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African Commission on Human & Peoples' rights

Commission Africaine des Droits de l'Homme & des Peuples

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**REPORT OF PROMOTIONAL MISSION
UNDERTAKEN BY COMMISSIONER MOHAMED
ABDELLAHI OULD BABANA IN RWANDA**

REPORT OF THE PROMOTIONAL MISSION TO RWANDA

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I. INTRODUCTION

1. The African Commission on Human and Peoples' Rights (ACHPR) is the mechanism for the promotion and protection of human rights in Africa.
2. It was created in 1987, in application of the African Charter on Human and Peoples' Rights (the African Charter), which was itself adopted by the Assembly of Heads of State and Government of the defunct OAU, on the 25th June 1981 in Nairobi, KENYA.
3. This African Charter, which entered into force on the 21st October 1986, entrusted the African Commission with the mandate of promoting and protecting human rights.
4. Within the context of implementing this mandate and to guarantee the follow-up of human rights promotional and protection activities in the State Parties, the African Commission decided, during its deliberations of the 25th Ordinary Session held from the 26th April to 5th May 1999 in Bujumbura, Burundi, to carry out promotional missions in the said State Parties during the inter-sessional period.
5. The African Commission entrusts each Commissioner with the task of monitoring the human rights situation in the countries under his/her portfolio within the African Commission and in consequence, it is the responsibility of the Commissioner to create and/or maintain contact with the human rights activists by means of these promotional missions, with a view to:
 - Ensuring the monitoring of human rights issues and bringing them to the attention of the African Commission;
 - To add the support provided by the African Commission to the efforts being deployed by the Government, by the NGOs and other members of Civil Society.
6. Towards this end, the promotional missions' terms of reference involve the programming of meetings with the representatives of :
 - The political, administrative and legal Authorities.
 - NGOs and other members of civil society as well as international organizations working in the field.
7. Rwanda ratified the African Charter on Human and Peoples' Rights on the 17th May 1983 and in conformity with Article 62 of this Charter, Rwanda presented its initial Report to the African Commission in March 1991.

8. Rwanda's Periodic Reports were not presented in 1992, 1994, 1996 and 1998 due to instability caused by the genocide but these Reports were presented at the 27th Ordinary Session of the African Commission (27th April – 11th May 2000, Algiers, Algeria), combined in a single Report as had been authorized by the African Commission since 1995, to enable State Parties to catch up on the accumulated delayed Reports.
9. It is in this context that a delegation from the African Commission, led by Commissioner Mohamed Abdellahi Ould Babana, responsible for Rwanda within the African Commission undertook a promotional mission to Rwanda from the 26th January to 2nd February 2004.

II. TERMS OF REFERENCE AND PRELIMINARY OBSERVATIONS

A. TERMS OF REFERENCE AND LEGAL FRAMEWORK

a. Terms of Reference

10. *The African Commission had already carried out a promotional mission to Rwanda (22 – 26 March 2000), led by Commissioner Julienne Ondziel-Gnelenga.*
11. *Therefore, the promotional mission undertaken by Commissioner Babana was intended to pursue the objectives of the previous promotional mission effected by the African Commission in Rwanda, notably to strengthen the publication and introduction of the African Charter and to provide the support and encouragement of the African Commission to this State Party in its search for solutions for the reinforcement of the process of democratization and national reconciliation.*
12. *Commissioner Babana's mission was also aimed at collecting first hand information on the human rights situation from the Government, from NGOs, from United Nations' Agencies, from Political Parties, from Religious Leaders and all persons interested in civil society matters in general.*
13. *To draw the attention of the competent Authorities on the need to respect the obligations ensuing from the provisions of the Articles 1 and 62 of the African Charter on Human and Peoples' Rights namely with regard to the presentation of Periodic Reports to the African Commission on Human and Peoples' Rights by State Parties.*

14. *To promote the ratification process of the Protocol to the African Charter relative to Women's Rights in Africa and to the setting up of the African Court of Human and Peoples' Rights.*

b. Legal Framework

15. Rwanda is committed to a number of obligations in the area of human rights at the national, regional and international levels.
16. At the national level, the Rwandan Constitution of the 4th June 2003 upholds notably the following principles:
- The principle of separation of powers of the Executive, Legislative and the Judiciary, with a bicephalous Executive (President of the Republic and Head of State and a Prime Minister appointed and removed by the President) and a bicameral Parliament (Chamber of National Assembly Members and the Senate);
 - The principle of hierarchical organization of standards;
 - The principle of checking the constitutionality of laws (by the Supreme Court);
 - The principle of the independence of the Judiciary.
17. The Rwandan Constitution of the 4th June 2003 incorporates the African Charter of Human and Peoples' Rights in its preamble and devotes its Chapter II to the fundamental rights of the human being and to the Rights and Responsibilities of the Citizen.
18. The Supreme Court is the highest institution of the judiciary power whose autonomy is bestowed by the Constitution. At the bottom, the legal system is organized around the ordinary courts and the specialized courts;
19. The ordinary courts are the Supreme Court, the High Court of the Republic, the Provincial courts and the court of the city of Kigali, the district and town tribunals;
20. In principle, there is a tribunal in each Province, in each town and district, which allows easy access to justice for all who need it; Judges are appointed for life and are irremovable.
21. The President and Vice-President of the Supreme Court are elected for a single term of office of eight (8) years by the Senate.

