



National Commission for Human Rights

ANNUAL REPORT
FOR THE YEAR
2004

Kigali, March 2005



TABLE OF CONTENTS

	<u>Page</u>
FOREWORD.....	5
I. INTRODUCTION.....	7
II. EVENTS THAT CHARACTERISED RWANDA IN THE PROMOTION AND PROTECTION OF HUMAN RIGHTS IN THEIR DIFFERENT FACETS.....	8
2.1. CIVIL AND POLITICAL RIGHTS.....	8
2.2. ECONOMIC, SOCIAL, CULTURAL, DEVELOPMENT AND ENVIRONMENTAL RIGHTS.....	11
2.2.1. Social, Labour Code and Employment Rights.....	11
2.2.2. Health Rights.....	11
2.2.3. Education Rights.....	11
2.2.4. Gender and Women Promotion Rights.....	11
III. ACTIVITIES OF THE COMMISSION DURING THE YEAR 2004.....	12
3.1. SENSITIZING AND TRAINING ALL CATEGORIES OF RWANDAN POPULATION AS REGARDS HUMAN RIGHTS	12
3.1.1. Human Rights Sensitisation.....	12
3.1.2. Human Rights Education.....	22
3.2. GIVING, UPON ITS OWN INITIATIVE OR UPON REQUEST, ITS ADVICE ON BILLS RELATING TO HUMAN RIGHTS	25
3.3. SENSITIZING GOVERNMENT INSTITUTIONS AS REGARDS RATIFICATION OF INTERNATIONAL CONVENTIONS REGARDING HUMAN RIGHTS AND MAKING SURE THEY ARE INTEGRATED IN INTERNAL LAWS	26
3.4. RECEIVING AND EXAMINING CLAIMS RELATING TO HUMAN RIGHTS VIOLATION, EITHER ON ITS OWN INITIATIVE OR UPON REQUEST.....	27
3.5. VISITING DETENTION PREMISES AND CHECKING WHETHER THE RIGHTS OF DETAINEES THEREIN ARE SECURED.....	87

3.5.1. Civil cells and prisons visited.....	87
3.5.2. Military cells and prisons visited.....	89
3.6. REQUESTING THAT ANY PERSON COMMITTING HUMAN RIGHTS VIOLATIONS BE PROSECUTED.....	89
3.7. COLLABORATION WITH OTHER HUMAN RIGHTS COMMISSIONS IN OTHER COUNTRIES, ASSOCIATIONS OPERATING IN THE COUNTRY AND INTERNATIONAL ORGANISATIONS AS REGARDS HUMAN RIGHTS ACTIVITIES AIMING AT RESPECTING AND PROMOTING HUMAN RIGHTS.....	92
3.8. INSTITUTIONAL DEVELOPMENT OF THE COMMISSION.....	100
IV. FINANCIAL REPORT.....	101
4.1. INTRODUCTION.....	101
4.2. EXPENDITURE OF FUNDS FROM GOVERNMENT BUDGET FOR THE YEAR 2004.....	102
4.3. ENDOWMENTS FROM DONORS AND THEIR EXPENDITURE.....	106
V. GENERAL CONCLUSION, RECOMMENDATIONS AND PERSPECTIVES FOR THE YEAR 2005.....	108
5.1. GENERAL CONCLUSION.....	108
5.2. RECOMMENDATIONS.....	113
5.3. PERSPECTIVES FOR THE YEAR 2005.....	115

*

* *

FOREWORD

The National Commission for Human Rights is pleased to submit to the Parliament its report of activities for the year 2004, as provided in article 177 of the Constitution of the Republic of Rwanda of 4th June 2003.

The activities presented in this report are based on the major mission entrusted to the Commission by the Constitution of the Republic and article 3 of the Law n° 37/2002 of 31 December 2002. The major objectives of the Commission are related to the promotion and protection of Human Rights. The report includes also the Commission's activities regarding its responsibility provided in article 24 of the Law n° 27/2001 of 28 April 2001 relating to rights and protection of the child against violence. The said article stipulates that the Commission must set up specifications on how to follow up the protection of the rights of the child.

The greater part of this report is devoted to cases reported to the Commission concerning Human Rights violation, some of which are still to find solutions. In making this part greater, the Commission's purpose is to provide lessons to readers of this report so that they could protect further the human rights. The purpose is also to make clear to institutions and individuals mentioned in this report the complaints against them and to draw their attention as to the need for settling them without delay.

In this report, the Commission presents some recommendations to higher authorities in the country and to all Rwandans. Some of the recommendations have been expressed in previous annual reports, but they are expressed again in this one so as to continue finding solutions to different problems.

In general, the Commission finds that Rwanda Government has made an appreciable step with regard to protection of human rights and this finds evidence in the way different authorities found solutions to human rights violations cases reported to them by the Commission. This step can also be seen through different policies laid down by Government institutions and various activities of the Civil Society all intended to promote human rights.

The Commission takes this opportunity to recall to attention that Human Rights protection is the responsibility of every Government Institution and every Rwandan.

The National Commission for Human Rights reiterates its thanks to the Government of Rwanda for its support in carrying out the Commission's duties. The Commission cannot either forget to express gratitude to international organisations and Rwanda's friendly countries for their contribution in different projects of the Commission thus enabling it to underscore the different achievements mentioned in this report.

KAYITESI ZAÏNABO Sylvie
President of the Commission



I. INTRODUCTION.

This report presents the achievements of the Commission during the year 2004. The main activities are in relation with its major mission to protect and promote human rights.

Compared to reports of earlier years, this report presents a new picture as regards the way it is written. The activities reported therein are in line with the mission entrusted to the Commission by the Constitution as well as the Law establishing the Commission. The report includes also activities related to the special responsibility the Commission is given by the Law n° 27/2001 of 28 April 2001 as revised to date, relating to rights and protection of the child against violence. This law provides that the National Commission for Human Rights must set up specifications on how to follow up the protection of the rights of the child.

Regarding protection of Human Rights, the Commission received during the year 2004, 1424 complaints concerning violation of human rights in the area of civil and political rights as well as economic, social, cultural and development rights. Of these complaints, 937 were followed up, 275 were forwarded to respective concerned institutions and 212 were rejected because they did not satisfy the requirements established by the Commission for a complaint to be admitted and followed up. Of these complaints followed up by the Commission, 230 have been settled whereas 707 are still in the process.

This report includes also activities regarding the monitoring of human rights respect. In this regard, the activities in the year 2004 were devoted especially to the working of the Gacaca jurisdictions, follow up of different elections that took place in the country and visits to cells and prisons.

Concerning promotion of human rights, this report presents seminars and conferences on human rights organised for different categories of people. It presents also activities carried out on annual Human Rights Days celebrated by the Commission.

The report for the year 2004 also presents activities in the area of collaboration between the Commission and other International Human Rights Commissions, Organisations dealing with human rights in their duties both within Rwanda and at international level.

This report includes also achievements regarding Institutional Development of the Commission. These achievements concern especially seminars for Commissioners and the Commission's employees with a view to provide them with knowledge and skills to carry out smoothly their duties.

The Commission presents in this report the expenditure of funds allocated to it in the Government budget and those received as endowments from donors. Finally, it presents some conclusions and recommendations to different institutions as well as perspectives for the year 2005.

II. EVENTS THAT CHARACTERISED RWANDA IN THE PROMOTION AND PROTECTION OF HUMAN RIGHTS IN THEIR DIFFERENT FACETS.

2.1. CIVIL AND POLITICAL RIGHTS.

Regarding the judiciary during the year 2004, some changes were effected in the functioning of courts, following critics that the manner they were so far operating could no longer settle problems in such a way as to ensure good relations among Rwandans and this hindered human rights in different ways. The reforms effected in the judiciary were generally intended to smoothen out the functioning of the courts such that the cases are justly settled and without unnecessary delay. The reforms also aimed at bringing justice closer to the people.

Some of the laws governing courts and their workers were revised:

The Law relating to the code of criminal procedure will deal with cases regarding unlawful arrests and imprisonment.

The Organic Law determining the organisation, functioning and jurisdiction of courts was revised and Specialised Chambers for Children and Labour were established.

With a view to speed up cases, the courts of appeal were brought closer to the people.

Changes were also made in the Law governing organisation, powers and functioning of the Supreme Council of Judges comprising members from different institutions. The fact that the President of the National Commission for Human Rights has been made member of this Council will make it possible to lay emphasis on the respect of the principle of human rights and to ensure co-operation between the Commission and the judicial institutions provided for in the Constitution to serve as guardian for human rights.

A Law was also established relating to the code of ethics for the Judiciary. It is the Commission's hope that this law will help the people to know whether their rights have been respected or violated, for the law prescribes punitive measures against a judge who disregards his duty of settling cases justly and within reasonable time.

Another step taken in this respect, during the year 2004, is the establishment of Mediation Committees, members of which have the responsibility to conciliate opposed parties before their case is submitted to the competent jurisdiction which shall hear it on first instance. The kind of complaints to be brought to the Mediation Committee are stipulated in articles 7 and 8 of the Organic Law n° 17/2004 of 20/06/2004 on organisation, powers and functioning of the Mediation Committee.

Another event was the organisation of new elections of persons of integrity to work with Gacaca jurisdictions, in accordance with the new law governing these persons.

There were also reforms within the prosecution from higher to lower levels, including recruitment of experts qualified in this area.

Concerning political rights, there were different kinds of elections, such as those aimed at completing committees at cell and sector levels, elections for members of the National Women's Council and elections of the Bureaux of the Sector Councils. In general, in all areas visited by the delegation of the Commission, these elections were conducted smoothly and freely, in transparency, security and secrecy.

Just as the Commission kept on requesting in its different reports with regard to prisons, the need was expressed to revise the law governing prisons and replace the one of 1961 which is now outdated. Currently, a bill in this respect has been submitted to the Parliament for reflection.

All these activities are emphasised by different laws that were established and even published in the Official Gazette of the Republic of Rwanda. Here below are some of such laws:

- The Organic Law n° 01/2004 of 29/01/2004 establishing the organisation, functioning and jurisdiction of the Supreme Court (The Official Gazette n° 3 of 1 February 2004, page 3);
- The Organic Law n° 03/2004 of 20 March 2004 determining the organisation, powers and functioning of the prosecution service (The Official Gazette special n° of 23 March 2004, page 10);
- The Law n° 06 bis/2004 of 14 April 2004 on the statutes for Judges and other Judicial Personnel (The Official Gazette n° 10 of 15 May 2004, page 3);
- The Organic Law n° 07/2004 of 25/04/2004 determining the organisation, functioning and jurisdiction of courts (The Official Gazette n° 14 of 15/07/2004, page 3);
- The Law n° 15/2004 of 12/06/2004 relating to evidence and its production (The Official Gazette special n° of 19/07/2004, page 3);
- The Organic Law n° 16/2004 of 19 June 2004 establishing the organisation, competence and functioning of Gacaca Courts charged with prosecuting and trying the perpetrators of the crime of genocide and other crimes against humanity, committed between October 1, 1900 and December 31, 1994 (The Official Gazette special n° of 19 June 2004, page 3);
- The Law n° 18/2004 of 20 June 2004 relating to the civil, commercial, labour and administrative procedure (The Official Gazette special n° bis of 30 July 2004);
- The Law n° 22/2004 of 13 August 2004 on the statute of public prosecutors and personnel of the public prosecution service (The Official Gazette n° 17 of 1 September 2004, page 3).

During the year 2004, the Commission contributed views on different bills stressing more particularly human rights protection. These laws are currently under study by both chambers of the Parliament:

- The project of Organic Law determining the use and management of land in Rwanda;
- The project of Organic Law determining the modalities of Protection, Conservation and Promotion of Environment in Rwanda;
- The Draft Law establishing the National Commission for the Fight against Genocide.

