, stun shields and stun guns on its website.<sup>17</sup> Malaysian company RQM Services also claims to supply Force Products stun belts, stun shields, stun batons and stun guns.<sup>18</sup> Swiss company SecFor currently lists Force Products stun belts,<sup>19</sup> stun shields and stun batons<sup>20</sup> on its website. Bahrain-headquartered company Janada lists Force Products as a partner for supplying 'tactical products', a category that includes shields, anti-riot gear and body armour.<sup>21</sup> It is not clear whether Janada supplies Force Products electric shock devices.

Companies in Botswana, Zimbabwe and Israel previously acted as suppliers of Force Products stun equipment, as did companies in Europe (e.g. Germany).<sup>22</sup> However, EU member states are now prohibited from selling body-worn electric shock devices under European Commission Council Regulation 1236/2005 (the 'Torture Regulation').<sup>23</sup> Under the same regulation, hand-held direct contact stun devices are controlled for import and export (see the next section for further details). Although there are still loopholes in the regulation, allowing companies to promote and broker body-worn electric shock devices, the increased trade controls are a significant step towards combating torture and other forms of ill-treatment.

Prior to June 2016, Durban-headquartered Imperial Armour advertised its own-brand of 'anti-riot shock belt' on its website.<sup>24</sup> The product was visually similar to the stun belt made by Force Products. Imperial Armour launched the

product at the 2014 IFSEC security exhibition, held near Johannesburg, and states that it was developed in response to a request from a Middle Eastern customer.<sup>25</sup> Imperial Armour has an office in the United Arab Emirates and exports to several countries. Imperial Armour has exhibited at international trade exhibitions in the United Arab Emirates, Jordan, Libya, UK, France, Malaysia and India. In correspondence with Omega dated early June 2016, Imperial Armour stated that they no longer sell the electric shock belt. However, their sales team provided a quote on Force Products' stun batons, stun shields and stun guns in June 2016.

South African company R.M. International Trading Enterprises sells electric shock equipment exclusively to international markets. Its product range includes a 'stun gun-shock baton'<sup>26</sup> and a 'riot stun shield'.<sup>27</sup> The company describes itself as 'a leading force supplying scores of companies in Africa and the Gulf'.<sup>28</sup> It is not clear whether the company exports electric shock equipment from South Africa, or acts as a broker facilitating purchases between other countries.

Liquid Bullet, another South African company, sells stun batons and stun guns to the 'local security industry'.<sup>29</sup> The company has branches in other parts of Africa, including Namibia, Tanzania, Swaziland and Zimbabwe.<sup>30</sup> Other South African companies act as suppliers of electric shock weapons for companies based abroad. For example, Dos Group advertises on its website a projectile electric shock weapon that is manufactured by US company Phazzer, as well as a Chinese 'taser stun gun'<sup>31</sup> and other Chinese-made stun guns.<sup>32</sup>

### Need for greater trade restrictions on law-enforcement equipment

South Africa has one of the most progressive constitutions in the world, instituted in 1996, with a Bill of Rights aimed at building a society based on democratic values, social justice and fundamental human rights. A number of state institutions support and strengthen South Africa's constitutional democracy, including the Public Protector, the South African Human Rights Commission and the Commission for Gender Equality. These organisations (often referred to as Chapter 9 institutions, in reference to the chapter of the Constitution where they are set out) are independent and impartial. The Bill of Rights enshrines the rights of all people living in the country to be free from all forms of violence from either public or private sources, not to be tortured in any way and not to be treated or punished in a cruel, inhuman or degrading way.

A number of other organisations have also been established, often through national legislation, to provide independent oversight by monitoring state departments and/or functions of the state. Some of these receive a level of constitutional

recognition of independence, such as the Independent Police Investigative Directorate, which investigates complaints against the South African Police Service (SAPS); others are the result of government policy or have been established to ensure that South Africa meets its international obligations arising from treaties and other sources of international law.