22. The High Court of the Republic pronounces on certain crimes and offenses as a first instance (notably administrative matters, those relative to electoral activities and political groups); but for certain other matters, this Court pronounces on appeals and as a last instance; The High Court of the Republic comprises several distinct Chambers which preside in different areas of the country;
23. The Rwandan Constitution provides for the setting up of Reconciliation Committees alongside the ordinary courts, and which require compulsory seizure before that of the ordinary courts;
24. The specialized courts are the Gacaca Courts responsible for presiding over and pronouncing judgment on crimes of genocide and other crimes against humanity committed between 1990 and 1994 and the military tribunals;
25. Chaired by the President of the Supreme Court, the Supreme Council of the Magistracy ensures the regulation of the judiciary and the management of magistrates' careers;
26. The Rwandan National Human Rights Commission enjoys Affiliate Status with the African Commission obtained at its 27th Ordinary Session (27th April – 11th May 2000 in Algiers, Algeria);
27. In its provisions, the Rwandan Constitution deals with the National Human Rights Commission in (Section VIII, Chapter III), with the Office of the Ombudsman (Chapter VII) and with the Observatory on Gender Issues (Chapter IX).
28. Political Parties, Trade Unions, the Media and various Associations some of which enjoy Observer Status with the African Commission (04) are dealt with in the provisions of the Constitution relative to fundamental rights and freedoms.
29. At the regional level, Rwanda has ratified notably the African Charter on Human and Peoples' Rights, and at the international level, it has ratified or adopted:
 - The Universal Declaration of Human Rights;
 - The International Convention relative to Civil and Political Right;
 - The International Convention relative to Economic, Social and Cultural Rights;
 - The International Convention on the Elimination of all Forms of Racial Discrimination;

- The Convention for the prevention and suppression of crimes of genocide;
- The Geneva Convention of the 12th August 1949 relative to the protection of civilians during times of war and its additional protocols;
- The 26th November 1968 Convention on the imprescriptibility of war crimes and crimes against humanity;
- The International Convention relative to the Rights of the Child.

B. PRELIMINARY OBSERVATIONS

30. Rwanda or the country of a thousand hills, is situated in Central Africa, in the Great Lakes region, with a surface area of 26,338 kms² and a population of about 8,500,000 inhabitants of whom ore than 90% live in the rural areas.
31. Although the tragedy of the genocide destroyed the entire social fabric, it is possible to note the presence of almost 60% of women and a young population made up of young people of less than 20 years.
32. Rwandans have the kinyarwanda as both national and official language alongside the two other official languages, French and English; Rwandans practice different religions (catholic, protestant and muslim).
33. The capital of Rwanda, Kigali, has about 300,000 inhabitants.
34. Rwanda shares borders in the North with Uganda, in the South with Burundi, in the East with Tanzania and in the West with the Democratic Republic of Congo.
35. A former Colony of Belgium, Rwanda has, since its accession to independence on the 1st July 1962, gone through authoritarian political, sectarian and centralized regimes, based on the exclusion of one part of its population;
36. This situation resulted in the genocide and the massacres of 1994 in which the Tutsi and moderate Hutus were victimized with serious consequences for the political and institutional structure of the country.
37. The climate of ethnic exclusion and political instability of more than 30 years has for a long time compelled a number of Rwandans to live in exile in the neighbouring countries and elsewhere in the world, since the 1950s, giving birth to the problem of refugees, which has been one of the factors which caused the explosion of armed conflicts of the 1990s and which, in part, led to the 1994 genocide.

III. ORGANISATION OF THE PROMOTIONAL MISSION IN RWANDA

A. RECEPTION OF THE DELEGATION AND THE ORGANISATION OF THE WORK

38. The African Commission's promotional mission to Rwanda was led by Commissioner Babana, accompanied and assisted by Mr. Jules Batchono, Legal Officer responsible for Promotion Issues in the Secretariat of the African Commission in Banjul, The Gambia.
39. Commissioner Babana's delegation arrived in Kigali on the 24th January 2004 instead of on the 25th as intended and had to leave on the 1st February 2004, due to flight connection problems.
40. Informed about these constraints, the Rwandan Authorities had made the necessary arrangements for the reception of Commissioner Babana's delegation at the airport by a representative of the Rwandan National Human Rights Commission and State Protocol.
41. This warm and cordial welcome facilitated the contact and mutual understanding between the African Commission's delegation and the Rwandan Authorities, which contributed to the fruitful outcome of the promotional mission, in spite of certain organizational difficulties.
42. In effect, Commissioner Babana's mission started work without the draft work programme usually presented by the Authorities of the host country and adopted by the mission during a collaborative meeting. The mission carried out its activities practically with impromptu meetings sometimes gleaned by the delegation itself.
43. However, Commissioner Babana's delegation wishes to express its gratitude to the Rwandan Government, particularly to the Ministry of Foreign Affairs, to Madam the Chairperson of the Rwandan National Human Rights Commission and her colleagues and to all those persons who spared no effort whatsoever to ensure the success of the African Commission's mission to Rwanda.

B. PERSONALITIES ENCOUNTERED AND SITES VISITED

44. Due to the absence of a pre-established programme, the meetings held by Commissioner Babana's delegation did not take place in the usual manner but the delegation was able to meet the representatives of the political, administrative and legal Authorities as well as the representatives of Civil Society and of the Rwanda International War Crimes Tribunal (TPIR) in the following order:

1. Day of 26th January:

- Meeting with Madam Kayitesi Zainabo Sylvie, Chairperson of the National Human Rights Commission (NHRC)

45. The meeting took place in the office of Madam the Chairperson of the (NHRC) assisted by her Vice- Chairperson, Mr. Kayumba Déogratias; After having exchanged greetings, Commissioner Babana gave the other participants the information relative to the African Commission's mandate, the aims and objectives of his mission and the names of the personalities and organizations that his delegation wished to meet; Commissioner Babana further requested details of the mandate, organization and programmes of the NHRC.
46. Madam Kayitesi first of all pointed out that unfortunately, a draft work programme for the African Commission's mission to Rwanda was not available for discussion as should have been the case and as a result she wished to apologise to Commissioner's Babana's delegation for this although the preparation of this programme was not her responsibility. She however promised to do everything to ensure the success of the mission and expressed the hope that the lack of a work programme would not prevent the delegation from working.
47. Madam Kayitesi, in reply to the questions asked, then provided the following information:
 - ▶ The legal basis of the NHRC is outlined in the 1992 Peace Accord concluded between the RPF and the then Rwandan Government, in the Law No. 4/99 of 12 March 1999 and in the Rwandan Constitution of 04 June 2003.
 - ▶ The NHRC has a national bureau of 7 Commissioners including 1 Chairperson and 1 Vice-Chairperson elected by the National Assembly, a Permanent Secretariat, 10 offices in the provinces and it has an independent budget.
 - ▶ The NHRC's mandate consists of the promotion and protection of human and peoples' rights in Rwanda; It has already dealt with a large number of communications/complaints submitted by individuals and has also carried out sensitization and educative campaigns on human rights whilst creating the image of an independent institution for itself.

