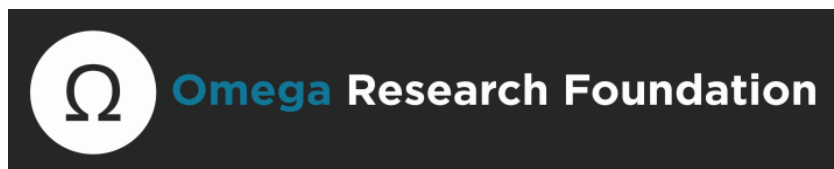


Submission to the United Nations Committee
Against Torture and Other Cruel, Inhuman or
Degrading Treatment or Punishment in
Advance of the 54th Session (April – May 2015)
Concerning equipment which could be used for torture or other
cruel inhuman or degrading treatment or punishment in
China (Hong Kong)

by the Omega Research Foundation
March 2015



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**Submission in Advance of the UN CAT 54th Session, 20th April – 15th May 2015
Concerning equipment which could be used for torture or other cruel, inhuman or degrading
treatment or punishment in China (Hong Kong)**

From The Omega Research Foundation
March 2015

The following is a submission from the Omega Research Foundation in advance of the UN CAT 54th Session (20th April – 15th May 2015) concerning equipment which could be used for torture or other cruel, inhuman or degrading treatment or punishment in China (Hong Kong).

Founded in 1990, the Omega Research Foundation (henceforth Omega) is a UK-based NGO. We conduct research on the development, manufacture, trade and use of military security and policing equipment including less lethal weapons and restraints. We promote effective mechanisms to prevent the proliferation and use of such weapons through information sharing, awareness raising workshops and advocacy activities targeting, amongst others, the strengthening of export control regimes and use of force policies. Over the last 25 years, we have developed unique expertise and resources to aid our research which has been used by, and provided to, a number of organisations including Amnesty International, Oxfam, the UN Special Rapporteur on Torture, the UN Subcommittee for the Prevention of Torture, the European Committee for the Prevention of Torture and a number of National Preventive Mechanisms (NPMs).

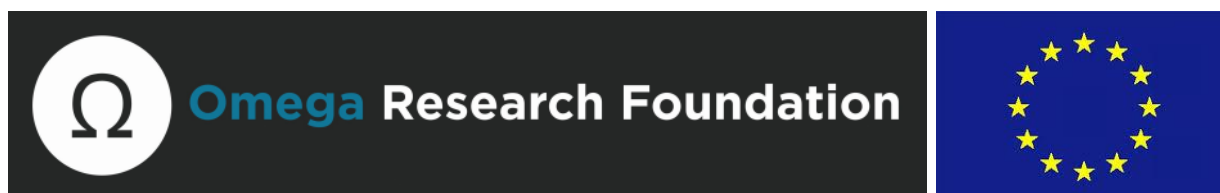
For further information about our work, please visit our website at www.omegaresearchfoundation.org or contact us on info@omegaresearchfoundation.org.

Acknowledgements

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Disclaimer

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Introduction

This briefing, submitted to the United Nations' Committee against Torture (henceforth UN CAT) prior to its 54th Session to be held in Geneva from 20th April to 15th May 2015, outlines a number of items of concern in relation to the manufacture, trade and use of certain types of military, security and policing equipment which could be deemed to contravene Articles 2 and 16 of the Convention against Torture and other Cruel, Inhuman or Degrading Treatment (henceforth the Convention).

Articles 2 and 16 of the Convention require each State party to “*take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction*” (Article 2) as well as the requirement to take the same measures against “*other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in Article 1, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity*” (Article 16).

