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## **Some issues in refining of the law on utilization of non-lethal personal weapons**

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# Some issues in refining of the law on utilization of non-lethal personal weapons

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**Abstract:** This paper aims to analyze the implementation of laws and regulations governing the relationship related to the utilization of non-lethal personal weapons, which are the legal guarantees necessary for the performance of this work and duty, and their norms, to study the relevant laws and legal acts of other government organizations with special functions and similar foreign countries. Additionally, some suggestions for recognizing and resolving these issues have been proposed. Thus, it is considered to be required in order to further enhance and perfect the laws pertaining to non-lethal personal weapons.

**Key words:** Non-lethal personal weapons, Legal regulations, Norms

## 1. INTRODUCTION

**Purpose and Significance of the study:** The primary aim and overarching significance of this research endeavor are to undertake a comprehensive analysis of the statutes and regulations dictating the utilization of specialized equipment by individual law enforcement officers and their practical enforcement. In addition, this study seeks to conduct a comparative examination of the legal provisions akin to such regulations within foreign law enforcement entities and domestic governmental agencies endowed with distinctive operational mandates. Furthermore, the research endeavors to identify and subsequently mitigate any latent issues that may arise in the course of this inquiry.

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## 2. THEORITICAL BACKGROUND

Numerous distinguished scholars and researchers have dedicated their efforts to the investigation of non-lethal personal weaponry, with notable contributions from figures such as S. Nyamjav [1] B. Batjav [2] S. Khayangarvaa [3] Z. Chuluunkhuu & Ch. Erdenechuluun [4] J. Dolgorsuren & D. Bulgan [5] N. Ganbadral[6], Sh. Chuluun[8], and Z. Tserenbat[9]. This extensive body of work encompasses an exploration of police weaponry, non-lethal personal arms, tactical maneuvers, and specialized equipment. Notably, S. Nyamjav [7] has authored a seminal publication elucidating methodologies for the judicious employment of specialized gear, as well as the disciplined application of force, all meticulously aligned with the contours of legal regulations.

Furthermore, Tserenbat Z. [10] delves into the strategic deployment of police weaponry and specialized apparatus, while Chuluun, Sh. [11] addresses concerns surrounding the augmentation of legal frameworks pertaining to the use of firearms and specialized equipment by law enforcement. Batmunkh, J. [12], in the context of public unrest, grapples with a multitude of legal issues, especially those concerning the utilization of specialized tools with far-reaching implications.

At the master's level, D. Ankh-Erdene [13] has undertaken in-depth research pertaining to the legal constraints governing the use of non-lethal personal weaponry by individual police officers.

L. Bat-Ochir [15] successfully defended his doctoral dissertation on the intricate subject of 'Arrest and Detention of Criminals: Actions Resulting in Harm During the Period: Theoretical Framework and Legal Regulatory Aspects.' Additionally, N. Ganbadral [14] contributed significantly to this academic landscape. Their collective scholarly pursuits revolve around a comprehensive investigation into 'The Juridical Terrain Surrounding the Employment of Special Instruments in the Exercise of Administrative Authorities by the Mongolian Police,' firmly grounded in legal theory.

These pioneering researchers have meticulously undertaken the endeavor of conducting rigorous inquiries to underpin their doctoral works.

## 3. MAIN ISSUES

Police officers are authorized to employ physical force, specialized equipment, and firearms against one or more individuals or groups, adhering to the prescribed criteria and protocols delineated in Article 47, Part 1 of the Law on Police Service. The law bestows upon all individuals the prerogative to utilize specialized tools, as explicitly stipulated. Within the same legislative framework, one may also find the comprehensive directives governing the 'Use of Physical Force, Special Equipment, and Firearms by Police Officers,' which have received the imprimatur of the Ministers of Justice, Internal Affairs, and the State Prosecutor General. These directives encompass the categorization, authorized grounds for deployment, prerequisites, and instances of prohibition.

However, the legal stipulations regarding the application of non-lethal personal weapons by each police officer are somewhat vague and encompass a broad spectrum within these regulations. Furthermore, certain provisions of the legal act appear to harbor some discrepancies, which deviate from both theoretical underpinnings and practical realities. These discrepancies manifest as follows:

The directives enshrined in the aforementioned instructions delineate scenarios in which the use of individual non-lethal personal weapons is deemed unsuitable for their intended purpose and, consequently, must not be employed. To illustrate, take note of section 3.14 of the instructions, which pertains to the deployment of stun guns.

