

COMMEMORATIVE SEMINAR ON THE 10<sup>TH</sup> ANNIVERSARY OF ADOPTION OF  
THE ROBBEN ISLAND GUIDELINES

21 - 23 AUGUST 2012

JOHANNESBURG, SOUTH AFRICA

SPEECH BY COMMISSIONER DUPE ATOKI,  
CHAIRPERSON OF THE AFRICAN COMMISSION ON HUMAN AND PEOPLES'  
RIGHTS AND OF THE COMMITTEE FOR THE PREVENTION OF TORTURE IN  
AFRICA

**H. E, the Deputy Minister of Justice and Constitutional Development of the Republic of South Africa,**

**Hon. Commissioners of the African Commission**

**The Representative of the UN Office of the High Commissioner for Human Rights,**

**The Chairperson and Members of the South African Human Rights Commission,**

**The Chief Executive Officer of the South African Human Rights Commission,**

**The Secretary General of the Association for the Prevention of Torture,**

**Distinguished Resource Persons, Guests and Participants,**

**Members of the Press,**

**Ladies and Gentlemen,**

Allow me first of all to express the gratitude of the African Commission on Human and Peoples Right and of the Committee for the Prevention of Torture in Africa, to the Government and people of the Republic of South Africa for hosting this event. We are happy to be here in the *Rainbow Nation* whose history and experiences has taught us all a fundamental lesson; that human dignity is a value to be fought for at all costs, and it is no surprise that South Africa is the birth place of the Robben Island Guidelines whose 10<sup>th</sup> Anniversary has brought us here today.

I thank the South African Human Rights Commission for serving as our local partner in the organization this event. The devotion, time and resources invested by the Commission in ensuring the success of this event is commendable and we greatly appreciate this. My special appreciation goes to the Chairperson, Advocate Mushwana, for facilitating and sustaining this exemplary cooperation.

I would also like to express our gratitude to our valued partner, the Office of the United Nations High Commissioner for Human Rights (OHCHR) and in particular, the Regional Representative for East Africa, Mr. Musa Gassama, here present, whose personal dedication in ensuring a fruitful cooperation between the OHCHR and the

African Commission as a whole and the prevention of torture specifically, cannot be overemphasized.

We, at the African Commission and the Committee for the Prevention of Torture in Africa in particular, have a very close working and umbilical relationship with the Association for the Prevention of Torture (APT). For over a decade now, the APT has consistently supported the torture prevention initiatives of the African Commission and was at the forefront of the elaboration of the Robben Island Guidelines. I salute the APT Secretary General, Mark Thomson here present and would like to assure you that we truly value the support of the APT, and look forward to further enhancing this partnership.

I would also like to thank the Internationale Zusammenarbeit (GIZ) for their generous financial contribution to the success of this event. Finally, let me express my appreciation to our many esteemed guests and participants, most of whom have come from far and hope that these coming days will mutually enhance our collective fight for the respect for human dignity.

**Excellency, Ladies and Gentlemen,**

We are gathered here today not only to celebrate the 10<sup>th</sup> anniversary of the Robben Island Guidelines, but to reaffirm our commitment to working to ensure that the absolute and irrevocable nature of the universal ban on torture is fully respected at all times and places on the African Continent. Torture is inherently evil, morally outrageous and legally impermissible under international law. It is the assertion that others are less than human, and are simply things to be manipulated without regard to any sense of morality. And because it is cowardly and cruel, torture degrades those who do it, as well as those on whom it is perpetrated. Torture remains a grotesque evil

and crime and it is precisely for this reason that the ban against the practice must remain unconditional.

It is a well known fact that no country is immune from practices that amount to torture and ill-treatment. What varies from country to country however, is the intensity and scale of such abuses and the response of the authorities. The practice of torture is therefore not peculiar to Africa; it is a universal problem in all countries, big and small, rich and poor, albeit in varying degrees.

However, the political and socio-economic situation of the Continent has created conditions that make the practice of torture endemic. Torture is widespread on the Continent because national legal frameworks are deficient and do not correctly codify torture as a crime with appropriate sanctions. It persists because of ignorance of redress remedies by victims where it exists, and impunity by perpetrators, poverty, corruption, lack of transparency in places of detention as well as difficulties occasioned by the fact that national criminal systems lack the essential procedural safeguards to prevent its occurrence, to effectively investigate allegations and to bring perpetrators to justice.

It was against this background that the African Commission and its partners set out, ten years ago to seek solutions to the problem of torture in Africa. The Commission relied on the absolute prohibition of torture under Article 5 of the African Charter on Human and Peoples' Rights, to develop comprehensive African context-specific measures/tools to help States and other relevant actors to tackle the prevalent scourge of torture in Africa in a more practical way. These tools, today known the Guidelines and Measures for the Prohibition of Torture, Cruel, Inhuman or Degrading Treatment or Punishment or the Robben Island Guidelines, were developed from an expert workshop organised by the African Commission in collaboration with the APT in February 2002 in Cape Town, here in South Africa. These Guidelines were adopted by a resolution of the African Commission during its 32<sup>nd</sup> Ordinary Session in October 2002 and endorsed by

the Assembly of Heads of State and Government of the African Union in Maputo, Mozambique in 2003.

**Excellency, Ladies and Gentlemen,**

Here we are, ten years after the adoption of the Robben Island Guidelines. The pertinent question to ask at this is: has the adoption of the Robben Island Guidelines made any difference to the torture situation in Africa? The answer, I would say is to some extent in the affirmative.

Firstly, the adoption of the Robben Island Guidelines gave birth to a special mechanism within the African Commission dedicated to the fight against torture. This mechanism, the Committee for the Prevention of Torture in Africa (CPTA), formerly known as the Follow-up Committee on the Implementation of the Robben Island Guidelines, was established in 2004 after the adoption of the Guidelines and is the only one of its kind on the whole Continent fully dedicated to the cause of torture prevention.