As regards observance of international human rights laws, in the year 2004, Rwanda ratified different international conventions on human rights. These conventions are as follows:

- The Convention on the prohibition of the development, production, stockpiling and the use of chemical weapons and on their destruction signed at Paris on 13 January 1993 (Presidential Order n° 32 ter/01 of 17/10/2003, the Official Gazette n° 7 of 01/04/2004, page 4);
- The Comprehensive Nuclear Test Ban Treaty (CTBT) adopted by the United Nations General Assembly in New York on 10 September 1996 (Presidential Order n° 32 bis/01 of 17/10/2003, the Official Gazette n° 7 of 01/04/2004, page 3);
- The Protocol on the Court of Justice of the African Union adopted by the 2nd ordinary session of the Assembly of the Heads of State and Government of the African Union held on 11 July 2003 in Maputo, Mozambique (Presidential Order n° 13/01 of 24/06/2004, the Official Gazette special of 24/06/2004, page 7);
- The Protocol to the African Charter on Human and People's Rights on the Rights of Women in Africa adopted by the 2nd ordinary session of the Assembly of the Heads of State and Government of the African Union held on 11 July 2003 in Maputo, Mozambique. Rwanda has made the reservation on article 142.c of this Protocol which stipulates that "States Parties" (Presidential Order n° 11/01 of 24/06/2004, the Official Gazette, special n° of 24/06/2004, page 3);
- The African Union Convention on Preventing and Combating Corruption adopted by the 2nd ordinary session of the Assembly of the Heads of State and Government of the African Union held on 11 July 2003 in Maputo, Mozambique (Presidential Order n° 12/01 of 24/06/2004, the Official Gazette special n° of 24/06/2004, page 5);
- The Revised Convention on the Conservation of Nature and Natural Resources adopted by the 2nd ordinary session of the Assembly of the Heads of State and Government of the African Union held on 11 July 2003 in Maputo, Mozambique (Presidential Order n° 14/01 of 24/06/2004, the Official Gazette special n° of 24/06/2004, page 9);

The Commission finds that Rwanda has made an appreciable step with regard to adherence to international conventions, for the Constitution of 4 June 2003 stipulates in its article 190 that "Upon their publication in the official gazette, international treaties and agreements which have been conclusively adopted in accordance with the provisions of law shall be more binding than organic laws and ordinary laws except in the case of non compliance by one of parties", the Commission however believes that the major principles of these conventions should be integrated without delay into Rwandan laws.

Concerning respect of international laws on human rights protection, during the year 2004 the Parliament adopted laws authorising ratification of the following international conventions:

- The Ramsar Convention of 2 February 1971 on wetlands of international importance, especially as waterfowl habitats, authorised for ratification by Law n° 37/2003 of 29 December 2003, (The Official Gazette n° 5 of 1 March 2004, page 7);
- The Convention on the conservation of migratory species of wild animals, opened for signature at Bonn on 23 June 1979, authorised for ratification by Law n° 35/2003 of 29 December 2003, (The Official Gazette n° 5 of 1 March 2004, page 3);

- The Kyoto Protocol to the Convention on climate change adopted in Kyoto on 6 March 1998, authorised for ratification by Law n° 36/2003 of 29 December 2003, (The Official Gazette n° 5 of 1 March 2004, page 5);
- The Cartagena Protocol on Biosafety to the Convention on Biological Diversity, opened for signature at Nairobi from 15 to 26 May 2000, and in New York from 5 June 2000 to 4 June 2001, authorised for ratification by Law n° 38/2003 of 29 December 2003, (The Official Gazette n° 5 of 1 March 2004, page 9).

2.2. ECONOMIC, SOCIAL, CULTURAL, DEVELOPMENT AND ENVIRONMENTAL RIGHTS.

2.2.1. Social, Labour Code and Employment Rights.

During the year 2004, was passed the Presidential Order n° 37/01 of 30 August 2004 on terms of recruitment into public service. This order lays emphasis on the policy of transparency in recruiting workers.

In the same year, a far-reaching programme “PSTP/HIMO” was embarked on at national level with a view to provide employment for a greater number of people.

2.2.2. Right to Health.

The Government approved a health policy in which everybody plays a part (The Sector Wide Approach – SWAP). New mechanisms were adopted to protect pregnant women against malaria.

Far and near throughout the country, the people are continually sensitised about the importance of getting treatment through a “mutually dependent system” (*mutuelle de santé*), thus the less fortunate could get treatment thanks to this system.

2.2.3. Right to Education.

During the year 2004, the number of children in primary schools increased from 1.636.563 to 1.752.588. In secondary schools the number rose from 179.153 to 203.551. The number of students admitted to Higher Education Institutions went up from 20.393 to 25.233.

The Ministry of Education managed to promote Gender equality in education. Thus girls in primary schools count 50,8 %, whereas in secondary schools, the percentage is 47,7 %.

2.2.4. Gender equality and Women promotion.

During the year 2004 and throughout the country, sensitisation of women continued inviting them to join decision-making institutions.

*

* *

III. ACTIVITIES OF THE COMMISSION DURING THE YEAR 2004.

The activities the Commission presented in this report are based on the duties and responsibilities of the Commission as stated in the Law n° 37/2002 of 31 December 2002 establishing the Commission. Presented also are activities related with increasing powers and means of the Commission and of its staff.

3.1. SENSITISING AND TRAINING ALL CATEGORIES OF RWANDAN POPULATION AS REGARDS HUMAN RIGHTS (Article 3 [a]).

With a view to promote human rights, during the year 2004, the National Commission for Human Rights paid particular attention on activities concerning human rights sensitisation and education for different categories of people.

3.1.1. Sensitisation on Human Rights.

Regarding sensitisation of different categories on human rights, the activities of the Commission included conferences and seminars organised for 56.271 people. Others were radio and television broadcast programmes as well as different types of publicity texts on human rights.

A. Training for different categories.

Regarding different categories of Rwandans, are presented:

- Teachers and students,
- Ordinary people,
- People at leadership levels,
- People in security institutions,
- Members of associations,
- Those released from prisons in accordance with the Decree of the Office of the President of the Republic of 1st January 2003

a. Teachers and Students.

Organising seminars on human rights in schools is in fact preparing for the country, a future characterised by a culture of peace, as students and teachers are important channels as far as propagation of human rights culture is concerned. That is why, in its programmes, the Commission insists on sensitising educationalists and the youth in schools about human rights.

*

* *

The table below indicates secondary schools in which the Commission organised seminars during the year 2004, on invitation or from the Commission's own initiative.

PROVINCE	SCHOOLS	NUMBER OF PARTICIPANTS
BUTARE	Students representing Human Rights Associations from the following schools met at Nyanza: <ol style="list-style-type: none"> 1. "Saint Esprit" Secondary School 2. "Mater Dei" Secondary School 3. Collège du Christ-Roi 4. Maranata School 5. ESPANYA Secondary School 6. Nyanza Science Secondary School 7. Saint Emmanuel College of Hanika 8. Igihozo College 	90
GISENYI	<ol style="list-style-type: none"> 1. Nyabirasi Secondary School 2. APEFOC Secondary School 3. Nyagahinika Secondary Schools (Kayove) 4. Trinité Secondary School (Nyamyumba) 5. E.E.R. Gisenyi Secondary School 6. "APPEREL" Secondary School of Bukinanyana 7. Arts Secondary School of Nyundo 	860
KIBUYE	<ol style="list-style-type: none"> 1. Sainte Marie Collège 2. APEFOC Secondary School 3. IPEZAL Secondary School (Kibilizi) 4. Rubengera Secondary School 	1 000
CYANGUGU	<ol style="list-style-type: none"> 1. Gihundwe Secondary School 2. Mururu Teachers' College 3. APEDUC Secondary School 4. Gishoma Secondary School 5. Nyamasheke Secondary School 6. E.A.V. (Agricultural and Livestock) Ntendezi Secondary School 7. Vocational School 8. Shanghi Secondary School 9. Gisuma Communal College 	3 200
GIKONGORO	<ol style="list-style-type: none"> 1. Mushubi Secondary School 2. ESI (Nursing School) Kaduha 3. Runyombyi Secondary School 4. Mbuga Teachers' College 5. "Mère du Verbe" Science School 6. Mudasonwa Teachers' College 	2 523
BYUMBA	<ol style="list-style-type: none"> 1. APAPEB Secondary School 2. "Notre Dame du Bon Conseil" Secondary School 	

	<ol style="list-style-type: none"> 3. Gaseke College 4. Lycée Muhura 5. Buyoga Secondary School 6. Lycée Rebero 7. ADEGI School Gituza 	2 626
GITARAMA	<ol style="list-style-type: none"> 1. ESA Secondary School in Mukingi 2. "Notre Dame de Lourdes" Secondary School Byimana 3. Byimana Science School 4. ESI Sainte Elisabeth Secondary School Kabgayi 5. Kabgayi Catholic University (U.C.K.) 6. Primary School Teachers and Pupils within Kabgayi School Campus 7. Members of Human Rights Clubs/Associations and their Guardians within Byimana Secondary School 	1 337
KIBUNGO	<ol style="list-style-type: none"> 1. Zaza Teachers' College 2. Rusumo Secondary School 3. Nshili Secondary School 	2 117
RUHENGERI	<ol style="list-style-type: none"> 1. Rwankeri Secondary School 	300
ALL TOGETHER		14 053

The subjects dealt with in these seminars were particularly the following:

- Seminar on human rights in details;
- Rights and protection of the child against violence as provided by Law n° 27/2001 of 28 April 2001;
- Women rights;
- The Law governing matrimonial regimes, liberalities and successions (Law n° 22/99 of 12 November 1999);
- Human Rights in Gacaca Courts;
- The role of Human Rights Clubs in human rights promotion and protection;
- Prevention and punishing of genocide, discrimination and sectarianism: Provisions of Rwandan laws and international instruments. Law n° 47/2001 instituting punishment for offences of discrimination and sectarianism as well as the Law punishing the crime of genocide;
- The stage reached by Rwanda as regards human rights and what could be done to promote them even further;
- The duties and rights of each citizen as provided in the Constitution of the Republic of Rwanda.

On the invitation by the Ministry of Education, Science, Technology and Research, the Commission gave lectures on human rights in the following seminars organised for teachers.

From 2nd to 12 November 2004, the Commission gave seminars to 45 tutors of Teachers' Colleges within Kigali, at the National Centre for Programme Development. The seminars

concerned the utilisation of the book on civic education including human rights education and intended for teachers in the upper half of Primary Education.

Seminars for teachers and those in charge of academics with regard to utilisation of programmes and teachers guides on civic education in secondary schools were organised as follows:

- On 23 November 2004, in Butare, at save Teachers' College participants included 45 teachers,
- On 30 November 2004, in Kigali, at National Centre for Programme Development, 45 teachers participated,
- On 7 December 2004, in Kibungo-Rwamagana, at the campus of "Saint-Aloys" Secondary School, 45 teachers attended the seminar,
- On 14 December 2004, in Gisenyi, the seminar organised at Gacuba II Teachers' College brought together 45 teachers.

The topics dealt with in these seminars were mostly the following:

- The fundamental principles of human rights;
- The rights of the Child.

b. Ordinary people.

The Commission gave lectures on human rights to 1.773 people including 90 children who had been part of the infiltrators. The lectures were delivered in Kibuye town, Kibuye Province; at Mudende, Gisenyi Province; in Nyamugari district, Ruhengeri Province and at Nyagatare, Umutara Province.

The lectures concerned mainly the following topics:

- Fundamental principles of human rights;
- The mission and duties of the Commission;
- Follow up of human rights issues in the Commission;
- Prevention and punishing of Genocide, discrimination and sectarianism: provisions of Rwandan laws and international instruments. The Law n° 47/2001 instituting punishment for offences of discrimination and sectarianism as well as the law punishing the crime of Genocide;
- The role of the judiciary in the promotion and protection of human rights.

c. Local Government Leadership.

On the invitation of the Ministry of Local Government, Good Governance, Community Development and Social Affairs, the National Commission for Human Rights gave lectures at Solidarity Camps organised for 14.917 participants from local government leadership. These included co-ordinators at sector level, those in charge of security in the sectors, those responsible for information, the youth and representatives of Women associations in the sectors. To these camps that were organised in all the provinces throughout the country towards the end of May and

beginning of June 2004, were invited representatives of ex-FAR, representatives of demobilised soldiers, representatives of the Local Defence Forces, representatives of those released from prison before the year 2004 and representatives of those released temporarily by the Decree of the Office of the President of the Republic of 1st January 2003.