- ▶ However, certain difficulties exist for instance with regard to the situation of prisoners awaiting judgment and some of whom are suffering from illnesses.
- ▶ For the future, the NHRC has projects relative to the teaching of human rights, to women's affairs and to the control of impunity, for the establishment of a culture of human rights.
- ▶ The first relate to campaigns which the NHRC intends to embark on in collaboration with national sister institutions (National Commission for Unity and Reconciliation, the Electoral Commission, the Legal and Constitutional Commission, etc.) and with Government Departments.
- ▶ However, the NHRC is encountering difficulties due to constraints caused by the meager resources imposed by the State on its budget. But NHRC's external partners are providing it with encouraging assistance of various forms.

48. Commissioner Babana congratulated Madam Kayitesi for the information and for her apologies whilst requesting her not to forget to try and obtain the required appointments for his promotional mission.

- **Meeting with Mr. Adrien Rangira, Member of Parliament, Chairman of the Party "Union of Democrats for the Republic" (UDPR).**

49. The meeting took place in the Office of the Honourable (Parliamentarian) before whom Commissioner Babana presented the African Commission's mandate and work, the objectives of his mission to Rwanda before asking questions on the freedom of association, on the creation of political parties, the participation of opposition parties in Parliament and in the Government as well as on national reconciliation.

50. The Parliamentarian Adrien Rangira intimated that efforts were being made with regard to respect for human rights in general, and for the freedom of association and the creation of political parties in particular and no difficulties were being encountered in these areas. The only difficulties that existed related to the financing of these political parties due to the paucity of State resources.

51. Opposition Parties did not exist in the classical form, but they are present in Parliament and within the Government where they hold certain responsible positions; The Hon. Adrien concluded that the process of national reconciliation is progressing successfully for the positive development of human rights and thanks to the activities of institutions

like the NHRC and the National Commission for Unity and Reconciliation, but that problems persist relating to genocide detainees, to the large-scale return of refugees and poverty and the expectations of politicians who wish to see solutions that will guarantee the fruits of national reconciliation accepted by the populations.

52. Commissioner Babana thanked Parliamentarian Adrien for his time and gave him a copy of the African Charter.

2. Day of 27th January

- Meeting with Professor Abel Dushimimana, Minister of Health:

53. The meeting took place in the Office of the Minister of Health, assisted by his Personal Secretary, and following the exchange of greetings, and the presentation of the African Commission's mandate by Commissioner Babana who also asked some questions, the Minister of Health pointed out that his Department's policy aimed at reducing the numbers of victims of the major illnesses like HIV/AIDS, malaria, tuberculosis and respiratory tract diseases, measles, poliomyelitis, tetanus, whooping cough etc., and mother and infant mortality rates.
54. Towards this end, the Ministry of Health had received a substantial increase of its budget and support from external partners who are on the ground, and in particular in the detention centers.
55. The Ministry of Health links preventive efforts to sensitization on medical treatment of victims of the disease and the results are quite encouraging, notably with regard to malaria in which area a reduction of the mortality rate is expected to reach 0.15%.
56. Rwanda is one of the countries in Africa most affected by HIV/AIDS and it is a heavy burden for the Health Services.
57. The general prevalence rate of HIV/AIDS is between 11 and 12%; This rate relates to the young people and represents between 9 to 12% for girls and 3 to 6% for boys. In consequence, Government has made the fight against HIV/AIDS a priority to which the First Lady has made an important contribution.
58. The Minister pointed out that Rwanda is not aware of the phenomenon of Female Genital Mutilation but that the health of Women and Children is a matter of concern.

59. Commissioner Babana congratulated the Minister and urged him and his Government to redouble the sensitization efforts for the effective application of the Conventions relative to rights and health, namely the Convention on the Rights and Welfare of the Child.

- **Meeting with Professor Romain Murenzi, Minister of Education, Science, Technology and Scientific Research:**

60. The meeting took place in the Office of the Minister assisted by his Personal Secretary; Commissioner Babana presented the mandate and work of the African Commission and requested details on the right to education, on the introduction of the teaching of human rights in the educational curriculum, on the place of the girl-child in schools and in centres of professional training.

61. Minister Romain spoke about the existing system of free primary Education, about the efforts being made to maintain girls in the educational system for as long as possible: their number is equal to that of boys in the primary and secondary schools (50%); but the rates are higher for boys in the technical subjects; Efforts are also being deployed against illiteracy which affects about 54% of women; Rwanda has hopes of enrolling 95% of its children of school going age in by the year 2005.

62. The Minister also underscored the effectiveness of introducing the teaching of human rights in school and training curricula but did not fail to point out the shortcomings of the Rwandan educational system in the area of infrastructure, human resources and didactic materials which had all been destroyed by the genocide. Therefore much remains to be done in spite of the combined efforts of the Government and the NGOs.

63. Commissioner Babana thanked the Minister and requested his contribution with regard to the ratification of the international instruments relative to human rights which had not yet been ratified by Rwanda, notably the Protocol to the African Charter relative to Women's Rights in Africa.

- **Meeting with Mr. Jean de Dieu Mucyo, Public Prosecutor:**

64. The meeting took place in a cordial atmosphere in the Office of the Public Prosecutor, assisted by M. Ngoga Martin, Deputy Public Prosecutor; The discussions related notably to the problems posed by the need for the proper administration of justice in a country where more than 100,000 people are in remand and are awaiting judgment.

