

Fact sheet

South Africa's trade in problematic security equipment

This fact sheet focuses on South Africa's trade in law enforcement equipment. Law enforcement equipment may have a legitimate law enforcement purpose, when used strictly in conformity with regional and international human rights norms and standards. However, such equipment can also be misused for ill-treatment and other law enforcement equipment has no practical purpose other than torture and other forms of cruel, inhuman or degrading treatment or punishment.

South Africa has both international and domestic obligations to prohibit and prevent torture.

Table 1: South Africa's obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment

CONVENTIONS, PROTOCOLS AND DOMESTIC LEGISLATION	SOUTH AFRICA'S STATUS	OBLIGATION
United Nations (UN) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (UNCAT)	Ratified in 1998	UNCAT obliges its states parties to take all necessary measures to prevent acts of torture
Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (OPCAT)	Ratified in 2019	OPCAT aims to strengthen efforts and measures by states parties to UNCAT by exposing places of detention to public scrutiny
UN Committee against Torture (CAT)	Three reports submitted	South Africa is obliged to regularly report to the committee and respond to questions it may have
UN General Assembly Resolution A/RES/73/304	Voted in favour in 2019	A/RES/73/304 requests the UN Secretary General to seek the views of member states on the feasibility and possible scope of common international standards on the import, export and transfer of items used for torture or other cruel, inhuman or degrading treatment or punishment, as well as to establish a group of governmental experts to examine the parameters of such common international standards

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CONVENTIONS, PROTOCOLS AND DOMESTIC LEGISLATION	SOUTH AFRICA'S STATUS	OBLIGATION
Guidelines and Measures for the Prohibition and Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment in Africa (Robben Island Guidelines)	Adopted by the African Commission on Human and Peoples' Rights in 2002	Provision 14 obliges African Union (AU) member states to prevent and prohibit the production, trade, export, import and use of equipment that has no practical use other than for the purpose of torture or other cruel, inhuman or degrading treatment or punishment
Prevention and Combatting of Torture of Persons Act (Act 13 of 2013)	Passed by South Africa's Parliament in 2013 to give effect to its obligations in terms of UNCAT	This law establishes torture (an intentional act causing severe pain and suffering) as a crime in the country punishable by imprisonment

Notwithstanding these obligations, South Africa neither prohibits nor has rigorous oversight mechanisms to regulate the manufacture, import or export of such law enforcement equipment.

An examination of company websites and promotional material accessed at trade shows and exhibitions demonstrate that a range of South African and international companies both manufacture and trade in this equipment. Such companies include, but are not limited to: Liquid Bullet; Industrial Cartridge SA; GioTechnologies; Blades and Triggers; Africor; EPS Stun-Tech; John Elliott Security; Rippel Effect; Sharp Edge; and Duke Defence.

Their merchandise is widely promoted and marketed via their company websites as well as through international trade shows for security and safety technologies – these include Securex South Africa, the African Aerospace and Defence Expo in South Africa and fairs in Côte d'Ivoire, Dubai, Indonesia, Nigeria, Malaysia and the United Kingdom.

Consumers of this equipment include the Department of Correctional Services and the South African Police Service, as well as private security companies and private individuals.

South Africa should better regulate this trade by:

- Prohibiting the import and export of security equipment that has no practical purpose other than torture and other forms of cruel, inhuman or degrading treatment or punishment
- Strictly controlling (regulating) the trade in all other law enforcement equipment that may have a legitimate law enforcement role but that could be (mis)used to inflict torture or other forms of ill-treatment
- Establishing an oversight mechanism similar to the National Conventional Arms Control Committee (NCACC) and the South African Council for the Non-Proliferation of Weapons of Mass Destruction (NPC) to regulate the development, manufacture, trade and transfer of law enforcement equipment or substances in South Africa.