In the lectures for these leaders, the Commission dealt mainly with the following topics:

- Fundamental Principles of Human Rights;
- International conventions and Rwandan laws against the offences of discrimination and sectarianism; the role of the leadership in ensuring respect of these laws.

d. Security Authorities.

So as to give more knowledge to security agents, the Commission organised seminars on human rights for members of the National Army and some from the Local Defence Forces. These seminars were held in Kibuye, Umutara and Byumba Provinces.

From 2nd to 11 February and from 11th to 16 March 2004, the Commission organised conferences on human rights, for Army Senior Officers and Junior Officers; 25 from the Second Battalion and 32 from the twenty fifth Battalion.

These conferences were held at Rubengera in Kibuye Province.

On 20th May 2004, at Nyagatare, Umutara Province, the Commission gave a lecture in a solidarity camp for 70 soldiers from the sixty ninth Battalion.

On 24th February 2004, in Byumba Province, the Commission gave a lecture in a Solidarity Camp that brought together 400 members of the Local Defence Forces (LDF).

In these seminars, the Commission covered the following subjects:

- Fundamental Principles of Human Rights;
- Rights and duties of a citizen in general and a soldier in particular;
- Laws on the protection of the child.

e. Associations.

During the year 2004, from its own initiative or on invitation, the Commission organised seminars for different associations in different provinces of the country.

The table below indicates these associations and the number of participants.

DATE	ASSOCIATION	VENUE	NUMBER OF PARTICIPANTS
17– 19/2/2004	INDASHYIKIRWA Troop	At “Home Saint Jean” in Kibuye	25
16-17/4/2004	AMOVOCINUM-INGENZI	At Ntenyo, Gitarama	24
22-23/4/2004	ABIBUMBYE (The United)	In Gitarama City	42

25/5/2004	Different associations	At Hotel Eden Rock, Itabire, Kibuye	45
10/6/2004	AVEGA	At Gatwaro Stadium, Kibuye City	24
24-25/6/2004	BAIR	Gisenyi	60
12-14/10/2004	Youth members grouped in "IND" Club whose aim is to promote human rights	At "Home Saint Jean", Kibuye	31
18/10/2004	Women married to Lorry Drivers	At "Centre de Pastorale Saint Paul" in Kigali City	80
22-24/12/2004	Trade Union representatives	At "TTC" Kavumu, Gitarama	40
ALL TOGETHER			371

Topics of the seminars included the following:

- Knowing the Commission, its structure and mission;
- Fundamental principles of human rights;
- Human rights in Gacaca jurisdictions;
- The Law n° 22/99 of 12 November 1999 governing custody of married couple's property, donations and inheritance;
- The Law n° 27/2001 of 28 April 2001 relating to rights and protection of the child against violence;
- Child and women rights in Rwandan laws and international conventions.

*

* *

f. Those released in accordance with the Decree of the Office of the President of the Republic on 1st January 2003.

In April 2004, on the invitation by the National Commission for Unity and Reconciliation, the National Commission for Human Rights gave lectures to 2.257 participants in solidarity camps for released prisoners who had been jailed on charge of Common Law offences. These solidarity camps were held at the following places:

- At Gati, Muhazi District were assembled 737 released prisoners from Nsinda Prison in Kibungo and Miyove;
- The solidarity camp held at Ntendezi, Cyangugu Province, brought together 1.195 released prisoners from the Cyangugu Central Prison and that of Gisovu in Kibuye;
- At Mushubi, in Gikongoro Province, the Commission gave lectures in the solidarity camp that brought together 325 released prisoners from prisons in Gikongoro, Butare and Gitarama Provinces.

The lectures covered the topics here below:

- Knowing the Commission, its mission and functioning;
- Fundamental principles of human rights;
- Prevention and punishing of genocide, discrimination and sectarianism: Provisions of the Rwandan laws and international conventions/instruments. The Law n° 47/2001 instituting punishment for offences of discrimination and sectarianism as well as the punishing the crime of genocide crime;
- The Law n° 27/2001 of 28 April 2001 relating to rights and protection of the child against violence.

B. Radio and Television Broadcast Programmes.

In order to effect further sensitisation of the people on human rights, the Commission covered different themes in its Programme “*Uburenganzira Iwacu*” which is broadcasted every Friday on Radio Rwanda from six thirty to seven o’ clock in the evening. It also presented different programmes on Rwanda Television.

1. Programmes on Radio Rwanda.

THEME	
1.	Summary of programmes broadcasted in the year 2003 and answers to some of those who wrote to the Commission.
2.	Human rights situation in Gacaca jurisdictions functioning.
3.	Human rights in the Constitution and the role of the Commission in the protection and promotion of these rights.
4.	Handling of human issues in the Commission.
5.	Current situation regarding rights and protection of the child against violence.
6.	Some of the provisions of the Law instituting punishment for offences of discrimination and

	sectarianism in our country.
7.	About International Women's Day.
8.	Men's role in the attainment of Gender equality and Women's rights.
9.	Racism and human rights: Why it's necessary to combat racism.
10.	The stage reached in combating racism our country.
11.	How racism obtrudes human rights.
12.	The role of Local Government Leaders in the promotion and protection of human rights
13.	The role of education in the prevention of racism and ethnism as the root cause of Genocide.
14.	Current situation of human rights in Umutara Province (stage reached) as reported by local government leaders attending a solidarity camp at Nsheke.
15.	Employment rights in International Conventions and in the Rwandan laws.
16.	On the International Day for Child Rights.
17.	The role of the family us the protection and promotion of Child rights.
18.	It is necessary to combat Genocide and its ideology for they hinder human rights.
19.	The stage reached in the judiciary reforms and the role of these reforms in furthering protection of human rights.
20.	The role of the people in human rights protection and promotion.
21.	The role of the Local Government authorities in the reinforcement of respect for the laws and human rights.
22.	Rights to fare case settlement.
23.	Refugee situation, a hindrance to human rights.
24.	Freedom as a human rights Principle.
25.	Genocide and its ideology are a hindrance to human rights.
26.	How Nyakizu District authorities and Buhoro inhabitants view the prosecution and hailing of Genocide survivors in the area.
27.	Women and child rights: Views expressed by women in Gikondo District in Kigali City on the Law governing matrimonial regimes, liberalities and successions.
28.	Provisions of the Law governing matrimonial regimes, libaralities and successions
29.	Questions and views expressed by Parliamentarians when the Commission submitted to them its annual report of the year 2003 and the Commission's response.
30.	On the Commission's annual report for the year 2003.
31.	The role of the youth grouped into human rights clubs in the promotion and protection of these rights in general and fighting ethnism in particular.
32.	On International Human Rights Day.
33.	Knowing and understanding human rights is one of the strategies to combat and prevent discrimination.
34.	Summary of broadcast programmes during the year 2004.

*

* *

2. Broadcast Programmes on other Radios.

Apart from the programmes broadcasted on Rwanda Radio through “Uburenganzira Iwacu”, the Commission also organised programmes on “Radio 10” which is a private radio. These programmes related mainly to the mission and structure of the Commission, its achievements in the area of human rights, the role of education in the prevention of ethnic and racial discrimination and the Commission’s activities in this respect.

3. Television programmes.

On 28 November 2004, at Novotel-Umubano Hotel in Kigali, the National Commission for Human Rights organised a programme “Kubaza bitera kumenya” (Ask then you will know) concerning issues followed up by the Commission as contained in the annual report for 2003.

The Commission also passed a programme on Rwanda Television regarding the role of education in preventing ethnic and racial discrimination as well as the Commission’s activities in that area. This programme was organised in the context of the Commission’s activities regarding sensitisation of Rwandans on combating ethnism and racism and as part of the celebrations of the International Human Rights Day that take place annually, in 10 December.

4. Activities aimed at promoting knowledge about human rights.

Every year, the National Commission for Human Rights prepares written messages aiming at educating and sensitising Rwandans on human rights. Such messages are made public through simple plays, T-shirts, brochures, texts on the Commission’s yearly calendar and through newspapers. These writings usually relate to themes of International Human Rights Days that are celebrated.

In the context of sensitising different categories of Rwandans on knowing international conventions protecting human rights, the Commission prepared in the year 2004 a document entitled “List of International and Regional Conventions on Human Rights signed and ratified by Rwanda up to December 2004.”

Regarding celebrations of International Human Rights Days, the Commission gave different messages sensitising Rwandans on human rights by means of banderoles.

The Commission also prepared an article published in newspapers concerning International Human Rights Days. The subject of the article was: *“Education and sensitisation on human rights as one of the strategies to prevent ethnism / Racism and genocide ideology.”*

5. Activities relating to annual days celebrated.

Every year, the National Commission for Human Rights celebrates International Human Rights Days, depending on the themes selected by the Government of Rwanda on the basis of those announced at international level.

It is in this context that on 8 March 2004, the Commission joined other institutions in celebrating the International Women's Day. The Day was celebrated at National level in Byumba Province. The theme of the year was *"The role of men and boys in the attainment of Gender Equality."* Messages were given on human rights and women in particular, through speeches, songs, poems as well as texts on banderoles.

In preparations for the celebration of the International Day to combat Racism, celebrated on 21 March, the Commission gave a public lecture on 19 March 2004 in the multipurpose hall of Byumba Province, on the theme: *"Racism and its impact on human rights: Strategies at National and international level to prevent and fight against it."* 500 students attended the lecture.

On 21 March 2004, the International Day to combat racism was celebrated. Different messages were delivered through Rwanda Radio and Television as well as banderoles. These messages were sensitising Rwandans to continue the fight against racism.

On that Day, in her speech delivered to Rwandans, the President of the Commission exhorted them to condemn racism and any kind of discrimination for these are the root causes of the Genocide that took the lives of more than one million Rwandans and left many others with wounds on their hearts and bodies. She indicated the stage reached by the Government of Rwanda in supporting and promoting human rights, by enacting special laws to ensure human rights protection. She appealed to every Rwandan to be more aware of his or her role in the protection and fight for his own rights and the rights of others.

On 16 June 2004, the Commission celebrated the African Child International Day. In the celebrations of this Day, the Commission collaborated with other Government and private institutions having among their duties the promotion of child rights. The theme of the Day was: *"The Child in the Family."*

Among the main activities on that Day, the following could be mentioned:

On 13 June 2004, the Commission gave a public lecture on the rights of the child, at the Kigali Institute of Education (KIE) and about 200 people attended the lecture.

There were organised football matches involving 10 teams from Youth Centres in Kigali City namely: Gatenga Youth Centre, the Nyamirambo Orphanage named after Gisimba, CEPAG Centre in Kagarama-Kicukiro, "Centre des Enfants de Dieu" ("God's Children Centre") of Ndera, FIDESCO Centre of Kicukiro, "Centre Maison de la Jeunesse" ("Youth House Centre") of Gacuriro, Centre "Abadacogora" of Sainte Family Church ("Eglise Sainte Famille"), the Club "Fondation Sports pour la Paix" (Sports for Peace Foundation) of Nyamirambo, "Centre de la Croix-Rouge" ("Red Cross Centre") of Gacuriro and the Tubakunde ("Let's love them") Centre of Nyamirambo.

On 18 June 2004, a lecture was given on the rights of the child, and it was attended by about 400 participants including students and teachers from the centres mentioned above as well as students and teachers from the Kigali Institute of Education (KIE).

3.1.2. Human Rights Education.

With regard to human rights education to Rwandans, the Commission organised seminars for different categories of people.

a. Leadership groups.

The National Commission for Human Rights organised a seminar on human rights attended by all District, Towns and Municipality Executive Committees, except for those of Butare and Kibuye Provinces who had had such a seminar. All together, 304 people participated in seminars under this programme.

Province	Date	Invited	Participants
Ruhengeri	16 – 18/3/04	55	50
Gikongoro	16 – 18/3/04	35	21
Byumba	26 – 28/5/04	45	43
Gitarama	27 – 29/5/04	50	27
Kigali Ngali	24 – 26/6/04	50	38
Umujyi wa Kigali	28 – 30/7/04 05 – 07/8/04	40	37
Gisenyi	05 – 07/8/04	50	48
Umutara	25 – 27/8/04	40	40
TOTAL		365	304

This category of people was selected due to the fact that leadership of the people is actually the responsibility of local administrators. They are the first to settle differences among the people, and to help them acquire the culture of respecting human rights. The participants to these seminars were also given some of the brochures containing the lectures delivered during the seminars so they too could play a part in sensitising those they lead.