65. The Public Prosecutor pointed out, among other issues, that:
- To deal with this situation, the Government had resorted to setting up traditional type courts called “gacaca” whose results so far were encouraging since they achieve rapid decisions, the control of impunity and national reconciliation. It is in effect, community justice delivered at the grassroots level.
 - For the progress of human rights in general, the Office of the Public Prosecutor collaborates with institutions such as the NHRC, the National Commission for Unity and Reconciliation, the Ministry for Local Government, Information and Social Affairs, notably in the context of sensitization and the Ministry of Justice and Institutional Development within the framework of the fight against corruption.
66. On the matter of the presentation of Rwanda’s Periodic Reports, the Public Prosecutor was surprised that the last Periodic Report of Rwanda which had been sent long ago had not yet been received by the Secretariat of the African Commission and promised to give a copy of the said Report to Commissioner Babana;
67. The Public Prosecutor also promised to take up the matter of ratification of the international instruments relative to human rights, which Rwanda has not yet ratified, notably the Protocol to the African Charter on Women’s Rights in Africa; The audience ended with Commissioner Babana urging the intensification of the sensitization campaigns especially with regard to the African Charter, Women’s Rights, the Rights of the Child, and those of Human Rights Defenders.
- **Audience with H.E. Mr. Mitali K. Protais, Secretary of State responsible for Cooperation in the Ministry of Foreign Affairs and Cooperation:**
68. In the absence of the Minister of Foreign Affairs who was away on mission, H.E. Mr. Protais Mitali received Commissioner Babana’s delegation in his Office, assisted by officials of the Ministry of Foreign Affairs: H.E. Mr. Protais first of all asked about the conditions of the African Commission’s mission and gave instructions for necessary corrective measures to ensure its positive progress.
69. Commissioner Babana presented the mandate and the work of the African Commission before asking questions relative notably to the ratification by Rwanda of the international human rights instruments, in particular the

Protocol to the African Charter relative to the Rights of Women in Africa and to the delay in presenting the Rwandan Periodic Report.

70. Minister Protais indicated that Rwanda will effect all the necessary ratifications in the very near future and will send its Periodic Report to the African Commission as early as possible for presentation.
71. H.E. Mr. Protais finally reiterated that Rwanda required the understanding and support of the African Commission not only in its efforts to establish the culture of human rights but also in its diplomatic efforts for the realization of peace at its borders.
72. Commissioner Babana assured the Minister Protais of the understanding and interest of the African Commission for Rwanda, as is evidenced by the follow-up activities of his promotional missions in this country.
73. Commissioner Babana thanked the Minister for his time whilst requesting his contribution and that of Rwanda to the establishment of the African Court of Human and Peoples' Rights.

Meeting with Associations and NGOs Human Rights Defenders

74. This meeting was held in the Ministry of Foreign Affairs with the participation of NGOs and Associations most of them working in the field of women's and children's rights; Commissioner Babana made a detailed presentation of the Charter and work of the African Commission, the African Charter on the Rights and Welfare of the Child, the role of the Associations and NGOs, notably those enjoying Observer Status with the African Commission in the publication of the African Charter, the protection of human rights.
75. Commissioner Babana also explained the place of the future African Court of Human and Peoples' Rights and that of the Protocol to the African Charter relative to Women's Rights in Africa, in the system of promotion and protection of human rights in Africa.
76. The participants intimated that visits to Rwanda by the African Commission ought to be more frequent and that emphasis should be laid on the economic, social and cultural rights.
77. After having responded to various questions, Commissioner Babana invited the Civil Society Organizations to reinforce their cooperation with the Government which has the first responsibility in the field of human rights in the country and to contribute, with all possible means, to the publication and popularization of the African Charter as well as to the

ratification of the international human rights instruments such as the Protocol on Women's Rights in Africa.

3. Day of 28th January 2004:

Meeting with Seikh Saleh Habimana, Mufti of Rwanda :

78. After the customary greetings Commissioner Babana presented the Charter and work of the African Commission while underscoring what the African Commission considers to be the responsibility of the religious Authorities in general in the promotion and protection of human rights; Commissioner Babana asked questions relative to the situation of Islam in Rwanda, its relationship with the State and with other religious denominations in Rwanda as well as on the situation of Women and Children.
79. The Mufti pointed out that the Association of Muslims in Rwanda had been created in 1934 but that contacts with Islam date back to 1896. He further indicated that:
- There are about 2 to 5% of Muslims in Rwanda with about 800 students, a Prefect, a Minister, 5 Parliamentarians, Officers in the Army and equal access to State media as other religious communities;
 - We suffered during the genocide era because as the Holy Koran commands, we tried to help those individuals being persecuted by the perpetrators of the genocide and who sought asylum in our mosque, without taking into account the ethnic origin of these people who were in danger of death;
 - Islam is favourable to human rights and the muslim community of Rwanda which enjoys renewed peace and freedom has good relations with both Government and other religious denominations.

Meeting with Madam Fatuma Ntangiza, Executive Secretary of the National Unity and Reconciliation Commission:

80. The meeting was held in the Office of Madam Fatuma; Commissioner Babana presented the Charter and work of the African Commission, asked questions relating to the legal bases, the structure and programmes of the National Unity and Reconciliation Commission.

81. The following points emanated from the discussions:
- The legal bases of the National Unity and Reconciliation Commission date back to the Arusha Peace Accords of 1992 and are outlined in the Rwandan Constitution of 14th June 2003;
 - The National Unity and Reconciliation Commission is headed by a 12 member Council including 1 Chairman, 1 Vice-Chair and 1 Executive Secretary who heads the Permanent Executive Secretariat, day to day administrative body;
 - The tasks and programmes of the Commission are aimed at tolerance, national unity and reconciliation through civic education and sensitization on human rights issues; The Commission's programmes require cooperation with the Government, with NGOs and other members of Civil Society.
 - The sensitization campaigns are carried out for the benefit of the populations by certain organizations, in particular for the schools, for the interhamwe war veterans, the detained perpetrators of the genocide, for the members of the armed forces, for the refugees who have returned home etc.

- **Courtesy visit at the Office of the President of the Republic**

82. Commissioner Babana's delegation paid a courtesy call on Madam Agnes NYIRANDABARUTA, Legal Counsel at the Office of the President: The discussions focused on the difficulties encountered by the delegation on the ground, and on the human rights situation in Rwanda in general; Madam Agnes NYIRANDABARUTA promised to provide a copy of the Rwandan Constitution of 4th June 2003 and to contribute to the success of the promotional mission by fixing appointments.

Audience with Dr. BIRUTA Vincent, President of the Senate, Chairman of the Social Democrat Party.