The primary objective of the Commission in establishing the CPTA was to contribute to torture prevention efforts on the continent by promoting and facilitating the effective implementation of the Robben Island Guidelines. Thus, the Committee works to ensure amongst other things that:

- States are encouraged to generate the political will and capacity to prevent and prohibit torture;
- Legal frameworks to prevent and prohibit torture are in place and are enforced;
- Organizations on the ground have the expertise and training to prevent torture,

In this vein, the Committee primarily encourages States Parties to implement their obligations under the African Charter by:

- Adopting specific legislation criminalizing torture; that they

- Ratifying and implementing major relevant international instruments such as the Convention against Torture and its Optional Protocol, the OPCAT;
- Ensuring that the criminal justice system function effectively;
- Subjective places of detention to adequate external oversight;
- Implement recommendations from the relevant treaty bodies etc.

This, the Committee achieves by ensuring that the prohibition and prevention of torture features prominently in its State Reporting procedure under Article 62 of the Charter. The Committee uses the mechanism of State Reporting to evaluate the legislative, administrative and other measures taken by States Parties to fight against torture and makes recommendations as appropriate. Thus, through the CPTA, the thematic of torture has featured prominently in all recent Periodic Reports examined by the Commission, notably those of Namibia, Uganda, DRC, Togo, Burundi, Nigeria, Libya, Angola etc.

The CPTA also collaborate directly with authorities of States Parties and other stakeholders at the national level, through the organization of training and sensitization events such as seminars, workshops and conferences as well as undertaking promotion missions to states parties to initiate a constructive dialogue with the authorities on ways and means of effectively prevention torture; thus generating the necessary political will to combat torture. The CPTA has so far undertaken promotion missions to Benin, Uganda, Liberia and Mauritania as well as other promotion activities in Senegal and Cameroon. The outcome of these activities in terms of enhancing national torture prevention efforts has been immense.

Through the adoption of the RIG, the African Commission is today equipped with mechanisms, activities and structures aimed at the effective implementation of the absolute ban on torture.

Secondly, since the adoption of the RIG, a lot of momentum has been building up around the continent on issues of torture prevention. Hitherto a taboo subject, torture prevention is now an issue of public debate in many African countries and denial on the part of Governments of the existence of torture in their territories is gradually giving way to an acknowledgement of the need to take measures to prevent its occurrence. This is manifest in the adoption of laws and the initiation of Bills on the criminalization of torture on the continent as well as the increasing ratification by African States of the Convention against Torture and its Optional Protocol. More NGOs with a torture prevention mandate have also been established and authorized to operate in many countries across the continent.

**Excellency, Ladies and Gentlemen,**

Despite the adoption of the Robben Island Guidelines and the establishment of the CPTA, torture remains one of the most recurrent human rights violations on the continent. The numerous reports frequently received by the African Commission in this regard speak volumes.

The effective criminalization of torture in national legislations on the continent still remains low. So far, only a very small number of African States including Algeria, Burundi, Cameroon, the DRC, Egypt, Mauritius, Madagascar Tunisia, and recently, Uganda, have adopted specific legislations criminalizing torture. A vast majority of African countries still have weak legislations that do not reflect the gravity of the crime of torture. We are however encouraged that there are many more countries that have started the process of drafting legislation to criminalize torture and am happy to note that South Africa is one of those many countries in addition to Benin, Burkina Faso, Kenya, Liberia Nigeria, Namibia, Togo. It is our hope that the drafting process will be finalized as soon as possible.

One challenge that also needs to be overcome is that of making the Robben Island Guidelines well known among the relevant stake holders and the general public. So far very little is known about the RIG except in very restricted circles. This could be linked to the resource challenges of the African Commission which impedes a more effective popularization of the RIG on the continent.

Apart from the appalling physical and psychological harm for victims, the sense of indignity and injustice torture creates can radicalise individuals and communities and brutalise the societies they live in. It is for this reason that the African Commission lays emphasis on the prevention of torture which can be of immense help in breaking such patterns. Effective preventive action requires from the African Commission as the premier continental institution charged with promoting and protecting human rights, the strategic coordination and application of multiple measures so that prevention work done in a synergetic and efficient manner.

It is on this basis that the African Commission has been wholeheartedly engaged in promoting the ratification and effective implementation of the OPCAT. The OPCAT empowers national and international oversight mechanisms, to undertake regular unannounced visits to places where people are deprived of their liberty with a view to preventing the abuse of detainees. So far, eleven African countries, namely Benin, Burkina Faso, DRC, Gabon, Liberia, Mali, Mauritius, Nigeria, Togo, Tunisia, Senegal. Nine others, Cameroon, Republic of Congo, Ghana, Guinea, Madagascar, Mauritania, Sierra Leone, South Africa and Zambia have also signed the protocol. Amongst those that have ratified, only four, including Mauritius, Nigeria, Togo and Senegal, have set up National Preventive Mechanisms as provided for in the protocol.

These figures give us an indication of the enormous challenges that lie ahead and the long road we have to travel in order to ensure that we have a torture free continent. We therefore need to redouble our efforts and devise creative and innovative strategies to



eradicate torture. This seminar provides us an ideal opportunity to do so and I hope that discussions over the next three days, will lead us a long way down that road. As we take stock of the implementation of the Robben Island Guidelines ten years after adoption, I implore us to be open and frank in our contributions so that at the end of the seminar, concrete practical ideas and initiatives would be developed enhance the implementation of the RIG and the prevention of torture on the continent.

I thank you again for making it to this historic event and look forward to an engaging discussion.

Thank you.