Note:

On the request of the Mayor of Byumba Province, a seminar was organised for District Mayors together with members of the Consultative Committees of the Districts and Byumba Town.

In Cyangugu Province, a seminar was organised for the Consultative Committees in the Districts and Cyangugu Town.

In those seminars, the Commission put particular emphasis on the following:

- The fundamental principles of human rights;
- The rights and duties of the citizen as provided in the Rwandan Constitution and the African Charter on Human and People's Rights;
- Child rights and the laws protecting these rights, what the Commission does for the protection and promotion of these rights;

- The Gender policy in Rwanda and the laws protecting women rights;
- Prevention and punishing of discrimination and sectarianism: provisions of Rwandan laws and international conventions
- The role of local leadership in the protection and promotion of human rights.

b. Human Rights Sensitisation Agents at Sector level.

On 28 December 2004, the Commission conducted a seminar to people selected from all sectors in the country, who will be responsible for human rights sensitisation in their areas of residence.

The main themes were the following:

- Knowing the National Commission for Human Rights;
- The rights and duties of the citizen as provided in the Constitution of the Republic of Rwanda;
- International Conventions and Rwandan laws against the crime of genocide, discrimination and sectarianism.

The table below indicates how these seminars were conducted:

Province	Invited	Participants to the seminar
1. Butare	211	195
2. Byumba	136	105
3. Cyangugu	115	80
4. Gikongoro	125	39
5. Gisenyi	135	94
6. Gitarama	166	82
7. Kibungo	115	104
8. Kibuye	102	78
9. Kigali Rural	139	92
10. Kigali City	43	35
11. Ruhengeri	117	49
12. Umutara	81	24
ALL TOGETHER	1 545	977

Those who could not attend these seminars will have another chance in 2005, during the second phase of these seminars.

c. The judiciary authorities.

Jointly with the Supreme Court, the Commission organised seminars on human rights intended for 650 judges recruited after the reforms made in the Rwandan judiciary.

The table below shows participation in these seminars:

Date	Venue for the seminar	Number of participants
7/7/2004	Saint Paul Pastoral Centre, Kigali	390
25/8/2004	Kigali Training Centre (KTC) and in the "Iwacu" Centre, Kabusunzu	157
6 – 7/10/2004	At "ISANO" Centre and "Iwacu" Centre, Kabusunzu	103
ALL TOGETHER		650

The main themes were the following:

- The fundamental principles of human rights and the duties of the citizen;
- The role of the judge and his duties in matters of human rights promotion and protection.

d. Persons of Integrity in the Gacaca Jurisdictions.

On the invitation of the National Service in charge of Gacaca Courts, the Commission conducted seminars on human rights, for 551 Persons of Integrity in the Gacaca Courts. These seminars took place at Murambi, in RIAM premises and at CEPAF, in Gitarama on 13th and 14th July 2004 respectively.

The themes of the seminars were mainly:

- Human rights in the functioning of Gacaca Jurisdictions;
- The nation, citizenship and relevant duties.

e. Sector Co-ordinators and Mediators.

Jointly with the Ministry of Local Government, Good Governance, Community Development and Social Affairs, the Commission conducted seminars for Sector Council members, Co-ordinators and Mediators. These seminars were conducted throughout the country and altogether, 20.085 people attended.

The themes of these seminars were mainly the following:

- Human rights;
- Duties of the citizen and those of a leader;
- Genocide and its impact on human rights.

f. Different Associations.

The Commission conducted a seminar for members of the Trade Union for Professional Workers (ASTRAS) and participated in the preparation of this seminar. The seminar took place in Kigali, in the multipurpose hall of the "Saint Family" Church, from 25 to 26 March 2004. 105 people attended this seminar.

The lectures given at this seminar concerned mainly the following themes:

- The fundamental principles of human rights and provisions of Rwandan laws regarding these rights;
- The Rights of the Child and Women in Rwandan laws;
- The Right to Employment;
- The role of Trade Unions in the promotion of employment rights and the promotion of cottage industry.

The Commission conducted a seminar on human rights for some members of the SENJOUSMEL Trade Union, including teachers, journalists, nurses, printing and publishing house owners and other private enterprises. The seminar took place at Sovu in Butare Province from 22 to 24 June 2004. 21 participants attended this seminar.

The lectures given at this seminar related mainly to the following themes:

- Fundamental principles of human rights and the duties of the citizen;
- International conventions and the Rwandan laws against discrimination and the role of syndicates in ensuring that these laws are respected;
- Employment rights: provisions of the Constitution on these rights, laws governing employment in Rwanda and in international conventions;
- The role of Trade Unions in the promotion of employment in Rwanda.

The Commission organised a seminar on human rights, for 100 members of “Imbaraga” Forum, come from the Provinces of Butare, Gikongoro, Cyangugu, Gisenyi, Ruhengeri and Byumba. They all assembled in Kigali City, on 16, 17, 21 and 22 December 2004.

The themes of the seminar were:

- Fundamental principles of human rights and the duties of the citizen;
- The Rights of the Child and Women in Rwandan laws.

3.2. GIVING, UPON ITS OWN INITIATIVE OR UPON REQUEST, ITS ADVICE ON BILLS RELATING TO HUMAN RIGHTS (article 3 [b])

- **Views on Bills.**

Upon its own initiative, in 2004, the Commission examined and gave views on the bill determining the use and management of land in Rwanda. The Commission gave particular attention to this bill in view of its importance.

Some of the views given by the Commission were as follows:

In the preamble, the Commission suggested that there should be added article 14 of the African Charter on Human and Peoples’ Rights, which concerns rights to property. As indicated by article 19 of the said bill, the Organic Law determining the use and management of land in Rwanda

should have other laws complementing it. The Commission found that these laws, complementary to the organic law could come in the context of laws and they too should be submitted to the Parliament without delay, so that the organic law can settle immediately the issues for which it has been established.

As individually owned property is inviolable (as provided by the Constitution in its article 29), the National Commission for Human Rights found that decision regarding punishment for hoarding land and taking land by force, as mentioned in the first and second sections of Chapter VI of the bill regarding the Organic Law (articles 80 – 89), should be decided on by the court after fair trial (having heard both parties) for the judiciary is the actual guardian of human rights (as provided by article 44 of the Constitution).

The National Commission for Human Rights recommended that all decisions taken concerning land should be published in the Official Gazette of the Republic, and those not published in the Gazette will concern only those parties who took part in the decision-making (non opposable aux tiers).

In a meeting organised by the Ministry of Youth, Culture and Sports, the Commission gave views on the bill establishing the National Commission for the Fight Against Genocide.

3.3. SENSITIZING THE GOVERNMENT INSTITUTIONS AS REGARDS RATIFICATION OF INTERNATIONAL CONVENTIONS RELATING TO HUMAN RIGHTS AND MAKING SURE THEY ARE INTEGRATED IN INTERNAL LAWS (article 3 [c]).

In the context of sensitising the Government institutions as regards ratification of international conventions relating to human rights and making sure they are integrated in Rwandan laws, the Commission wrote to the Minister of Foreign Affairs and Regional Co-operation a letter including some of the international conventions not yet ratified by Rwanda, requesting that efforts should be made so that Rwanda ratifies them. These Conventions are the following:

- Convention relating to the Status of Stateless Persons, adopted on 28 September 1954;
- Supplementary Convention on the Abolition of the Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, adopted on 30 April 1956;
- Convention on the Reduction of Statelessness, adopted on 30 August 1961;
- Convention n° 122 concerning Employment Policy, adopted by the General Conference of the International Labour Organisation on 17 June 1964;
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted on 10 December 1984;
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, adopted on 18 December 1990;
- Optional Protocol to the Convention on the Elimination of Discrimination against Women, adopted on 6 October 1999.

The Minister of Foreign Affairs and Regional Co-operation wrote to the Ministries concerned by these conventions seeking their views, and the Commission believes these conventions will soon be ratified.

The Commission continued to encourage concerned authorities in the Government to prepare and submit in time reports on what Rwanda committed itself to respect as regards fundamental international human rights conventions ratified by Rwanda.

The Commission also played a part in the preparation of these reports. These reports are as follows:

On 21 May 2004, at the 36th Session of the United Nations Committee for the Rights of the Child held in Geneva, at the headquarters of the United Nations High Commission for Human Rights, the Committee received a report on the rights of the Child. A delegation of the Commission was present at this session.

From 23 November to 7 December 2004, at Dakar, Senegal, was held the 36th Session of the African Commission for Human and Peoples' Rights. A report on human rights was presented at this session at which a delegation of the Rwanda National Commission for Human Rights was present.

3.4. RECEIVING AND EXAMINING CLAIMS RELATING TO HUMAN RIGHTS VIOLATION, EITHER ON ITS OWN INITIATIVE OR UPON REQUEST (Article 3[d]).

Regarding this responsibility, the Commission followed up different issues reported to it in connection with human rights violation; and some, the Commission followed up, on its own initiative given the importance and weight of the issues.

With regard to issues followed up by the Commission, this part presents complaints concerning unlawful arrests and imprisonment, complaints concerning disregard of court decisions, complaints about delayed and suspended cases, issues relating to killings and persecution of genocide survivors and those willing to tell the truth about what happened during the genocide, those relating to human rights respect in Gacaca Jurisdictions, those concerning human rights respect in elections, complaints relating to the right to employment, complaints about the right to property, complaints regarding the rights of the child, complaints regarding the right to marriage and a complaint concerning the right to health.

A. Unlawful arrests and imprisonment.

In this part are presented cases of people arrested without a statement of arrest provided for by article 37 of the Law relating to the code of criminal procedure, or an arrest warrant provided for by article 52 of the same law.

There are presented cases of people kept in custody in the National Police cells for more than 72 hours provided for by article 37, clause 3 of the law cited above which states that "*A statement for arrest of an accused is valid for seventy two (72) hours, which can not be extended*".

There are also those put in prison without appearing before the Council of Judges and some who appear before this Council but are not brought back before it, as provided by article 100

of this law stating that *“An order authorising for preventive detention remains in force for 30 days including the day on which it was delivered. After the expiry of that time, it can be renewed for one month and shall continue in that manner”*.

There are yet others who are arrested and imprisoned by unauthorised people at local government level.

1. Arrest and remand of some Members of A.D.E.P.R.

On 27 October 2004, the Commission learned that there were some of A.D.E.P.R. Church members in remand outside the Muhima Police Station.

After investigations started on its own initiative on 28 October 2004, the Commission found out that the A.D.E.P.R. Church represented by Pastor SIBOMANA Jean divided into two, the other section coming under the leadership of Pastor MAJYAMBERE Joseph.

The Commission found that the section led by Pastor MAJYAMBERE Joseph was complaining against the A.D.E.P.R. leadership for excluding them from the Church, because the leadership had modified the Church's beliefs and traditions. This section complained also that the A.D.E.P.R. leadership was advancing false accusations to the Government against the new section and that following these accusations the Government was destroying their buildings and imprisoning them. Regarding the reforms within the Church, MAJYAMBERE's section gave the example of the Holy Communion whereby according to the Bible, the believers should drink from the same cup, but the section led by Pastor SIBOMANA Jean instructs that each person should use his own cup.

The section led by Pastor MAJYAMBERE Joseph interprets this as refusal to share the same cup and that this is due to ethnic discrimination, because the majority of those who refuse the sharing consists of Rwandans who came back home from outside Rwanda. The A.D.E.P.R. leadership, on the other hand, argues that the question of the Holy Communion is just a pretext on the part of those who separate themselves from them, and that the actual reason is their intention to entertain ethnic divisionism within the Church.

On 23 and 24 November 2004, about 200 members of the group that separated from A.D.E.P.R, taking on the name of REOBOTH Church, were arrested at their place of worship in Rubonobono cell, Gatsata sector, Gisozi district in Kigali City. They were remanded on charges of gathering and worshipping at a place forbidden by the leadership while they did not have a legal status of their own, disruption of peace and order by shouting prayers at night and advocating for ethnic divisionism.