These include the Judicial Inspectorate for Correctional Services, which is tasked with monitoring correctional centres in terms of the conditions and treatment of inmates, and the National Conventional Arms Control Committee (NCACC), which exercises political control over the import and export of conventional weapons and some non-lethal equipment, and their transit through South Africa, and which is guided by the internationally recognised Wassenaar Arrangement on Export Controls for Conventional Arms and Dual-Use Goods and Technologies, including non-lethal equipment. Then there is the South African Council for the Non-Proliferation of Weapons of Mass Destruction (NPC), which was established under the Non-Proliferation of Weapons of Mass Destruction Act 87 of 1993.

The NPC, which falls under the Department of Trade and Industry, has wide-ranging powers to prevent (through controls on manufacture, imports and exports) the proliferation of material relating to nuclear, chemical and biological weapons, their means of delivery and, with respect to dual-use technologies, equipment and material. The NPC's powers of control also extend to, for example, pyrotechnics, riot control agents, and chemicals and chemical precursors.

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The Civilian Secretariat for Police serves as the technical advisor to the Minister of Police and provides an oversight function, monitoring the governance, service delivery and resourcing of the SAPS. The police service, in turn, implements the Firearms Control Act 60 of 2000, which aims to lay the foundation for an effective system of firearm control and management.

The manufacture, import, export and sale of these controlled technologies, equipment and material require permits that are issued by the NCACC, the NPC or the SAPS.

Given this control framework, it is somewhat surprising, then, that South Africa does not either prohibit, or have more rigorous oversight mechanisms to control, the manufacture and use of, and trade in, law-enforcement equipment that can be abused

or that can facilitate torture and ill-treatment. One could interpret this to mean that South Africa is not adhering to its own aspirations with respect to human rights and the dignity of all (including inmates and detainees awaiting trial), as articulated in its Constitution, relevant domestic laws, or in terms of the commitments it has made under international agreements.

What is clearly needed is a prohibition on law-enforcement equipment that has no practical purpose other than for the purpose of torture and other cruel, inhuman or degrading treatment or punishment. The manufacture of such devices in South Africa and their export from South Africa should also be prohibited. Other types of law-enforcement equipment that may have a legitimate law-enforcement function but which are prone to misuse should either be prohibited, or regulated and controlled, to prevent human-rights violations. The manufacture of such devices in South Africa and their export should either not be allowed, or they should be highly controlled in the same way that other sensitive material is regulated and controlled (such as the trade in conventional arms, including firearms, and material relating to nuclear, chemical and biological weapons, their specific means of delivery and associated dual-use items).

According to the South African government's general non-proliferation policy:

... it is South Africa's declared national interest in conjunction with its international obligations and commitments, particularly as these relate to non-proliferation, disarmament and arms control, and the implementation of international humanitarian law, to exercise due restraint in the transfer and trade in weapons and related materials, equipment, technology and services.<sup>33</sup>

Although there are no trade controls over electric shock devices in South Africa, certain other countries do prohibit their trade. The EU prohibits all trade in body-worn electric shock equipment and restricts the sale of other electric shock devices. In 2005 the EU introduced Council Regulation (EC) 1236/2005 (the 'Torture Regulation'), which concerns 'trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment'. Articles 3 and 4 of the European Commission

Torture Regulation prohibit both the import and export of 'electric shock devices which are intended to be worn on the body by a restrained individual, such as belts, sleeves and cuffs, designed for restraining human beings by the administration of electric shocks'.<sup>34</sup>

The UK has introduced stronger controls, which additionally prohibit the brokering of body-worn electric shock devices, encompassing the provision of trade-related services, such as marketing, transportation, insurance and financing.<sup>35</sup>

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Articles 5 and 6 of the EC Torture Regulation also stipulate export controls over 'portable electric shock devices, including but not limited to, electric shock batons, electric shock shields, stun guns and electric shock dart guns'. Export permits are not to be granted where these devices 'might be used for torture or other cruel, inhuman or degrading treatment or punishment, including judicial corporal punishment [or] by a law enforcement authority'. EU member states maintain the right to prohibit the import and export of hand-held electric shock devices altogether. The EC Torture Regulation is legally binding on all 28 EU member states.