Subsequent to determining the rationale for deploying a stun gun, the police officer positions it at a range of four to five meters from the target. The firearm is then directed in such a manner that it transitions position and operates for a maximum of three seconds in a single location (or five seconds in the case of use against animals). This method is explicitly outlined.

This practice suggests the importation of stun guns into our country from China for utilization by law enforcement and other government entities. The pertinent legislation prescribes the allowable distance for deploying stun guns, contingent upon the equipment's capabilities employed by law enforcement. In my view, this aspect has been adequately addressed. Given that the device's capabilities can vary depending on its origin and manufacturing processes, it is reasoned that further regulation through directives and regulations is superfluous, as it cannot be comprehensively governed by statutory provisions or other legal instruments.

Consequently, under specific circumstances, it appears that the choice of non-lethal personal weapons, based on their functionality and capabilities, may at times diverge from the stipulated requisites set forth in the law.

Section 3.13 of the 'Use of Physical Force, Non-Lethal Personal Weapons, and Firearms' instruction stipulates guidelines for the employment of stun guns, emphasizing the following precautions: a/ Avoid deploying stun guns against a person's exposed or clothed body when there is rain, or refrain from using them in a manner that involves striking, stabbing, impacting objects to create noise, or utilizing weapon-like objects as a deterrent, as delineated in Table 1.

The aforementioned regulations pertaining to the utilization of batons by law enforcement, border security, and police officers have given rise to corresponding regulations governing the use of batons by domestic military personnel. These regulations have evolved to ensure their suitability for specific contexts and to provide legal safeguards. However, it is noteworthy that legislation governing interactions between the police and personnel in border protection and judicial enforcement agencies explicitly restricts the use of batons for actions such as wrapping around, striking, or stabbing along the body's bones and muscles. This signifies a delineation of the scope and objectives for such applications.

c/ It is advised to refrain from repeatedly striking the same individual with a baton to minimize harm. Law enforcement officials are mandated, in accordance with Article 5 of the Basic Principles of Using Firearms and Force by Officials Responsible for Public Order Maintenance, to prioritize the following: b) Respect for human life and the minimization of harm, in accordance with international law, when utilizing force. This emphasizes the fundamental principles of morality, ethics, and the

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complex situations wherein it may not be feasible for a police officer to discharge their duties effectively using specialized equipment, as outlined in the instructions. Moreover, it is perceived that adherence to these guidelines in the instructions may not fully address the employee's situational risks.

Electric stun guns are deployed under various nomenclatures across the globe. In both the United States and international contexts, military, law enforcement, and correctional entities commonly employ electric stun devices referred to as 'TASERs,' a nomenclature derived from the science fiction affinities of the inventors, inspired by the 'Thomas A. Swift Taser Gun' (USGAO, 2005).

“Taser bullets can range from 15 feet (4,572 meters) (civilian model) to 25 feet (7,62 meters) (law enforcement model). Regardless of the length of the wire, the Police Executive Research Forum's (PERF) recent Best Information Guide recommends that targeting be limited to less than 15 feet (2004). This is consistent with research showing that accurate placement beyond 15 feet is difficult (Mesloh, Honych, Hoagland, & Thompson, 2005), and earlier studies reported that the effectiveness of this weapon ranged from 50% to 85% (Donnelly, 2001). In four hundred randomized controlled trials, TASER was immediately successful in 68% of cases (Mesloh, Henych, Hougland, & Thompson, 2005).<sup>†</sup>Based on this, it appears that "TASER" is a more specialized tool than the stun gun used in our country.

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<sup>†</sup> <https://www.ojp.gov/>

Table 1. A comparative analysis of the statutory provisions delineated in pertinent legal enactments governing the utilization of batons by officers within specialized organizations responsible for safeguarding national security<sup>3</sup>.