Table 2: Products whose trade should be either prohibited or regulated

EXAMPLES OF PRODUCTS	LEGITIMATE LAW ENFORCEMENT ROLE?	PROHIBITED OR REGULATED?
Body-worn electric shock devices: stun belts, stun cuffs and stun sleeves	No	Prohibited
Direct contact electric shock weapons: stun batons, electric shields/stun shields, stun guns/tasers	No	Prohibited
Shock batons	No	Prohibited
<i>Sjamboks</i>	No	Prohibited
Thumb cuffs	No	Prohibited
Weighted restraints	No	Prohibited

EXAMPLES OF PRODUCTS	LEGITIMATE LAW ENFORCEMENT ROLE?	PROHIBITED OR REGULATED?
Projectile electric shock weapons	Yes	Regulated
Electric shock dart guns	Yes	Regulated
Handheld direct contact stun devices or electronic immobilising stun devices	Yes	Regulated
Handcuffs	Yes	Regulated
Leg irons	Yes	Regulated
Baton-type equipment	Yes	Regulated
Pyrotechnical equipment	Yes	Regulated
Mechanical restraints	Yes	Regulated
Non-lethal incapacitating devices	Yes	Regulated
Less-lethal single-shot and multi-shot grenade launchers and less-lethal ammunition	Yes	Regulated
Less-lethal 12-gauge shotshells	Yes	Regulated
Tear-gas products and pepper sprays	Yes	Regulated

Table 3: Key recommendations

In line with its existing obligations, South Africa should prohibit and prevent the use, production, import, export, brokering or transfer of body-worn electric shock devices, other direct contact electric shock weapons (stun batons, stun shields, stun guns, etc.) and other inherently abusive weapons and equipment (including <i>sjamboks</i> , thumb cuffs, weighted restraints, etc.).
South Africa should regulate the import, export, brokering and transfer of other equipment that may have a legitimate law enforcement role but that may be misused for torture and other forms of ill-treatment.
The use by policing and correctional services authorities of body-worn electric shock devices, other direct contact electric shock weapons (stun batons, stun shields, stun guns, etc.) and other inherently abusive weapons and equipment (including <i>sjamboks</i> , thumb cuffs, weighted restraints, etc.) should be prohibited.
South Africa should provide UNCAT and the African Commission on Human and Peoples' Rights with information on the legislative and regulatory measures it intends to take to prevent and prohibit the production, trade, export, import and use of equipment that has no practical use other than for the purpose of torture or other forms of cruel, inhuman or degrading treatment or punishment.
South Africa should update both the Correctional Services Act (Act 111 of 1998, as amended) and the Criminal Procedure Act (Act 51 of 1977) and other relevant policies, regulations and laws to ensure that they are in line with its existing obligations as a member of the UN and AU, with particular reference to the Robben Island Guidelines. Guideline 14 calls for the prevention and prohibition of the production, trade, export, import and use of equipment that has no practical use other than for the purpose of torture or other forms of cruel, inhuman or degrading treatment or punishment. Such updates and amendments should include extra-territorial application.
South Africa should sign on to the political declaration issued by the international Alliance for Torture-Free Trade and actively participate in efforts for more effective international controls on products used to carry out the death penalty or to commit torture or other forms of cruel, inhuman or degrading treatment or punishment.
South Africa should submit its views to the Secretary-General of the UN and actively support the ongoing General Assembly process to examine the feasibility, scope and parameters of possible common international standards regulating the trade in equipment used for capital punishment, torture or other forms of cruel, inhuman or degrading treatment or punishment.

For further reading please see full report at: <https://issafrica.org/research/southern-africa-report/the-trade-in-tools-of-torture-a-south-african-case-study>

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About the Project on Tackling the Tools of Torture and Supporting Reparation

This factsheet is produced as part of the Project on Tackling the Tools of Torture and Supporting Reparation. The project addresses the role of the tools of torture in human rights abuses by focusing on three inter-related issues: use, trade and reparation. It aims to prevent torture and ill treatment, increase accountability for prior incidents and contribute to reparation for survivors. The project will conduct new research and disseminate new knowledge at regional and international levels to feed into processes aimed at creating or improving existing controls on the trade and use of tools of torture.

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