83. The audience took place in the Office of the President of the Senate assisted by his personal secretary and the discussions focused on points such as:
- The Charter and work of the African Commission presented by Commissioner Babana;
 - The participation of the Parliament in the ratification of international human rights instruments and the creation of institutions for the promotion and protection of human rights;
 - The implementation of the Protocol creating an African Court of Human and Peoples' Rights;

- The role of Women and the Opposition in the conduct of public affairs in Rwanda.
84. Dr. Biruta notably pointed out that the participation of Women was not sufficient but it was effective at all levels including in Parliament (48% are Women) and in the Government (30% are Women) and that in Rwanda, the Opposition does not exist in the classical sense; For now it is made up of political tendencies, of the right to differences in opinion where the interests of the country are concerned.
85. The delegation was not able to meet the Hon. Kalisa Evariste, President of the National Human Rights Commission and the National Assembly due to other engagements.

- **Press Conference**

86. This first meeting of Commissioner Babana's delegation with the National Media took place in the Ministry of Foreign Affairs, animated by Consulate Komagajo (National Radio), Pascal Niyonsama, Nicole Lorna, Désiré Safari (National Television).
87. Commissioner Babana made a preliminary declaration relating to the following points:
- The Charter and the Work of the African Commission;
 - The African Charter on the Rights and Welfare of the Child;
 - The role of the future African Court on Human and Peoples' Rights in the African system for the promotion and protection of human rights;
 - The Protocol relative to Women's Rights in Africa adopted by the last Summit of Heads of State of the African Union (July, 2003, in Maputo, Mozambique) and opened for signature/ratification/accession by State Parties to the African Charter;
 - The importance of the role of the media alongside the African Commission in the publication of the African Charter, the promotion and protection of human rights in the State Parties.
88. Commissioner Babana responded to all the questions from the journalists, notably those relating to the strengthening of the efficiency of the African Commission on the ground.
89. Commissioner Babana notably pointed out that in conformity with the vision of the African Union, the State Parties should respect the provisions of the African Charter and adopt meaningful programmes for the eradication of poverty so as to facilitate the effective enjoyment of economic, social and cultural rights.

4. Day of 29th January 2004

- **Audience with H.E. Mr. Marcel Gatsinzi, Minister of Defence**

90. The audience took place in the Office of the Minister Gatsinzi, assisted by his personal secretary; Having presented the Charter and the work of the African Commission, Commissioner Babana presented his promotional mission to Rwanda before asking the questions relating to security, to the return of refugees and to the teaching of human rights in the army.
91. In reply to the observations made by Commissioner Babana, the Minister intimated that:
- The assassination of witnesses is not synonymous with insecurity in Rwanda; The judicial investigations show that these are acts of former perpetrators of genocide and that measures have been taken to prevent the recurrence of such acts; Moreover, the investigations are still going on because there are shady zones remaining;
 - It is the reign of security that has encouraged refugees to return home voluntarily; The civilians are directed to their villages but the war veterans are taken care of for two weeks by the National Unity and Reconciliation Commission;
 - The refugees receive financial and material assistance as contribution to their resettlement.
 - As human rights is a matter of major concern in Rwanda, sensitization in this area is carried out within the armed forces by the National Human Rights Commission (NHRC) and the National Unity and Reconciliation Commission with the support of international organizations like the Red Cross.
92. Commissioner Babana requested the contribution of the Minister in the ratification by Rwanda of the Protocol on Women's Rights in Africa and for the setting up of the African Court on Human and Peoples' Rights.

**Audience with H.E. Mr. Christophe BAZIVAMO, Minister of
Local Government, Information and Social Affairs**

93. The audience took place in the Office of the Minister and after the customary greetings, Commissioner Babana presented the Charter and the work of the African Commission; The discussions focused on refugees, on national reconciliation, on administrative control, indigenous populations and on the control of poverty.
94. The following conclusions emanated from the in-depth observations made by the Minister:

- The Rwandan Constitution of 4th June 2003 considers human rights as a matter of major importance in view of the past problems and in consequence, this Constitution takes into account, within its provisions, national human rights institutions such as the NHRC, the National Unity and Reconciliation Commission etc.;
- The national Ombudsman participates in the external control of administrative activities alongside the courts;
- Transparency is required in administrative activities notably with regard to the distribution of markets;
- The right to education and the right to Health are taken care of within the framework of specific organizations;
- Decentralization is among the programmes of good governance aimed at poverty reduction;
- An increase in the flood of refugees returning to the country is to be expected due to the improvement of the national situation and in view of the difficulties experienced in the host country (withdrawal of naturalization in Tanzania for instance).
- On the matter of indigenous populations, the principle is that of equality before the law, but special effort is being made for their access to school and to health care in particular.

- **Meeting with Mr. Richard Renaud, Director of Investigations in the International Criminal Tribunal of Rwanda (ICTR).**

95. The meeting took place in the Office of Mr. Renaud, Office of the Public Prosecutor in Kigali; Commissioner Babana presented a brief expose of the Charter and work of the African Commission and Mr. Renaud explained the organization and functioning of the ICTR and informed Commissioner Babana's delegation about this institution's difficult mission.
96. Mr. Renaud notably pointed out that the ICTR, whose internal regulations derive from international law, encounters difficulties in obtaining the cooperation of witnesses; In this regard Government's collaboration is necessary, but relations with Government do not always allow easy access to witnesses as some of them are afraid of being recognized.
97. The respect for human rights, national reconciliation and security is making progress in the country, but several problems still remain as some people have lost their entire families;
98. The observers at the recent elections were Belgians and Rwandans, but the elections were sufficiently transparent and since the arrival of the new Prosecutor the relations between the ICTR and Government are improving.

2nd meeting with the Media

99. This meeting took place in Commissioner Babana's hotel, with the participation of the following journalists who requested it: Emmy Karemeva, correspondent of the China News Agency, Robert Mogisha and Bizingo Silver Senior of the New Times (Rwandan Newspaper).
100. There were exchanges on a varied number of issues with clarifications on the following points:
 - Role of the Media in the promotion and protection of human rights;
 - The need to grant the Media with the means to adequately fulfill its mission of promotion of human rights;
 - The role of human rights and security in Rwanda;
 - The gacaca system and the guarantee of the right to defense.