Under Section 6 of the Export Administration Act of 1979 (as amended),<sup>36</sup> the US controls through ECCN (or Export Control Classification Number) 0A982 of the Commerce Control List the trade in 'law enforcement restraint devices, including ... stun cuffs; shock belts; shock sleeves'.<sup>37</sup> With this law, body-worn electric shock equipment is controlled in the US alongside items such as leg irons, shackles, handcuffs and straitjackets.

Under ECCN 0A985 of the same Act, other electric shock devices are similarly controlled. These include 'discharge type arms and devices to administer electric shock, for example, stun guns, shock batons, shock shields'. For devices that fall under 0A982 and 0A985, a licence for export is required for all destinations, except Canada, regardless of their intended use.

## Conclusion and recommendations

South Africa is duty-bound under its constitutional and international obligations to respect human rights. Policing and security equipment that facilitates torture or other forms of ill treatment should be prohibited, or controlled as appropriate. Prohibiting and/or exercising restraint in the transfer and trade of equipment that may lead to human-rights violations would honour these obligations.

The following recommendations should be considered:

- 1** Body-worn electric shock devices should be prohibited for import and export. The use of body-worn electric shock devices is inherently degrading to the dignity of the person. Activation of such devices inflicts severe pain, which constitutes unwarranted and disproportionate force, amounting to torture or other cruel, inhuman or degrading treatment or punishment. Even when such devices are worn but not activated, they still constitute ill-treatment, as they leave the wearer in constant fear of pain while they are worn. They do not meet a legitimate law-enforcement objective that cannot be effectively achieved with safer, less abusive alternatives. South Africa should take effective legislative, administrative, judicial or other measures to prevent the use of body-worn electric shock devices, remove and destroy them at the earliest practicable time, and replace them with humane types of restraints.
- 2** Hand-held direct contact electric shock devices should be prohibited for import and export. Stun shields, stun batons and stun guns are prone to abuse and have no law-enforcement purpose that cannot be achieved through safer means. Government should take effective legislative, administrative, judicial or other measures to prevent the manufacture of and trade in hand-held direct contact electric shock devices in South Africa. Wired projectile shock weapons should be strictly regulated along with other types of firearms. An application and licensing process of the sort that firearms are subject to should also be implemented for the import and export of projectile electric shock weapons. Other types of law-enforcement equipment that have no other purpose than to facilitate torture or ill-treatment, such as weighted leg irons, thumb cuffs and *sjamboks*, should also be prohibited for import and export.
- 3** A control mechanism should be implemented that targets end users of policing and security equipment of the type that could be used for torture or other ill-treatment. This would be similar to the current system overseen by the NCACC to ensure that South Africa's arms trade and transfer policies conform to internationally accepted practices. This would require the intended transfer of relevant devices to be suspended or halted where there is evidence that their use could lead to repression, including the systematic violation or suppression of human rights. South Africa's International Trade Administration Commission may be another vehicle to better regulate the import or export of electric shock security equipment.

## Notes

The Omega Research Foundation would like to thank Noël Stott, Senior Research Fellow, and Mothepa Shadung, Junior Researcher, Transnational Threats and International Crime Division, ISS Pretoria for their assistance in the drafting of this policy brief.

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### About the Omega Research Foundation

The Omega Research Foundation conducts research on the development, manufacture, trade and use of military, security and police equipment. Such equipment ranges from small arms and light weapons to less lethal and restraint equipment, surveillance systems and large-weapon systems. Omega promotes effective mechanisms to prevent the proliferation and misuse of such weapons through information sharing, awareness-raising workshops and training, and advocacy activities, targeting, among others, the strengthening of export-control regimes and use-of-force policies. For more, visit <https://omegaresearchfoundation.org>.

### Acknowledgements



The Omega Research Foundation is funded to do this research by the European Instrument for Democracy and Human Rights, the Sigrid Rausing Trust, the Oak Foundation and the Joseph Rowntree Charitable Trust. The ISS is also grateful for support from the members of the ISS Partnership Forum: the governments of Australia, Canada, Denmark, Finland, Japan, Netherlands, Norway, Sweden and the USA.

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