No	Police	Internal troops	General Executive Agency of Court Decision	Customs and Border protection
1.	"The 'Guidelines for the Deployment of Physical Force, Specialized Equipment, and Firearms,' endorsed through collaborative directives under the imprimatur of the Minister of Justice, Minister of Internal Affairs, and the State Prosecutor General, bearing the reference numbers A/224 and A/102, and promulgated on September 6, 2017."	The 'Directives for the Deployment of Special Tools, Firearms, and Specialized Equipment for Utilization by the domestic military in the execution of their official functions,' formally sanctioned through Order No. A/57, dated April 3, 2018, as issued by the Minister of Justice and Internal Affairs	The Regulations for the Utilization of Physical Force, Specialized Equipment, and Firearms by personnel within court decision enforcement agencies,' duly endorsed through collaborative directives issued by the Minister of Justice, Minister of Internal Affairs, and the State Prosecutor General, bearing the reference numbers A/260 and A/112, and enacted on October 18, 2017.	The 'Guidelines for the Deployment of Physical Force, Specialized Equipment, and Firearms by personnel within border protection organizations,' officially ratified through Order No. A/160, dated April 3, 2017, as issued by the Minister of Justice and Internal Affairs.
2.	Section 3.13 of the instructions necessitates careful consideration when employing a rain gun, stun gun, or stun gun, specifically: a/ Utilize the rain gun to encircle the bones and musculature of an individual's attired or unclothed body, employing it for striking, thrusting, impacting external objects, generating auditory disruptions, or as a countermeasure against potential assaults with weapon-like implements.	In accordance with Section 3.8 of the instructions, meticulous attention should be accorded to the utilization of a rain gun, stun gun, or stun gun, specifically with respect to the following stipulations in Section 3.8.1: Precisely directing the raincoat onto the clad or unclothed body, accomplished through methods such as striking, thrusting, shield-based impacts, utilization of other implements, auditory disruption, or its deployment as a defensive measure in response to potential attacks involving weapon-like objects.	Section 3.14 of the Regulations pertains to the use of batons and outlines the following procedure in Section 3.14.1: Halting an action by encircling, striking, or thrusting the baton along the skeletal structure and musculature of the human body.	Section 3.14 of the guidelines delineates the application of the baton in the following manner in Section 3.14.1: Ceasing an action by enveloping, striking, or thrusting the baton along the osseous and muscular framework of the human body.

<sup>3</sup> <https://legalinfo.mn/>

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## 4. CONCLUSION

In summation, the guidelines delineate scenarios where the utilization of non-lethal weapons may not be feasible, should a police officer misinterpret certain principles enshrined within international legal norms and standards, notwithstanding the legal mandate underpinning their duty. Furthermore, adhering to the directives within the instructions does not unequivocally eliminate the potential risks that may confront the law enforcement officer. Additionally, in certain instances, it is postulated that the intended function and capabilities of each specialized tool may run counter to the provisions articulated within the legal framework.

The effective utilization of each non-lethal weapon is contingent upon an officer's capacity to exercise sound judgment, requiring a context that closely mirrors real-life situations. Law enforcement personnel must possess the ability to make impartial assessments when confronting criminal activities and transgressions in direct encounters. Erroneous decisions by an officer in use-of-force scenarios can jeopardize their personal safety. Consequently, there is a compelling need to comprehensively address the legal provisions that enhance their status.

Hence, there is a perceived necessity to amend specific facets and provisions within the 'Use of Physical Force, Special Equipment, and Firearms' guidelines. This adjustment is vital for mitigating risk factors in the officers' operational environments and ensuring the formulation of judicious tactical decisions.

## 5. SUGGESTIONS AND RECOMMENDATIONS

1. A comprehensive review is warranted, wherein the regulations governing the use of specialized tools, as outlined in the instructions, are scrutinized vis-à-vis the pertinent articles and clauses delineated in international treaties and agreements, in conjunction with the 'Law on the Police Service of Mongolia.' This examination should culminate in the meticulous redefinition and modification of said regulations to harmonize them with the exigencies of reality, duly informed by empirical research.
2. It is suggested to incorporate select legal provisions from state entities with specialized functions and law enforcement agencies of foreign nations, along with the associated legal norms they uphold, into the domestic legal framework. This integration aims to augment the legal landscape by assimilating best practices and international standards."

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## AUTHOR'S INTRODUCTION

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