5. Day of 30th January 2004

- Meeting with Pastor Amon Rugelinyange, Chairman of the Rwandan Adventist Mission

101. The audience took place in the Office of the Pastor Amon at which Commissioner Babana presented the Charter and work of the African Commission, the role of the Church and its leaders in the promotion and protection of human rights; Commissioner Babana then asked questions relating to the human rights situation in Rwanda, and to national reconciliation.
102. Pastor Amon first of all explained that the conception of human rights comes from the Scriptures and as such the Church has always taught people to love their neighbour; However, this action by the Church had not prevented the genocide of 1994.
103. The Church nonetheless continues its activities, sometimes in collaboration with other institutions, for pardon and reconciliation between victims and genocide hangmen, sometimes with happiness as was the case of the widow of a Pastor who had met and recognized the murderer of her husband during prayers in the prisons. She forgave him and adopted him as her son, helped him to marry and set himself up on leaving prison.

104. In Rwanda, the human rights situation can be appreciated thanks to the combined efforts of the Government and civil society organizations in the sensitization of populations for pardon and reconciliation.

105. Commissioner Babana and Pastor Amon exchanged documents with Commissioner Babana urging him to continue in the work of promotion and protection of human rights.

- **Meeting with Madam Cyanzayire Aloysie, President of the Supreme Court and Chairperson of the Supreme Council of the Magistracy.**

106. The meeting was held in the Office of Madam the Chairperson and after having presented the Charter and the work of the African Commission, Commissioner Babana asked questions and requested the support of Madam the President of the Supreme Court for the ratification by Rwanda of the Protocol to the Charter relative to Women's Rights in Africa and the establishment of the African Court on Human and Peoples' Rights.

107. Madame the President of the Supreme Court pointed out that:

- Human Rights constitute a subject of major concern in Rwanda and the Government is deploying efforts to ensure respect for the law, which is good for the independence of the Magistracy which is based on the Constitution of 4th June 2003;
- The Supreme Council of the Magistracy appoints Magistrates and manages their careers;
- Due to the fact that reforms have just been implemented certain bad habits still persist, but there is an idea in the pipeline to review the legal texts in order to adapt them to the new situation;
- The same is valid for the establishment of all the structures of the Supreme Court, for the effective improvement of the living and working conditions of the Magistrates and the real autonomous management of the Courts.

Meeting with Madame Odette Nyiramilimo, Secretary General of the Liberal Party.

108. The meeting was held at the Headquarters of the Liberal Party; The usual courtesies having been accomplished, Commissioner Babana explained the Charter and the work of the African Commission and asked questions relative notably to the Freedom of Association, to the creation of Political Parties and to the participation of the Opposition in Government affairs.

109. Madam Odette Nyiramilimo explained that Mr. Mudezi, founder Chairman of the Party for which she was Secretary General was currently in prison for having participated in the genocide and the current Chairman, the Honourable Higiro Prospero is the Vice-President of the Senate.

110. Madam Odette Nyiramilimo concluded that the fundamental liberties exist and there were no obstacles to the exercise of rights and freedoms apart from the constraints imposed on them by poverty.

111. There are 8 Political Parties (among these the RPF is the most powerful) which share the seats in Government and in Parliament; In effect all the Parties which obtain 5% of votes at the legislative elections are represented in Parliament and in the Government.

112. The forming of Political Parties is free but all the Political Parties militate for national unity and reconciliation due to the situation which has been created by the consequences of the genocide; There is therefore no opposition in the traditional sense of the word; That will come with time; Currently we are enjoying a sort of tolerance and the right to differences in opinion. The only problem is the paucity of State resources, which renders the financing of Political Parties derisory.

- **Meeting with the NGOs**

113. This was the second meeting of its kind, and was held in the Ministry of Foreign Affairs; Commissioner Babana informed the participants in detail about the Charter and the work of the African Commission.

114. From the various interventions made by the representatives of the NGOs, it appeared that:

- The relations of cooperation between Government and the NGOs on sensitization of human rights issues were fruitful because fundamental liberties were developing positively in Rwanda;
- The difficult situation of the prisoners, perpetrators of the genocide requires and justifies the institutionalization of the gacaca courts in order to fill the gaps left by the traditional courts and to reduce the slow pace of the hearings while guaranteeing them right to be defended;
- The situation of Women is one of concern; Women, especially the widows of the genocide, are generally more affected by the effects of poverty; Besides the

women are victims of rape which results in the spread of HIV/AIDS;

- The perpetrators of this rape are often men suffering from HIV/AIDS who believe that they can be cured by having sexual relations especially with girls who are still virgins;
- There is no female genital mutilation in Rwanda but polygamy and forced marriages constitute a plague for women, especially in the rural areas.

115. Commissioner Babana congratulated the participants for their contribution and invited them to collaborate for the success of the struggle engaged by Government against poverty so as to improve the effective enjoyment of the human rights, the situation of women and children.
116. The NGOs were also invited to add the publication of the African Charter, the ratification of the Protocol on the Rights of Women in Africa, the establishment of the African Court of Human and Peoples' Rights and the development of relations of cooperation with the African Commission to their daily activities.

**Audience with H.E. Mme Nyirahabineza Valerie,
Minister for Gender and Family Affairs.**

117. The audience was held in the Office of the Minister; After the usual courtesies, Commissioner Babana presented the Charter and the work of the African Commission , notably the development of the Protocol on the Rights of Women in Africa, before dilating on his mission and asking questions.
118. The Minister pointed out that:
- The Government will, in the near future, ratify the Protocol relative to the Rights of Women in Africa and will give its support to the establishment of the African Court on Human and Peoples' Rights;
 - Efforts are being made for the benefit of rape victims, children and the improvement of prison conditions where women, sick people, the elderly and children can find freedom and where the gacaca courts are operating in order to accelerate the hearing procedures.
 - Certain questions like violence against women, the improvement of the women's

purchasing power, the participation of women in the decision making process, etc. are the subject of special programmes and Action Plans prepared in collaboration with other Government Departments.

119. Madam the Minister ended by intimating that in the National Assembly 48% are women, in the Government they are 30%, and that polygamy and force marriages are a cause of concern. She further added that female genital mutilation does not exist in Rwanda.