This briefing contains information concerning the manufacture, acquisition, or use of a number of different types of military, security or police equipment deemed “of concern” by the Omega Research Foundation. It is drafted on the understanding that:

- (a) *Certain types of equipment have no legitimate law enforcement function and as such can only be used to commit torture or other cruel, inhuman or degrading treatment or punishment in violation of Article 2 or 16 of the Convention. This equipment includes, but is not limited to: spiked batons, weighted leg cuffs, body worn electric shock equipment and direct contact electric shock weapons.*
- (b) *Certain types of equipment deemed to have the potential to have a legitimate law enforcement function can also be used to commit torture or other cruel, inhuman or degrading treatment or punishment in violation of Articles 2 or 16 of the Convention. This equipment includes, but is not limited to: handcuffs, batons and certain crowd control weapons.*
- (c) *The use of excessive force by law enforcement or correctional officials can constitute torture or other cruel, inhuman or degrading treatment or punishment and as such can violate Articles 2 or 16 of the Convention; this includes during the dispersal of protests using riot control agents or other chemical irritants or weapons.¹*
- (d) *All States have a responsibility to ensure equipment manufactured or traded in/from their territories is not used to commit human rights abuses at home or abroad. Robust, transparent and accountable export controls, end-use certification processes, and internal legislative, administrative and judicial mechanisms should be implemented to help prevent such abuses.*

Excessive Use of Force

Omega is concerned about the escalating use of force against peaceful protesters in Hong Kong. Freedom of assembly is a fundamental right under international law and should be upheld. Reports from 2014 indicate a disproportionate use of force in the dispersal of peaceful protesters where

¹ See for example, Physicians for Human Rights (2012) *Weaponizing Tear Gas: Bahrain's Unprecedented Use of Toxic Chemical Agents Against Civilians*, https://s3.amazonaws.com/PHR_Reports/Bahrain-TearGas-Aug2012-small.pdf, Mendez, J (2013) *Report of the Special Rapporteur on Torture and other Cruel, Inhuman or Degrading Treatment or Punishment: Mission to Morocco*, A/HRC/22/53/Add.2, http://www.ohchr.org/Documents/HRBodies/HRCouncil/RegularSession/Session22/A-HRC-22-53-Add-2_en.pdf, Amnesty International (2015) *Open for Business? Corporate Crime and Abuses at Myanmar Copper Mine*, AI Index: ASA 16/003/2015, <https://www.amnesty.org/download/Documents/ASA1600032015ENGLISH.PDF>, all accessed 05/03/2015

chemical irritants (sometimes referred to as “riot control agents”, “tear gases” or “pepper sprays”) have been utilised; reportedly with limited or no warning.²

Excessive use of force, including excessive and inappropriate use of chemical irritants, can constitute torture or other cruel, inhuman or degrading treatment or punishment in contravention of Articles 2 or 16 of the Convention.

To this end, **Omega recommends** that:

- Irritants should only be used where strictly necessary, against violent individuals (or individuals posing an imminent threat of violence).
- Officers should be fully trained on the use of chemical irritants with particular focus on the need to avoid over-exposing individuals to them. Further training topics should include proportionality, medical implications, and the protection of human rights and fundamental freedoms. Officers should be required to undergo repeat training to avoid “skills fade”.
- Irritants should never be used in confined spaces, or in a place where there is no opportunity for the target to easily escape the effects of the irritant.
- Where chemical irritants are used, appropriate decontamination measures should be provided as soon as practically possible.
- Incidents of excessive force be publicly investigated and prosecuted.

Omega further recommends that the UN CAT:

- Share with the relevant authorities in Hong Kong the concerns over the excessive or inappropriate use of chemical irritants which can amount to torture or other cruel, inhuman or degrading treatment or punishment.
- Encourage the relevant authorities in Hong Kong to disclose:
 - What devices, chemical agents, and means of delivery are cleared for use
 - What training and standards are in place governing use of chemical irritants
 - What records are kept over the stockpile, inventory and deployment of chemical irritants; how expired munitions are disposed of
 - What medical procedures are in place in case of overdose
 - What decontamination measures are provided after exposure to chemical irritants

² See for example, Human Rights Watch (2014) *Hong Kong: Free Peaceful Protesters; Avoid Excessive Force*, September 30, 2014, <http://www.hrw.org/news/2014/09/30/hong-kong-free-peaceful-protesters-avoid-excessive-force> accessed 09/03/2015