

DECLARATION

I Kolawole Olusola Odeku hereby declare that this thesis, In Search of a Regime of Responsibility and Accountability for Perpetrators of Torture with Reference to Persons with Special Responsibility for Protecting Human Rights is my own work except where reference has been made to published literature and I further declare that it has not been previously submitted for any degree at any university.

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ABSTRACT

Torture is a serious violation of human rights and it is strictly prohibited by numerous human rights instruments. The prohibition of torture enshrines one of the most fundamental values of a democratic society. Its prohibition in a national constitution commits the country, and specifically its law enforcement officers, to performing their duties with due regard to the essential dignity of every human being. The irony is that the law enforcement officials and the security agents who are entrusted with the responsibility of maintaining law and order in the society sometimes breach the law which they have sworn to uphold.

Most of the perpetrators of acts of torture are usually those in positions of state power. In addition, other persons who wield other forms of authority or influence also perpetrate torture. It is contended that both civil and criminal responsibilities of the perpetrators should be explored by bringing them to justice in order to serve as deterrence to others.

Despite being stringently outlawed, torture continues to be practised in many countries in the world. The underlying assumption is that, although the prohibition of torture has become part of customary international law, the practice of torture remains widespread. Torturers and those who order or encourage torturers to ply their trade or acquiesce in their doing so, enjoy virtual impunity from prosecution within their own jurisdictions. In many cases, the majority of the torturers go unpunished because they are, most often than not, agents or officials of the state.

Nowadays, there are various international human rights instruments prohibiting torture. Violations of the provisions of these instruments by states or individuals will attract necessary and appropriate sanction. The erring state or individual will be held accountable and if found liable, sanctions as contained in the instruments banning torture will be invoked accordingly. It must be stressed that condemnation of torture is universal and its prohibition forms not only part of customary international law, but has joined that narrow category of crimes so

egregious as to demand universal criminal jurisdiction. There is no save haven for perpetrators because the various mechanisms and adjudicating bodies of state parties and the United Nations have competent jurisdictions to right the wrong. Furthermore, it must be stressed that there can be no justification for torture because CAT and other important international human rights instruments assume increasing importance tools which have realistic prospects for eliminating torture.

DEDICATION

This work is dedicated to the loving memory of Late Chief Abayomi Fajobi, the Aare of Awe land, Oyo, Oyo State, Nigeria. Born 10th August, 1927. Died 7th of January, 1998.

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ABBREVIATIONS

African Charter	The African Charter on Human and Peoples' Rights
ACHR	America Convention on Human Rights
UDHR	Universal Declaration of Human Rights
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICC	International Criminal Court
ICTR	International Criminal Tribunal for Rwanda
ICTY	International Criminal Tribunal for the former Yugoslavia
ECHR	The European Convention on Human Rights and Fundamental freedoms
CERD	The Convention on the Elimination of All Forms of Racial Discrimination
CEDAW	The Convention on the Elimination of All Forms of Discrimination against Women
CPRMWM	The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families

ICPRDPD	The International Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities
ICPED	The International Convention for the Protection of All Persons from Enforced Disappearance
EU	European Union
ECPTR	European Convention for the Prevention of Torture or Degrading treatment or Punishment
ICPPT	Inter-American Convention to Prevent and Punish Torture
CAT	Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment
UN	United Nations
OPCAT	Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment
UNDPT	UN Declaration on the Protection of all Persons from being subjected to Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (The Declaration)
CRC	The Convention on the Right of the Child
HRC	The Human Rights Committee's

CPT

The Committee for the Prevention of Torture

The Robben

Island Guidelines

Guidelines and Measures for the Prohibition and
Prevention of Torture, Cruel, Inhuman or Degrading
Treatment or Punishment in Africa.

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