



**Omega Research Foundation (Omega) submission on South Africa:
UN Universal Periodic Review, Second Cycle, 13th Session, 2012.**

1. The Omega Research Foundation (Omega) is an independent UK-based research organisation with charitable status. Established in 1990, we provide rigorous, objective, evidence-based research on the manufacture, trade, and use of, military, security and police (MSP) equipment. Such technologies range from small arms and light weapons to large weapon systems, policing technologies and prison equipment to equipment used for torture, amongst others. For more information, see our website www.omegaresearchfoundation.org.

2. This short submission on South Africa focuses on Section C, that is, the “promotion and protection of human rights on the ground: implementation of international human rights, national legislation and voluntary commitments”.

Torture and other cruel, inhuman or degrading treatment or punishment.

3. Article 5 of The Universal Declaration of Human Rights states that “no one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment”. Article 2 of the Convention Against Torture, which South Africa has ratified, states “each State Party shall take effective legislative, administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction”.

4. In its 66th session, October 2011, the UN General Assembly Third Committee adopted a resolution calling, in part, for “all States to take appropriate effective legislative, administrative, judicial and other measures to prevent and prohibit the... use of goods and equipment that have no practical use other than for the purpose of torture or other cruel, inhuman or degrading treatment or punishment” (A/C.3/66/L.28 pt 25).

5. South Africa continues to authorise the use of one such device with no practical use other than torture or ill-treatment in its correctional centres today: electro-shock belts. Our submission focuses exclusively on this issue.

Electro-shock belts constitute torture or other ill-treatment.

6. The Committee Against Torture has urged “electro-shock stun belts” to be “abolish(ed)... as methods of restraining those in custody; their use almost invariably leads to breaches of article 16 of the Convention”.ⁱ

7. They have also been condemned in other international fora. The Council of Europe’s Committee for the Prevention of Torture opposes “the use of electric stun belts for controlling the movement of detained persons, whether inside or outside places of deprivation of liberty”;ⁱⁱ the European Commission has classified them as a device “which has no practical use other than for the purpose of torture and other cruel, inhuman or degrading treatment or punishment”;ⁱⁱⁱ and a report by Amnesty International and Omega found that their use “cannot be justified under international law prohibiting torture or other ill-treatment and UN Standards on the use of force by law enforcement officials”.^{iv}

8. Electro-shock belts work by encircling the waist, or another part of the subject's body, and deliver an electric shock when a remote control device is activated. Other variations (e.g. electro-shock sleeves, electro-shock cuffs) fit on other areas of the body such as the arms or legs. These devices can be described collectively as "body worn electro-shock".

9. It is not known exactly what product is currently in use by the Correctional Services, but most models — including those manufactured in South Africa — deliver a shock of up to 50,000 volts and can be used to deliver repeated shocks. One South African model can deliver up to "900 activations" or "2 hours continuous" shock.^v The length of shock delivered with each press of the remote control varies between models.

10. The electrical current not only causes severe pain, with one survivor describing it as "very intense shocking pain... so intense I thought that I was actually dying", but can cause short and long term physical side effects.^{vi} These include; muscular weakness, urination and defecation, and heartbeat irregularities and seizures.^{vii}

11. The mere possibility that the device could be activated also causes the wearer a great deal of mental suffering. Indeed, one American manufacturer advertised stun belts as creating a "very psychological" effect, noting that "there's a tremendous amount of anxiety. The fear will elevate blood pressure as much as the shock will".^{viii} The psychological effect of the device is profoundly important for, as the UN Human Rights Committee notes, the terms torture and cruel, inhuman or degrading treatment or punishment: "relate not only to acts that cause physical pain but also to acts that cause mental suffering".^{ix}

12. Such devices can also be considered to breach the Basic Principles on the Use of Force and Firearms. These state that "non-lethal incapacitating weapons (should be developed) with a view to increasingly restraining the application of means capable of causing death or injury to persons" – that is, that non-lethal weapons should decrease, not increase, the amount of force used. They further state that the force used should be minimal. However, the stun belt, by acting both as a restraint and an electro-shock device, potentially increases the amount of force used. The Supreme Court of Indiana, ruling on the use of stun belts in courtrooms, found that other forms of restraint would serve the same purposes "without inflicting the mental anguish that results from simply wearing the stun belt and the physical pain that results if the belt is activated."^x

Use of the electro-shock belt in South Africa.

13. The Correctional Services Regulations 2004, accompanying the Correctional Services Act, the Draft Amendments to these Regulations and the B Orders (the South African Department of Correctional Services' internal use of force policies) all provide for the use of such devices, albeit only in certain circumstances. Section 18 of the 2004 Regulations state that electronically activated high-security transport stun belts" may "be used for the purpose of restraining a prisoner when outside a cell", and the proposed changes to the Regulation leave this language unchanged, whilst section 16.4.3.3 of the B Orders further clarify that they "must only be used in the most extreme cases".

14. In 2009 newspaper reports indicated the DCS had purchased an additional 900 belts, more than doubling their stock.^{xi}

15. It is not known how often these belts are used. Although the DCS is legally required to report the use of such devices, the most recent report by the South African Judicial

Inspectorate for Correctional Services notes the “general disregard... of their statutory responsibility” in this area.^{xii}

16. Omega is concerned that the South African government has made provision for the such of such devices – particularly as abuse of electro-shock devices in South African correctional centres has been well documented, not least by the Human Rights Committee in November 2010.^{xiii}

Omega recommends that the South African government take effective legislative, administrative, judicial or other measures to prevent the use of electro-shock belts and other body worn electro-shock devices.

ⁱ Committee Against Torture (2000) Conclusions and Recommendations of the Committee against Torture: United States of America, 15/05/2000.

A/55/44, paras. 175-180 (Concluding Observations/Comments).

ⁱⁱ Council of Europe (2010) Press release: Council of Europe anti-torture committee calls for strict regulation of electrical discharge weapons <http://www.cpt.coe.int/en/annual/press/2010-10-26-eng.htm> [Accessed 26/11/2010].

ⁱⁱⁱ COUNCIL REGULATION (EC) No 1236/2005 of 27 June 2005 concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment: Annex 2.

^{iv} Amnesty International and the Omega Research Foundation (2010) From words to deeds: making the EU ban on the trade in ‘tools of torture’ a reality EUR01/004/2010.

^v See the website of the South African manufacturer Force Group. <http://www.forcegroup.co.za/> (then click on products and “anti scape stun belt”) [Accessed 26/11/2010].

^{vi} Yoon, P. K (2003) ‘The "Stunning" Truth: Stun Belts Debilitate, They Prejudice, and They May Even Kill’ Capital Defense Journal volume 15, issue 2 p385.

^{vii} Ibid p386

^{viii} Ibid p387

^{ix} Amnesty International (1999) United States of America: Cruelty in Control? The stun belt and other electro-shock treatment AI Index: AMR 51/54/99 p5

^x Yoon op cite p389

^{xi} Flanagan, L ‘Prisoners in for a shock’ IOL 9 February 2009 (originally published on page 2 of The Star on February 09, 2009) www.iol.co.za/index.php?art_id=vn20090209071538922C290344 [Accessed 24/06/2010 – webpage no longer available].

^{xii} Judicial Inspectorate for Correctional Services (2010) Annual Report for the period 1 April 2009 to 31 March 2010

^{xiii} Human Rights Committee (2010) One hundredth session 11 to 29 October 2010 CCPR/C/100/D/1818/2008 Communication No. 1818/2008 Bradley McCallum vs South Africa.