6. Day of 31st January 2004

Meeting with the Rwandan Socialist Party

120. This meeting with a delegation of two persons from the Socialist Party led by its Vice-President, Mr. NSENGIYNUA Emmanuel, took place in Commissioner Babana's hotel who presented the Charter and the work of the African Commission before asking questions on the human rights situation in Rwanda, notably on the Freedom of Association and on the creation of Political Parties.

121. The delegation of the Socialist party pointed out that:

- The Freedom of Association exists in Rwanda and Political Parties are created freely without hindrance.
- Yet human rights are not respected.
- Poverty seriously affects the majority of the populations and limits the effective enjoyment of recognized liberties and rights;
- Genocide still goes on in Rwanda because violations of the right to life take place repeatedly as has just happened in the province of Gikongoro.
- Rape, often with women and children or young girls who have escaped the genocide as victims, and which is often perpetrated by teachers or neighbours who commit genocide or carriers of the HIV/AIDS virus is on the increase in the country because those who do it believe that this can cure them from AIDS;
- Serious consequences result from this such as insecurity, the spreading of HIV/AIDS, unwanted pregnancies, abortions, child dumping etc.

- Furthermore there is rape by homosexuals, which is on the increase.

Second and last Press Conference

122. After having presented the Charter and the work of the African Commission, Commissioner Babana indicated that :
- His delegation had been able to meet political, administrative and legal Authorities as well as members of civil society namely NGOs, journalists, religious Authorities. But there still remained some places to visit.
 - The delegation has been able to deduct that the issue of human rights is a subject of concern in Rwanda and that the process of national reconciliation offers encouraging prospects for the normalization and return to peace and security in the country.
 - Government's efforts, supported by the mobilization of Rwandan civil society with a view to consolidating the rule of law constitute a positive factor for the progressive implementation of the provisions of the African Charter on Human and Peoples' Rights.
123. Commissioner Babana then answered questions relative notably to the work of the African Commission with regard to human rights violations in State Parties;
124. Commissioner Babana also thanked the Rwandan Government and the other partners of the African Commission for their contribution to the success of African Commission's promotional mission and invites them to contribute to :
- The publication of the African Charter on Human and Peoples' Rights;
 - The establishment of the African Court on Human and Peoples' Rights;
 - The ratification of the Protocol relative to Women's Rights in Africa.

Visit to the Gitarama Prison

125. Commissioner Babana's delegation was led to the prison by Mr. Hategeka Augustin, Prefect of Gitarama, assisted by Mr. Sebagabo Manasse, Director of the Prison, and was received by all the prisoners who seized the opportunity to make a cultural presentation.
126. The delegation met with the administrative personnel and the representatives of the prisoners who unanimously admitted that the living conditions in this prison where the individuals who had supposedly committed genocide also lived, were relatively acceptable.
127. The prison accommodates a population of 9,591 inmates among whom 341 are minors (14 girls), 17 babies, and 214 women; The detainees accused of genocide number 8,255 among whom 247 are minors and 186 are women;
128. The prison moreover has a section for the women and another for the minors; Measuring 5m x 3m the cells contain 60 to 70 individuals in the men's section and 400 sleep under a hangar; This prison will be decongested on completion of the Mpanza Prison, which will have a surface area of 750,000 sq. metres with a holding capacity of 7,500 persons including 1,500 minors.
129. Commissioner Babana handed copies of the African Charter to the prison Authorities and the representatives of the detainees recommending especially to the authorities to respect the provisions of the Charter in their day to day relations with the prisoners.

IV. CONCLUSION AND RECOMMENDATIONS

A. CONCLUSION

130. Commissioner Babana's mission encountered difficulties due notably to the lack of preparation by the relevant Rwandan authorities. A draft programme of scheduled appointments was not ready when the delegation arrived and the promised working session to sort out "eventual programming difficulties" never took place. This situation negatively influenced the progress of the mission.

131. Under these conditions, 6 days of observation, made during meetings and visits paid to a few people in charge do not allow us to draw rigorous conclusions. However, Commissioner Babana's delegation was notably able to note that the Rwandan Constitution of 4th June 2003 constitutes a major advance in the promotion and protection of human rights.
132. This Constitution in effect confers its legal aspect to certain rules relative to human rights such as:
- The integration of the African Charter on Human and Peoples' Rights in Point 9 of the Preamble;
 - The direct integration, in detail, of the essential contents of the African Charter, Section II (Article 10 to 51) dealing with "fundamental rights of the human being and the rights and responsibilities of the citizen";
 - Strengthening of the independence of the Judiciary in Section IV, Chapter V, Sub-Section One (Articles 46,47,48,157 and 158) dealing with the election by the Senate for a single term of office (8 years) of the President of the Supreme Court, President of the High Council of the Magistracy which directs the career of magistrates;
 - The creation of various institutions of promotion and protection of human rights in Section VIII of the Constitution:
 - The National Commission on the Rights of the Individual (Chapter II, Article 177);
 - The National Commission for Unity and Reconciliation (Chapter III, Article 178);
 - The National Commission for the Fight against Genocide (Chapter IV, Article 179);
 - The National Electoral Commission (Chapter V, Article 180);
 - The Office of the Ombudsman/Mediator of the Republic (Chapter VII, Article 182);
 - The Gender Observatory (Chapter IX, Article 185);
133. At the international and regional levels, Rwanda has ratified an impressive host of instruments relative to human rights including the Constitutive Act of the International Criminal Court and the Protocol to the African Charter creating the African Court on Human and Peoples' Rights;
134. Furthermore, Rwanda cooperates with the African Union, the

United Nations, the African Commission on Human and Peoples' Rights, and with NGOs within the country and strives to improve its relations with the International Criminal Tribunal for Rwanda.

135. However, Rwanda is encountering certain difficulties which limit the ability of its people to effectively enjoy their human rights.