However, to the Commission's opinion, the arrest and remand of these disciples of Pastor MAJYAMBERE who was already in the Kigali Central Prison, did not follow legal procedures because there was neither a statement nor an arrest warrant to that effect; and yet several times they spent a long time in cells without appearing before the prosecution and the court.

The Commission also points out that the remand of these people was improper, for they were kept in a place without a roof.

As the arrest and imprisonment of these people did not follow legal procedures, on 31 December 2004, the Commission wrote to the Chief Prosecutor the letter n° CRDH/477/04 requesting him to follow up this issue and find a solution.

The Commission finds that due to the fact that the arrest and remand of these people did not respect the relevant laws, the follow up of the issue dwelt only on procedures and not on their offence.

The Police should have prepared their case file then their case could have been followed up in accordance with legal procedures.

2. The Case of KABANDANA Sylvain.

On 17 August 2004, MUKANKOMEJE Godelive, wife of KABANDANA Sylvain who lives in Rwezamenyo cell, Nyakabanda sector, Nyamirambo district in Kigali City, wrote to the Commission requesting it to follow up the case of her husband.

According to MUKANKOMEJE Godelive, on 17 August 2004, KABANDANA Sylvain was arrested and remanded by the Police, the "Interpol" Section in connection with a case between him and CYIZA Consolée, wife of NYAGATARE Damien (a young brother to KABANDANA Sylvain).

The said case concerns a property consisting of two cars "TOYOTA Hiace", plate n° RR 568 M and RR 880 N. KABANDANA claims that the cars belong to the family while CYIZA says the property belonged to her husband married to her legally and who died on 16 April 2002.

MUKANKOMEJE Godelive says that after the death of CYIZA Consolée's husband, she lodged a complaint to the Kigali Court of First Instance under the case n° 39954/03 accusing KABANDANA Sylvain of having taken the cars from her.

Based on the first claim, CYIZA Consolée brought in another one, more urgent on 29 July 2003. She requested that before the first case is considered in its depth, she should be given the cars to help her feed the children left to her by her husband. The children are namely NYAGATARE Sedrine, NYAGATARE Sédric and NYAGATARE Serge.

In the order n° 284/BE/2003, the court ruled that the cars should remain where they were until the case n° 39.954/03 is settled. CYIZA Consolée appealed against this ruling in the case n° RCA 14.380/KIG.

On 4 December 2003, the case proceedings went on in the absence of KABANDANA and yet he had written to the court requesting to look for a lawyer to represent him. The pronouncement of judgements was on 22 December 2003. The court declared KABANDANA the loser and that he should give back to CYIZA Consolée her husband's cars so she could cater for the children's needs. However, the Court of Appeal remained silent as to the execution of this judgement.

On 19 December 2003, KABANDANA Sylvain was informed of the court's judgement and he claimed its cessation in the Cessation Court which registered the request on 20 January 2004.

On 18 August 2004, the Commission consulted the Police “Interpol” Section which had arrested KABANDANA Sylvain and the Police informed the Commission that he had been arrested on charges of having stolen the two cars and sent them to Burundi, after the ruling of the Court of Appeal to give the cars back to CYIZA Consolée.

On 18 August 2004, the Commission met the wife of KABANDANA; and she said that the cars were in Rwanda but that they were scared to reveal them before the case was settled, for the fear that if they were given to CYIZA, she would sell them just as she had sold another car left in her custody. The Commission advised that the cars should be shown to the Police.

On 21 September 2004, KABANDANA Sylvain handed in the cars to the Prosecutor’s Office in Kigali and he was released immediately. The said cars are in the hands of the Prosecutor’s Office, pending the final settlement of the case after which they will be given to the rightful owner.

According to the Commission, the fact that the Prosecutor’s Office ordered KABANDANA to hand in the cars as a condition for his release is against the law, especially as this order was not based on a court’s decision nor was it established that the cars were used unlawfully.

The Commission finds that KABANDANA Sylvain’s arrest was unlawful, for the Police did not base their action on any court’s decision to hoard the cars.

The Commission recommends that this case be settled without delay so the cars could be given to the rightful owner; for as long as they remain where they are, their condition continues to deteriorate.

3. Arrest and Remand of NGABOYISONGA Seriviriyani.

On 23 September 2004, NYIRAMPAGAZEHE Verediyana, a resident of Gasura cell, Bushara sector, Rushaki district in Byumba Province brought in her complaint to the Commission saying that, for reasons unknown to her, her husband NGABOYISONGA Seriviriyani was remanded in the Rushaki District Cell.

NYIRAMPAGAZEHE Verediyana says that on 21 September 2004, NGABOYISONGA Seriviriyani was summoned by the Assistant Mayor of Rushaki District in charge of Social Welfare, to report at the District Office. The Assistant Mayor told him to return back the piece of land allegedly belonging to NAYIGIZENTE Jean Paul, son of SERANDI. When he refused, the Assistant Mayor threw into the cell.

When he was still a young boy, NAYIGIZENTE Jean Paul had been given a piece of land as a token for having buried his paternal grandmother. SERANDI lent part of the land to his brother, NGABOYISONGA.

Having grown up, NAYIGIZENTE asked his father to give him back the whole piece of land given to him by his grandfather’s family. SERANDI wanted to get the land from NGABOYISONGA but the latter refused to surrender it claiming it was his own.

NAYIGIZENTE lodged a complaint against his father SERANDI in Rushaki Canton Court under case n° RC 81/1/2004. The proceedings of the case took place on 8 April 2004 and the judgement was pronounced on 10 April 2004. The court ruled that SERANDI lost the case and that he should return the piece of land to NAYIGIZENTE Jean Paul who won the case. NGABOYISONGA who was still exploiting the piece of land refused to give it up.

On 23 September 2004, the Commission consulted the Assistant Mayor in charge of Social Welfare, MUTABAZI Jackson who explained that NGABOYISONGA was remanded in custody on charge of standing against the execution of judgements concerning the piece of land in which NAYIGIZENTE won the case against SERANDI.

The Commission explained to the Assistant Mayor in charge of Social Welfare, MUTABAZI Jackson that NGABOYISONGA should not have been remanded in custody for refusing to surrender the piece of land for which NAYIGIZENTE won the case, especially as the complaint was in the category of civil cases. The Commission explained further that there are laws governing execution of the courts decisions and that these laws provided for steps to take in case someone opposes this execution.

On 24 September 2004, the Commission met NGABOYISONGA. He told the Commission that he thought that his remand was in connection with a piece of land his son was given after burying his grandmother, adding that until then he was still exploiting the piece of land and that he would pass it to his son once grown up.

Late, on 27 September 2004, NGABOYISONGA told the Commission that he had been released on 25 September 2004, and that he was still occupying the piece of land he had been asked to surrender, for the execution of the courts judgements will be effected by the court bailiff.

The Commission finds that NGABOYISONGA was remanded in custody by MUTABAZI Jackson, the District Assistant Mayor in charge of Social Welfare who was unauthorised to do this.

The Commission requests the local leaders who purposely violate the very laws they themselves have the duty to reinforce, to refrain from victimising the people under their leadership.

4. Arrest and Remand of N.A.¹

On 26 May 2004, the Commission visited the cell of the Kibuye Police Station and found in remand N.A., a twelve (12) year old child, from Nyabumera cell, Muramba sector, Rusenyi District in Kibuye Province.

On 5 May 2004, the said N.A. was arrested by the Kibuye Police Station on charges that the child had raped N.U.², aged three.

¹ The Commission decided to keep the person anonymous for it is still a child under age.

² The Commission decided to keep the person anonymous for it is still a child under age.

On 10 May 2004, the Police sent to the Prosecutor's Office the child's case file n° 58037/S5/NR. While following up this case, the Commission found no document from the doctor certifying that N.U. had actually been raped. Moreover, the Commission noticed that N.A was remanded together with adults and yet there are laws specifying procedures for following up the case of a criminal who is a child.

The Commission requests the authorities responsible for arrests and remand to be careful in this regard and to respect further the laws protecting the child.

5. Imprisonment of MUTIMUCYEYE Afisa.

On 15 October 2003, MUKARUGIRA Venantie, a resident of Matyazo cell, Byumba sector in Byumba Town, reported to the Commission a complaint about her 14 year old child, MUTIMUCYEYE Afisa who was in prison.

MUKARUGIRA Venantie told the Commission that MUTIMUCYEYE was in Miyove Prison since 8 June 2003 following charges by the Prosecutor's Office that MUTIMUCYEYE had beaten on the head MUKANYANDWI Annonciata aged 15, who was a schoolmate at Gacurabwenge Primary School. The two children were fighting over a ball and the victim had developed some mental disturbance as a result.

On 28 October 2003, following investigations it conducted at the Prosecutor's Office, the Commission learnt that MUTIMUCYEYE was charged with the crime of "blows and injury", the penalty of which is one month to one year imprisonment and a fine of five hundred to two thousand francs; or either of these two penalties. The Commission also learnt that MUTIMUCYEYE's case numbered 18316/S3/HA/RNK/NG, had been compiled by the Prosecutor's Office and that it would later be forwarded to court.

On 15 November 2003, the Commission met RWAMAKUBA NKAKA, the Prosecutor handling MUTIMUCYEYE's case file . He said the case file had been compiled and would soon be forwarded to court. The same day, the Commission consulted the Prosecutor of the Republic in Byumba Province, HITIYAREMYE Alphonse, and asked him to authorise the release of MUTIMUCYEYE and let her go to court free from prison because she is still too young.

On 23 March 2004, MUTIMUCYEYE was finally released and the Prosecutor's Office confirmed that her case file had been handed over to court and that she would go to court free from prison.

The Commission points out that MUTIMUCYEYE stayed in prison for too long as opposed to the provisions of the law regarding children of her age.

6. Imprisonment of NGENDA HAYO Audace.

On 1 August 2004, NYIRANSABIMANA Josephine, a resident of Nyagatare cell, Shagasha sector, in Cyangugu Town, wrote to the Commission requesting assistance in following up the case of her brother, NGENDA HAYO Audace who is in Cyangugu Central Prison.

On 16 July 2003, NGENDAHAYO was remanded in custody at Kamembe Police Station with charges of raping MUKAHIRWA Jeanette who says they had stayed together for more than three years as wife and husband. On 17 July 2003, NGENDAHAYO was transferred to Cyangugu Central Prison his case file bearing n° RVL 75371L3M.E./R.M., he never appeared before the Council of Judges nor was he brought to court for hearing.

On 6 September 2004, the Commission met the Cyangugu Provincial Prosecutor, UWIZEYE Jean-Marie and found that NGENDAHAYO Audace's case file indicates he had been living with the 14 year old girl, MUKAHIRWA Jeanette since November 2001.

The Commission believes that this is a offence punishable under article 48 of the Law n° 27/2001 of 28 April 2001 relating to rights and protection of the child against violence. This article states *"shall be sentenced to imprisonment of between twenty and twenty five years and pay a fine of between a hundred thousand and five hundred thousand francs, anybody who lives with or attempts to live with a child of less than eighteen years of age as a husband or wife"*.

Ever since he was imprisoned, NGENDAHAYO never appeared before the Council of Judges and yet the compilation of his case file had been completed in September 2003. The letter forwarding the said case file to the court was written but not numbered nor dated, and was not submitted to the court, for unknown reasons.

To the Commission's opinion, the Prosecutor's Office did not adhere to the laws governing arrests and imprisonment, for NGENDAHAYO Audace never appeared before the Council of Judges and his rights to appear in court within reasonable time were violated.

The Commission recommends that the provisions of the laws concerning arrests and imprisonment should be adhered to.

The Commission regrets the fact that the rights of this child were violated during all these three years and yet neither the local authorities nor the neighbours never reported the matter to concerned authorities. Nonetheless, the Commission recommends that NGENDAHAYO Audace's case be speeded up so that he appears to court for hearing.