These are:

- Poverty caused by the lack of resources notably the degeneration of the land, in a country where the majority of the population live off agriculture; The effects of this poverty render the State's means derisory and severely affect the women, particularly in the rural areas;
- The insecurity imposed by the rape phenomenon which, although is affecting the men more and more, has more victims among the women, especially the little girls and is increasing the spread of HIV/AIDS;
- The persistence of the offshoots of the genocide caused by the difficult detention conditions of the suspects of the said crime who have been waiting in vain for their judgment due to the insufficient number of courts and to the problem of the right to defense brought about by the intervention of the traditional Courts known as the GACACA Courts, designed to reduce the slow pace of the modern justice system on the one hand and on the other to reduce the sufferings of the victims of the genocide, notably the widows and the orphans.
- The voluntary return of the refugees who, more and more, are experiencing problems in the host countries (withdrawal of the naturalization facility in Tanzania), and which can therefore create problems in the context of a genuine national reconciliation;
- The ambitions of the political elite which sometimes stand in the path of the population towards national reconciliation, as appears to be the case of the former President of the Republic, Pastor Bizimungu;
- Added to these potential dangers for the future of the national reconciliation process and peace in Rwanda, is the situation at the borders especially that with the DRC and the gap between Francophone and Anglophone Rwandans which

could be added to or could replace the tribalism which has caused so much suffering to the country.

B. RECOMMENDATIONS

1. TO THE RWANDAN GOVERNMENT

- Take the necessary measures or strengthen those already in place for the implementation of the general plan for poverty alleviation adopted by Rwanda;
- In this regard, accelerate the regionalization process to ensure the participation of the population;
- In parallel with the implementation of this general plan, take measures for the strengthening of remunerative activities of women as well as for the training and enrolment in schools of girls;
- Implement in 2005 the project to enroll of 95% of children of school going age;
- Ensure the follow-up and reinforcement of the measures already taken in the fight against HIV/AIDS;
- Take appropriate and urgent measures to put an end to the rape phenomenon, notably the rape of small girls;
- Take measures to improve the living conditions in detention centers;
- Ratify the Protocol relative to the Rights of Women in Africa and work towards establishing relations of cooperation with the African Commission and the NGOs for the establishment of the African Court on Human and Peoples' Rights;
- Encourage the emergence of political pluralism;
- Embark on negotiations with the neighboring States to guarantee the free settlement of Rwandan refugees on their territory, this in order to better guarantee stability in Rwanda.

2. TO CIVIL SOCIETY ORGANIZATIONS

- Apply for Observer Status with the African Commission in order to better contribute to the promotion and protection of human rights;
- Gather data on human rights issues and make it available to the Government and African Commission for appropriate action;

- Maintain and strengthen cooperation with the African Commission and the Government with regard to the promotion and protection of human rights;
- Promote knowledge and vulgarization of the African Charter and pressure the Government to respect its obligations under the African Charter;
- Build exchange networks of information.

3. TO THE AFRICAN COMMISSION

- Pay more attention to relations of cooperation with Rwanda in order to better understand the human rights situation in this country; and intensify the fielding of promotional missions there towards this end;
- Provide the African Union with all the necessary information for a better understanding of the human rights situation in Rwanda generally and of the issue of Rwandan refugees in particular;
- Request the African Union and the international community to support the fight against poverty embarked upon by Rwanda;
- Request the African Union to intensify its efforts with the States in the Great Lakes region to make them contribute effectively to the consolidation of the peace process in their territories and in the sub-region.

V. List of personalities met during the promotional visit to Rwanda

A. Political leaders, civil servants and members of the Judiciary :

- **H.E Mr. Mitali K. Protais, Secretary of State responsible for Cooperation at the Ministry of Foreign Affaires and Cooperation**
- **H.E Prof. Abel Dushimimana, Minister of Health**
- **H.E Prof. Romain Murenzi, Minister of Education, Science, Technology and Scientific Research**
- **H.E Mr. Marcel Gatsinzi, Minister of Defense**
- **H.E Mr. Christophe BAZIVAMO, Minister of Local Government, Information and Social Welfare**
- **H.E Ms. Nyirahabineza Valerie, Minister of Women and Family Affairs**
- **Dr BIRUTA Vincent, President of the Senate, President of the Social Democratic Party**
- **Honorable Adrien Rangira, member of parliament, President of the «Democratic Union for the Republic »(UDPR) party**
- **Meeting with Mrs. Cyanzayire Aloysie, President of the Supreme Court and President of the High Council of the Magistracy**

- **Mr. Jean de Dieu Mucyo, Public Prosecutor of the Republic**
- **Mr. Ngoga Martin, Assistant Public Prosecutor of the Republic**
- Mrs. Agnès NYIRANDABARUTA(Office of the President)
- Mr.Hategeka Augustin, prefect of the Zitarama region
- Mr. Sebagabo Manassé, Director of the Zitarama prison

B. Representatives of Civil Society

- **Mrs. Kayitesi Zainabo Sylvie, Chairperson of the National Human Rights' Commission (NHRC)**
- Mr. Kayumba Déogratias, **Vice-Chairperson of the National Human Rights' Commission (NHRC)**
- **Mrs. MUJAWAYEW Prisca**, Executive Secretary of the Consultative Council for Support to Community Based Organizations and Projects(CCOAIB)
- **Mr. NYIRINDEKWE Jean-Paul**, Action Group of the League and Associations of Human Rights' Defenders (CLADHO) of Rwanda
- **Mrs. KABAYA Odette**, Executive Secretary of the National League of Rwandan Organisations engaged in the Promotion of Women« PRO-WOMEN TWESE HAMWE »
- **Mrs. Fatuma Ndingiza, Executive Secretary of the National Commission for Unity and Reconciliation**
- **Seikh Saleh Habimana, Mufti of Rwanda**
- Mr. Consolate Komagajo(National Radio)
- Mr. Pascal Niyonsama(National Television)
- Mrs Nicole Lorna (National Television)
- Mr. Désiré Safari(National Television)
- Mr. Emmy Karemeva, correspondent for New China Agency
- Mssr. Robert Mogisha and Bizingo Silver Senior of New Times(Rwandan newspaper).

- **Pastor Amon Rugelinyange, President of the Adventist Mission of Rwanda**
- **Mrs. Odette Nyiramilimo, Secretary General of the Liberal Party**
- **Mr. NSENGIYNUA Emmanuel, Vice-president of the Rwandan socialist party**

C. Representatives of international organizations

- **Mr. Richard Renaud, Director of Investigations at the International Criminal Court for Rwanda (TPIR).**