7. Imprisonment of HATEGEKIMANA Félix.

On 17 August 2004, NYIRAHABYARIMANA Immaculée who lives in Kumana cell, Runyanzovu sector, Bukunzi district in Cyangugu Province wrote to the Commission requesting assistance in the follow up of the case of her son, HATEGEKIMANA Félix who is imprisoned in the Cyangugu Central Prison.

On 23 November 2003, HATEGEKIMANA Félix was arrested by the Prosecution on charges that he had denied to have heard NSENGUMUREMYI Victor and BYAMANA Emmanuel making plans to kill GASHAKAMBA Jean Népomuscène. On that day, HATEGEKIMANA was inquired about these plans and when he denied having heard about it, the Prosecutor NGABONZIZA threw him immediately into Cyangugu Central Prison.

On 6 September 2004, the Commission went to see HATEGEKIMANA Félix and he told the Commission that his imprisonment was unjustified because there was no tangible evidence that he had heard NSENGUMUREMYI Victor and BYAMANA Emmanuel plan to assassinate GASHAKAMBA Jean Népomuscène. He added that he was never informed of the number of his case file nor had he been brought before the Council of Judges.

On 13 September 2004, the Commission consulted with the Provincial Prosecutor, UWIZEYE Jean-Marie and asked him about this case but he could not trace it for its number was unknown. Thus HATEGEKIMANA Félix is imprisoned without a case file .

On 24 September 2004, the Commission met GASHAKAMBA Jean Népomuscène, NSENGUMUREMYI Victor and BYAMANA Emmanuel. It surfaced that the issue was not the plans to kill, but it had its roots in a case over some piece of land, GASHAKAMBA Jean Népomuscène had against NSENGUMUREMYI Victor and BYAMANA Emmanuel who are said to be planning to kill him.

The Commission finds that the laws governing arrests and imprisonment were disregarded by the Prosecutor's Office because HATEGEKIMANA is in prison without a case file and this means that he cannot be brought before the Council of Judges or indeed before the court for hearing. It is surprising that the Prosecutor's Office put in prison the person who heard others plan to kill and left free those who were making these plans.

The Commission requests the Prosecutor's Office in Cyangugu Province to release HATEGEKIMANA Félix without any further complications because he is imprisoned with no case file , if need be he could be followed up free from prison.

8. Imprisonment of NGABIZIRANGA Jean Léonard.

NGABIZIRANGA Jean Léonard is from Nyamutarama cell, Gashongi sector, Gashonga district, in Cyangugu province and is imprisoned in Cyangugu Central Prison since 17 June 2003, his case file bearing n° RMP 75287/S3/M.E.

On 19 September 2004, NGABIZIRANGA Jean Léonard wrote to the Cyangugu Provincial Prosecutor with a copy of the letter to the Commission, requesting to be brought to court.

On 27 November 2004, the Commission went to see NGABIZIRANGA Jean Léonard and he told the Commission that, on 23 May 2003, he was arrested by the Judicial Police on charges that he had raped the girl, M.M.I.³ aged 14, who was his class six pupil at Mukimbagiro Primary School. The teacher claims he is being treated unfairly because there is no document from the doctor testifying that M.M.I. has been raped.

On 8 July 2003, NGABIZIRANGA was brought before the Council of Judges which ordered his temporary imprisonment for a period of 30 days.

³ The Commission decided to keep the child anonymous for she is still under age.

On 1 November 2004, the Commission went to see the Provincial Prosecutor and discussed with him about this case. He noticed that the document issued by the Council of Judges ordering NGABIZIRANGA's temporary imprisonment had expired.

The Commission finds that the prosecution disregarded the laws governing arrests and imprisonment because NGABIZIRANGA was imprisoned by the Prosecutor's Office for too long, he was not brought back before the Council of Judges and his case file had not been completed for submission to the court. This amounted to violation of his rights to appear to court within reasonable time.

The Commission recommends that the case file of NGABIZIRANGA Jean Léonard should be forwarded to the court immediately for a hearing.

9. Arrest and Remand of HAKIZIMANA Isaac.

On 26 April 2004, MUKAMWEZI Jeannette, a resident of Tomi cell, Rugarama sector, Rukira district in Kibungo Province, wrote to the Commission requesting it to follow up the case of her son, HAKIZIMANA Isaac who was remanded in custody in Rukira Cell.

HAKIZIMANA Isaac, aged 21 used to take care of NGARAMBE Médard's cattle. After the death of the cattle owner, HAKIZIMANA presented the cattle to the family of NGARAMBE Médard, represented by the latter's sister, MUJAWAMARIYA Consolée. The family sold thirty cows out of those HAKIZIMANA was taking care of.

On 20 April 2004, HAKIZIMANA Isaac was arrested and was remanded in custody at the Rukira Police Station, following charges by UWIMANA Anatolie who claimed that HAKIZIMANA, in complicity with the family of NGARAMBE Médard, had sold the cows he used to take care of. When HAKIZIMANA explained that the cows had been sold by the owners, the authorities did not believe him.

UWIMANA Anatolie argues that she had had two children with NGARAMBE Médard though they were not legally married. She complained to the Rukira district authorities claiming inheritance of NGARAMBE's property. She wanted to be given the remaining cows and compensation for the other thirty cows which had been sold.

On 30 April 2004, the Commission, accompanied by the Judicial Police Officer, RUSA Claude working with the Rukira District Office and being the very person who had remanded HAKIZIMANA in custody, went to the place where he was remanded. There, they were joined by MUJAWAMARIYA Consolée who had been invited by the Commission. She confirmed that they themselves had sold the cows and that the caretaker of the cows was being treated unfairly. HAKIZIMANA was released that very day.

The Commission finds that HAKIZIMANA Isaac's arrest was unlawful because he had committed no crime and no preliminary investigation had been made.

The Commission requests the authorities responsible for arrests and imprisonment to make sufficient investigation before arresting people so as to avoid that anyone is imprisoned without a offence.

10. Arrest and Remand of USABYIMANA Jean Népomuscène.

On 23 March 2004, USABYIMANA Jean Népomuscène of Gahengeri cell, Shyanda sector, Cyarubare district, wrote to the Commission requesting that his rights be reinstated, for the Cyarubare district had denied him his rights to three hundred eighty one thousand francs (381.000 Frw) and that instead of paying him this sum they remanded him in custody.

On 5 April 2004, the Commission visited Cyarubare district and the authorities there informed the Commission that the case was then in the hands of Kibungo Court of First Instance. The authorities however said they knew nothing about the remand of USABYIMANA Jean Népomuscène. On that day, the Commission also met the Judicial Police Officer who had remanded him, BUDERI Jean Claude. The Commission discovered that USABYIMANA had been remanded in custody without any case file being prepared. BUDERI Jean Claude told the Commission that he had remanded USABYIMANA because he had refused to pay MPUMUJE and HAKIZIYAREMYE Jean Claude the money he owed them.

In its investigations, the Commission learnt that, it was rather USABYIMANA who had won the case against MPUMUJE and HAKIZIYAREMYE Jean Claude, over the sum of money referred to by the Judicial Police Officer. This was at the Cyarubare Canton Court in the case n° R.C. 008/R01/2003 decided on on 29 October 2003.

The Commission made it clear to the President of the Canton Court and the Judicial Police Officer that USABYIMANA had won the case mentioned above against MPUMUJE and HAKIZIYAREMYE and that he had therefore been denied his rights for he had been imprisoned whereas he had won the case and no case file had been prepared to justify his remand. The Commission also reminded them that even if USABYIMANA could owe some money to MPUMUJE and NSENGIYAREMYE, still he would not be imprisoned for it, because the Constitution of 4 June 2003, in its article 17 states that no one shall be imprisoned on the ground of inability to fulfil obligations arising from civil or commercial laws. The Commission recommended that USABYIMANA be released and he got released that very day.

The Commission finds fault with the conduct of the Judicial Police Officer, BUDERI Jean Claude who remanded USABYIMANA whereas he had been justified by the court. He had also been remanded without a case file prepared to that effect.

The Commission requests the concerned authorities to follow up BUDERI Jean Claude.

11. Remand of BIGIRIMANA Gaspard.

On 10 May 2004, BIGIRIMANA who lives in NYARUNAZI cell, Nkima sector, Butare Town in Butare Province, wrote to the Commission requesting assistance in reintegrating his rights. He said he was unlawfully remanded in custody on 21 April 2004 and when he was released the

Butare Police withheld his identity card together with two hundred and thirty thousand francs (230.000 Frw).

On 21 April 2004, some herdsmen attacked BIGIRIMANA at Rwabayanga place and wanted to take from him a sum of two hundred and forty thousand francs he had with him. When he cried out for help, the neighbouring inhabitants came for his rescue but when they saw that he had the money they thought he had stolen it. So they took him to the Ngoma Sector Co-ordinator who referred him to the Butare Police Station. The latter threw him in custody, suspecting him of theft.

On 10 May 2004, the Butare Police Station Commander, Alphonse, found that nobody came to claim the money. He released BIGIRIMANA but he withheld his identity card together with the money having given him ten thousand francs (10.000 Frw) to enable him get back to his home. The Police withheld the balance, probably pending investigations.

On 14 May 2004, the Commission met Maritini (the other name could not be found), the Police Officer in charge of investigations in Butare Province and now working in Kibuye. He told the Commission that he was aware of the issue and that within one week he will have done investigations on it and if he finds BIGIRIMANA innocent he will give him back his money and identity card.

On 20 June 2004, the Commission went to see BIGIRIMANA and learnt that Maritini had given him fifty five thousand francs (55.000 Frw).

On 23 July 2004, the Police gave him another fifty thousand (50.000 Frw) promising to give him the remaining sum on 15 November 2004.

The Police Commander of Butare Province, KAJEGUHAKWA, gave to BIGIRIMANA all the remaining sum on 15 November 2004 as promised by the Police.

The Commission finds that the working of some of the Police Officers in Butare Province on this issue was discreditable.

In the context of fighting injustice and the culture of impunity, the Commission requests the National Central Police to follow up the Police Officers who were involved in this case.

CONCLUSION

The Commission pointed out in its reports that the problem of unlawful arrests and imprisonment seems to have become a tradition. It has been clear that certain judicial police officers and prosecutors do not adhere to the provisions of the law relating to the code of criminal procedure in clause 3 of article 37 which states that "a statement for arrest of an accused is valid for seventy two (72) hours, which cannot be extended". Even the clause 3 of article 111 of the same law states that "during the period of appeals, the accused shall continue to be in the same state as the court ordered".

The Commission notes that some judicial police officers and prosecutors often violate these laws unnecessarily and they disregard the fact that judicial decisions should be respected by all the concerned as provided in article 140 of the Constitution.

The Commission believes that continued arrests and imprisonment contrary to the provisions of the laws amounts to serious violations of people's rights. Those who do so because of the leading positions they occupy should be followed up to undergo punitive measures taken against them.

B. Disregarding Court Decisions.

In this part, the Commission presents people who have been to court where by the court decided to have them released but the Prosecutor's Office didn't release them. This was contrary to article 140 of the Constitution which states that *"Judicial decisions are binding on all parties concerned, be they public authorities or individuals. They shall not be challenged except through ways and procedures determined by law"*.

1. Imprisonment of former BACAR employees.

The Commission recalls to mind that former employees of BACAR were arrested and were put under a collective case file n° RMP 409/GG/RE/PROGRECA, and then thrown into prison on allegations that they had been in complicity with KAJEGUHAKWA Valens to misappropriate funds kept in BACAR by individuals as well as institutions.

In its annual reports for 2002⁴ and 2003⁵, the Commission indicated sufficiently that MUPENDA Sylvestre, NIYITEGEKA Jean Chrisostome, MANIRAGUHA Jean de Dieu, MUNYANKINDI Innocent and KARANGWA Kizito had been imprisoned by the prosecution and yet the different courts they had appeared before had released them. This act of the prosecution is in opposition with article 140 of the Constitution of 4 June 2003 which states that *"Judicial decisions are binding on all parties concerned, be they public authorities or individuals. They shall not be challenged except through ways and procedures determined by law"*.

On 24 April 2004, MUPENDA Sylvestre and others accused with him wrote again to the Commission requesting it to continue following up their case so as to have justice done for them.

By the time this report was being prepared, the Commission learnt that MUPENDA Sylvestre and those accused with him had been given a date fixed for them to appear before the court. According to the Commission however, this is done after having violated their rights to appear in court within reasonable time as provided by international conventions and Rwandan laws.

The Commission requests once again the authorities responsible for arrests and imprisonment to respect the laws including court decisions. The Commission reiterates its request that this case be presented to court for normal proceedings without delay.

⁴ The Commission's Annual Report for the year 2002, p. 19-20 (Kinyarwanda version).

⁵ The Commission's Annual Report for the year 2003, p. 16 (Kinyarwanda version).

2. Imprisonment of NTIRUBABARIRA Jean de Dieu, NAMBAJIMANA Octavien, DUPFUKAMIYEYEU Adeodatus and HASENGIMANA Jean Baptiste.

On 23 April 2004, when the Commission visited the Ruhengeri Central Prison, it learnt of the case of NTIRUBABARIRA aged 26, NAMBAJIMANA aged 28, DUPFUKAMIYEYEU aged 24 and HASENGIMANA aged 25, all residents of Butare cell, Butare sector, Cyeru district in Ruhengeri Province, who were charged with having raped, on 1 June 2003, one M.A.⁶ aged 21. M.A. is a sister to NTIRUBABARIRA, both born of the same father.

On 2 June 2003, these men were arrested and imprisoned at the Ruhengeri Prison and their case was given the n° RPA 1087/R4/RUH RMP 34553/S5/H.A.

On 26 February 2004, they were brought before the Council of Judges in the Ruhengeri Court of First Instance which imprisoned them temporarily for thirty days. They appealed against this decision.

On 18 March 2004, they appeared before the Council of Judges in the Ruhengeri Court of Appeal. Based on evidences available the Council ordered their temporary release on 19 March 2004 but the Prosecutor's Office refused to release them.

On 26 March 2004, the Commission visited again the Ruhengeri Prison and found that in their case file, there was no new order to re-arrest and imprison them.

On 1st April 2004, the Prosecutor MUSERUKA Jean of the Ruhengeri Prosecutor's Office, wrote another order to imprison them without any new charge against them and without any appeal lodged by the prosecution against the decision of the Council of Judges in the Court of Appeal, which had ordered, on 18 March 2004, the release of the prisoners. Furthermore on that day, the Commission consulted MUSERUKA Jean and he said that the prisoners were not to be released, allegedly because of the seriousness of their crime.

The Commission finds that the men mentioned in this case were unlawfully imprisoned, because they have been released by a competent court and the latter's decision is a law that should have been respected by both the prosecution and the prison authorities.

The Commission recommends that these people should be released temporarily without any further complication, then they would appear before the court, free from prison.

The Commission also recommends that the Prosecutor MUSERUKA Jean should be followed up by the higher authorities, in connection with the offence of neglecting court decisions.

⁶ The Commission did not want to reveal her name so as to conserve her integrity.

3. Imprisonment of SEBUDANDI Djafali.

On 23 April 2004, when it visited the Ruhengeri Central Prison, the Commission learnt about the case of SEBUDANDI Djafali from Gatare cell, Rukoma sector, Buhoma district in Ruhengeri Province, who was in Ruhengeri Prison.

SEBUDANDI whose case file is n° RP 18573/R80/2003, RMP 3331/S5NJB was imprisoned on 10 June 2002 on charges of having raped I.N.D.⁷, a girl six years old.

On 31 December 2003, the Ruhengeri Court of First Instance declared him innocent for it found no evidence confirming that SEBUDANDI had raped the said child. The court decided that he should be released immediately after the judgement. However, from the time of this decision till the day the Commission visited the Ruhengeri Prison, SEBUDANDI had not been released.

On 26 April 2004, the Commission met Prosecutor RUGEMINTWAZA Jean Marie Vianney who handled SEBUDANDI's case file and inquired from him about the case file. He answered that he did not know that SEBUDANDI was still in prison, and that he was going to release him immediately. SEBUDANDI was released on 3 May 2004.

The Commission finds that both the Prosecutor, RUGEMINTWAZA Jean Marie Vianney and the Head of the Ruhengeri Prison seriously violated SEBUDANDI's rights, for they kept him in prison for six months after the court had declared him innocent and had ordered his release.

As both men violated laws, the Commission recommends that punitive measures should be taken against them.

4. Imprisonment of NYIRARWANGO Ziripa.

When the Commission visited the Ruhengeri Central Prison on 15 March 2004, it learnt about the case of NYIRARWANGO Ziripa, a resident of Tubungo sector, Buhoma district in Ruhengeri Province, who was in the Province's Central Prison.

NYIRARWANGO informed the Commission that her case file n° was RMP 3521/S5/H.A, and that she was imprisoned on false accusations that she had poisoned some one. She added that she was kept in prison though the Ruhengeri Court of First Instance had ordered her temporary release through the Court's Council of Judges of 30 December 2003. She said the decision on her temporary release was reached on 2 January 2004 and communicated to her on 7 January 2004 but that the Prosecutor's Office refused to release her.

On 25 March 2004, the Commission met the Prosecutor, RUGEMINTWAZA Jean Marie Vianney who handled NYIRARWANGO's case file and it was noticed that he had not appealed against the decision to release NYIRARWANGO nor had she been brought again before the Council of Judges. The Commission asked him to release NYIRARWANGO.

⁷ The Commission did not want to reveal the names of this child who is still under age.

On 26 March 2004, the Commission found RUGEMINTWAZA at the prison. It requested him once again to release NYIRARWANGO and he replied that he would not release her, adding that the Commission could report the matter wherever it wanted.

On 29 March 2004, the Commission went again to see the prosecution in Ruhengeri Province and learnt that the Prosecutor of the Republic in the Ruhengeri Province had asked that NYIRARWANGO be released. The prosecution released her on 3 May 2004.

NYIRARWANGO was imprisoned unlawfully because she had been released temporarily by a competent jurisdiction. The Prosecutor RUGEMINTWAZA refused to release her without any reasons to keep her in prison. This indicates that the Ruhengeri prosecution violated NYIRARWANGO's rights.

Since this kind of problem has been observed many times in the Ruhengeri prosecution, the Commission recommends that special attention should be drawn to it.

The Commission recommends further that the authorities responsible for imprisonment should adhere to the laws and that punitive measures should be taken against those who purposely disregard court decisions, on cover of the positions they hold.

The Commission recommends also that steps should be taken against the Prosecutor RUGEMINTWAZA Jean Marie Vianney by the authorities he serves under.

CONCLUSION

The Commission has often pointed out that some of the prosecutors tend to disregard court decisions, neglecting the fact that judicial decisions should be respected by all concerned in accordance with the provisions of article 140 of the Constitution.

The Commission finds that keeping in prison people who have been released by the court is a serious violation of their rights. Those who do it on cover of their posts whether prosecutors or prison authorities should be held answerable and punitive measures should be taken against them.

C. The case of someone kept in prison having served his term of sentence.

As indicated several times in earlier reports of the Commission, several cases were reported where by people serve their sentence and yet continue to be kept in prison. In this report only one case is presented in connection with someone who was kept in prison, having already served his sentence.

When the Commission visited the Ruhengeri Central Prison on 26 March 2004, it learnt of the case of RWAGAKIGA Jean Marie Vianney who hails from Gihanga cell, Rugendabari sector, Nyarutovu district in Ruhengeri Province. He was imprisoned in that Province's Prison.

RWAGAKIGA Jean Marie Vianney was imprisoned on 5 February 1995, on charges that during the genocide when he was sixteen, he killed RAMADHAN and his three children on the

account that they were tutsis. RWAGAKIGA's case file was given n° RMP 37700/S4/UW.D; RP 027/R1/98.

On 25 February 1999, RWAGAKIGA was brought before the Ruhengeri Court of First Instance and the judgement was pronounced on 25 March 1999 and he was sentenced to nine years imprisonment which would end on 23 February 2004.

On 23 February 2004, RWAGAKIGA was released. Arrived in Ruhengeri Town however, the Prison Supervisor, on instructions of the Head of the Prison, returned him back to prison until 1 April 2004 when he was released without any more appearing before the court.

The Commission finds that for a person, having served the sentence decided on by the court, to be thrown back into prison by the Prison Head for no reason, is an extremely serious violation of human rights. The Commission recommends that such people be followed up by the courts so as to have punitive measures taken against them.

*

* *

D. Killings and persecutions of Genocide Survivors and those willing to tell the truth on what happened during genocide.

- **In Gikongoro Province.**

In its annual reports for 2002⁸ and 2003⁹, the Commission presented the killings and persecution of genocide survivors and those willing to tell the truth on what happened during genocide in Gikongoro Province.

Based on investigations conducted on this issue, the Commission had requested the authorities in this Province, both Civil and Military authorities to ensure security for these people. But still during the year 2004, cases were reported where genocide survivors and those willing to tell the truth on what happened during genocide were killed and persecuted.

Those who came to the knowledge of the Commission during the year 2004, as having been killed or persecuted on account of being survivors or potential witnesses were the following:

1. The killing of HITIMANA Eliphaz.

HITIMANA Eliphaz who used to live in Kasemazi cell, Kibumbwe sector, Kaduha district in Gikongoro Province, disappeared on 8 March 2004 when he went to Miko market in Karaba district.

The body of HITIMANA was found on 10 March 2004 lying on the banks of Rukarara river.

In its investigations, the Commission came to know that HITIMANA Eliphaz was killed because he was one of those released in accordance with the Decree of the Office of the President of the Republic on 1 January 2003, concerning those who had pleaded guilty and begged pardon. He was also among those who had decided to tell the truth on what happened during genocide and to sensitise his friends to do the same.

Since 19 November 2004, those suspected to have killed HITIMANA Eliphaz, namely RWAMIRINDI Raphaël, MURATANKWAYA Mathias, RUGIRABABIRI Uziel and NDIKURYAYO James were arrested. Their case file was given n° RMP 94212/S3/KD/KT, and they were kept in Nyanza Prison awaiting trial by the Chamber of the Supreme Court of the Republic.

2. The killing of NYEMAZI Jean Bosco.

NYEMAZI Jean Bosco used to live in Uwikamiro cell, Kibumbwe sector, Kaduha district in Gikongoro Province.

In its investigations, the Commission found that NYEMAZI was killed on 13 October 2004 because he had been witnessing in Gacaca Jurisdictions and at the International Criminal Tribunal

⁸ The Commission's Annual Report for 2002, p. 43-45.

⁹ The Commission's Annual Report for 2003, p. 444-46.

for Rwanda based in Arusha, Tanzania, against those who took part in the genocide and it was suspected he would go to witness against Colonel SIMBA.

The Commission also learnt that NYEMAZI had been betrayed in this by MUKASHEMA Anne Marie, a woman he had taken over temporarily as a wife and whose husband was in prison, suspected of the crime of genocide.

MUKASHEMA pleaded guilty of the crime and she mentioned those who conspired with her to commit this crime. These were NSENGIMANA Tito, NZABAMWITA nicknamed KIDAHENDA, DUSABE SINDAYIGAYA Jean Claude, MUZEGA François, BIMENYIMANA Athanase, NGARAMBE Emmanuel and SEZERANO Edson. Others suspected of the crime and who were arrested were NGAYABARAMBIRWA Raphaël, SHIMIYIMFURA Célestin and USENGUMUREMYI Jean Damascène.

On 19 November 2004, MUKASHEMA and those in conspiracy with her were arrested and put in Nyanza Prison where they are waiting to be tried by the Chamber of the Supreme Court of the Republic.

3. Injuring of MUKAKINANI Bernadette and her friends with machetes.

On 28 May 2004, the Commission learnt about the injuring with machetes and the beating of MUKAKINANI Bernadette, NAKABONYE Bernadette and DUSABE Florida.

MUKAKINANI Bernadette is a resident of Muhora cell, DUSABE Florida, a resident of Rimbanya cell whereas NAKABONYE Bernadette lives in Runyinya cell, all these cells being in Gorwe sector of Nyaruguru district in Gikongoro Province.

After its investigations, the Commission learnt that, on 20 May 2004, at six in the evening, MUKAKINANI Bernadette and NAKABONYE Bernadette, while in Muhora cell, Gorwe sector, were beaten and injured with machetes by a gang of people. When they cried out for rescue, the neighbouring inhabitants came to help and the gang fled away.

Among the people in the attacking gang, MUKAKINANI Bernadette could identify SEBAZIGA Cyprien and RUBAYIZA Alphonse who had been hunting her out on the account that she had witnessed against them in connection with the crime of genocide.

On the date mentioned above, at around six thirty in the evening, when DUSABE Florida arrived just in front of MUKAKINANI Bernadette's home, she too was beaten by people she could not identify and she was badly injured. DUSABE Florida found herself surrounded by another gang that was waiting to attack MUKAKINANI Bernadette.

That very evening, the neighbours together with some security agents took the injured to the Kibeho dispensary.

On 21 May 2004, the Police made investigations in the Gorwe sector and RUBAYIZA Alphonse, SEBAZIGA Cyprien, GASEKURUME, SINDAYIGAYA Jean Marie Vianney, HABIMANA Emmanuel, NKURIYIMANA Alexis, NYANGEZI Jean Bosco, KARERANGABO Etienne,

MUGEMANGANGO Emmanuel and MUKANGANGO Anatolie were arrested and remanded in custody at the Police Station of Gikongoro Town.

The Commission notices that persecution of genocide survivors and those willing to tell the truth on what happened during the genocide is on the increase in Gikongoro Province. It therefore requests the authorities in this province to work out reliable strategies to fight ethnic ideology and to ensure protection of genocide witnesses and survivors.

The Commission requests further the judicial authorities to punish in an exemplary manner those found guilty and to provide for compensation to the victims.

- **Killings, persecution and threats to genocide survivors and those willing to tell the truth on genocide events, in Butare Province.**

During the year 2004, in Butare Province, MUKANZEYIMANA Valentine and NYIRAMISAGO Consolée, both genocide survivors were killed; NDAYITEGEYE Boniface and his wife MUKANDANGA Marie Thérèse were also killed though they were not genocide survivors.

In this province again and in almost all districts certain survivors were threatened and persecuted by people who suspected these to witness against them sometime. They did this to silence them and thus prevent them from giving witness on what happened during genocide.

1. The killing of MUKANZEYIMANA Valentine.

On 12 June 2004, MUKANZEYIMANA, married to HITAYEZU Boniface, was killed in Katarara cell, Ntyazo sector, Nyamure district in Butare Province, on the account that she had given witness against those who had killed her brother BIMENYIMANA Gérard, his wife and their children.

In its investigations, the Commission learnt that, at the forefront in planning to kill her were MUNIGANKIKO Jean Népomuscène known under the name of GASONGO, who was the actual mastermind of the plan, RWAGATORE Amiel, BIZURU and RUGEMINTWAZA Claude.

On 13 June 2004, the suspects were arrested by the Police and were remanded in Ntyazo Cell.

In the night of 23 June 2004, MUNIGANKIKO Jean Népomuscène, RWAGATORE Amiel, MUREKEZI Amiel and NYABYENDA Claude managed to escape.

The cases of these in remand have been completed and have been forwarded to courts.

2. The killing of NYIRAMISAGO Consolée.

NYIRAMISAGO Consolée was a 21 year old girl who lived with her mother KANKINDI Anastasie in Gihana cell, Nyamiyaga sector, Nyamure district in Butare Province.

On 30 July 2004, NYIRAMISAGO Consolée was killed by club blows, whereas her mother was seriously injured.

Following its investigations, the Commission found out that about eight of those suspected to involved in the crime had been arrested, including MUNYEMANA Sylvestre, the Gihana District Secretary and HATEGEKIMANA Silivani. Their case file was prepared by the prosecution which forwarded it to the Prosecutor's Office.

After the Commission had had discussions with the inhabitants of the district, administrative authorities and Police authorities, it surfaced that the killing of NYIRAMISAGO Consolée had been planned and that the Gihana District authorities had been implicated in the crime. In fact, night security surveillance had been organised but the District Secretary, MUNYEMANA Sylvestre, had purposely arranged such that the group on duty deviated from the place where the killing would take place. Moreover, SHUMBUSHO Alexis, the District Co-ordinator never came to the place where this horrible incidence had happened, and furthermore, the Assistant Mayor in charge of social welfare in Nyamure district confirms that the authorities of the district where NYIRAMISAGO Consolée was killed might have been implicated in her assassination.

3. The killing of NDAYITEGEYE Boniface and MUKANDANGA Marie Thérèse.

NDAYITEGEYE Boniface and his wife MUKANDANGA Marie Thérèse who used to live in Ruri cell, Fugi sector, Kibingo district in Butare Province, were killed in the night of 1st June 2004.

In its investigations, the Commission came to know that NZAKIZWANAYO Jean, known under the name of NYANDWI, was an infiltrator who had come from Burundi with the intention of recruiting young men and women to join and fight on the side of F.N.L./PALIPEHUTU and that he was the one who had made plans to kill NDAYITEGEYE Boniface and his wife MUKANDANGA Marie Thérèse.

NZAKIZWANAYO Jean killed NDAYITEGEYE Boniface and his wife after taking from them the sum of fifty thousand francs (50.000 Fr) they had collected from their sale.

The Butare Police informed the Commission that this armed robbery aimed at killing genocide survivors and take away their property as a means to collect contributions to send to parties working side by side with "*Interahamwe*" militia who want to continue genocide.

The Commission learnt also that the Butare Police had discovered an armed group of eighteen (18) people who were working with NZAKIZWANAYO Jean. The group resisted against the police but the latter killed six among the group and arrested twelve (12) who were disarmed. Altogether, ten guns and some hand grenades were taken away from the group. The twelve arrested are currently imprisoned in Karubanda Prison.

4. Persecution and threatening acts.

Such acts exist in the form of tracts and other anonymous texts, all aimed at frightening and heart breaking genocide survivors. This was observed mostly in Maraba district, Butare Town

and in secondary schools like Nyanza Science School, Saint Jean Baptiste Secondary School in Gahinga, Kansi Secondary School and Rusatira Secondary Scholl.

On 20 June 2004, in the Mataba communal settlements, Buhoro sector, Nyakiso district, NGARAMBE Gérard, MASUMBUKO André and SAMARI Vénuste had their huts set on fire, together with their cowsheds and latrines, though they managed to put out the fire on the living huts. On 24 August 2004, their property was once again set on fire.

In Butare Town, in Kaburemera and Vumbi sectors, some unknown people set on fire the houses of genocide survivors.

In Gisasa sector, SEBUJANGWE's home was attacked but he was spared simply because he happened not to be at home; Beltilde who was married to NYANDWI Célestin was also lucky because when NGANYIRENDE came to his home with the aim of killing him, the latter was arrested before he put his plans into action. Since then, stones were continuously being thrown onto NYANDWI Célestin's house.

In Ntyazo sector, MAKWANGARI Ladislav had his home attacked at night and the pieces of wood he used as gate lockers were set on fire; attacks were also organised to kill MUKANTAGENGWA Geneviève but the plans were thwarted; as for MUKANTIBABAZA Daphrose, the neighbours confirm that she hardly gets sleep because of frequent threatening attacks to her house. MUKAGAHUTU on her part, has stones constantly falling on her house or knocks banging at her doors.

In Mbuye sector, HITIYISE and his son, BAKAME were attacked and injured by machete blows. They were hurried to hospital totally unconscious.

It was also observed that in Cyarwa-Sumo and Nyanza, sectors within Butare Town and in Cyinteko sector in Save district acts of throwing stones on house roofs or breaking windows and doors were frequent.

Apart from these harassment acts, genocide survivors are constantly told heart breaking words.

Such heart breaking words and sayings were reported in Nyakibingo sector of Nyamure district, in Ngoma and Nyaruhengeri sectors of Kibingo district.

Other harassment acts were in the form of injuring and killing domestic animals, as observed in Kato and Kanazi sectors of Kiruhura district.

After seeing that the problem of killing and persecuting genocide survivors and those willing to tell the truth on what happened during genocide becomes more and more serious, and that unless something is done about it, it might spread throughout the country, the Commission undertook to carry out countrywide investigations on the security of genocide survivors and those willing to tell the truth on events of the 1994 genocide. A report on these investigations will be published in the near future.

It is the Commission's opinion that all institutions in the country should be all out to fight these harassment and persecution acts, especially as they find roots in genocide ideology. The Commission recalls to attention the fact that every Rwandan citizen has the duty to protect and preserve his own security and the security of others. The Commission recalls also that it is the Government's duty and indeed the duty of the citizens, to ensure the security of those individuals targeted by those people who want to carry forward the genocide in Rwanda.

E. Delaying cases and non execution of judgements.

For the cases reported to the Commission, it finds that the major causes for the delay of cases are the following:

- Absence of judges and parties to a case;
- Parties who fail to raise the money required for the travel of judges going to carry out further investigations or to come to the spot where the object of contention is found, and thus they remain in suspense;
- Insufficient number of judges in the Supreme Court in relation with the great number of cases in the court;
- Delays in issuing copies of court judgements to the parties or not issuing them at all, thus making it difficult for the unsatisfied party to appeal, due to lack of evidence of the basis for their appeal when necessary.

Regarding non execution of judgements, the Commission finds that the major causes are:

- Delays in issuing copies of judgements to the parties could make it difficult for competent authorities to find a basis for executing these judgements;
- Judges who do not sign copies of judgements. In particular, during the year 2004, after the reforms effected in the judiciary, some Judges could not be traced due to the fact that some had lost their job, whereas others had been transferred elsewhere;
- Delays in forwarding the cases to courts where appeals have been lodged.

In its annual report for the year 2004, the Commission presents some of the complaints reported to it during the year, in connection with delayed cases and those for which judgement was not executed.

- **Delayed cases.**

1. **The case of Corporal UBONEYIMFURA Déo.**

On 31 January 2003, Corporal UBONEYIMFURA Déo who is imprisoned in Mulindi Military Prison at Kanombe in Kigali City, wrote to the Commission saying that he had been put in prison by the Military Prosecution. He had gone through all Military Courts, and having lost the case, he was sentenced to death in the case n° RPA 0100/C.M./99 for which he requested cassation.

Corporal UBONEYIMFURA Déo requested the Commission to help him to appear to court soon for trial.

The Commission recalls that details of the issue of Corporal UBONEYIMFURA Déo were given in its report for the year 2003¹.

In its conclusions, the Commission found that Corporal UBONEYIMFURA Déo had been denied his rights to be tried within reasonable time and requested that he should do so without delay.

Corporal UBONEYIMFURA Déo was at the head of soldiers in charge of the security of Nyange Secondary School in Budaha district, Kibuye Province. The charges against him are that, on 17 March 1997, when infiltrators attacked the school he left to themselves the students of the school he had been assigned to protect, thus enabling the infiltrators to kill five among the students, injuring many others.

The Commission continued to follow up the issue of Corporal UBONEYIMFURA Déo and found that no hearing of his case had been scheduled due to the exercise of file sorting then in process at the Supreme Court.

Based on the nature of the object in contention, the sentence pronounced against Corporal UBONEYIMFURA Déo and the duration of the issue thus far, the Commission requests the Supreme Court to have him tried without delay.

2. The case of AYABAGABO Jean de Dieu.

On 18 May 2003, AYABAGABO Jean de Dieu, a resident of Gashonga district in Cyangugu Province, wrote to the Commission requesting reinstatement of his rights. He had a case n° RCA 12386/Kig between him and KANAMUGIRE Ildephonse in connection with a plot containing a house, which case was being handled by the former Kigali Court of Appeal since 21 May 1998 and he wanted this case to be tabled in court for normal proceedings.

He said the case had already been handled in court more than ten times. Until the day he was writing, the hearing of the case had been suspended because the judges had planned some trips to visit the property in contention and yet these trips had not taken place.

The first trip was to lead to Cyangugu on 14 November 2002. When the date came, he waited for those who were to travel with him but he saw nobody. He was later informed that he was the one expected to pay a hundred and four thousand francs (104.000 Frw) as travel allowance for those who would accompany him, a part from the vehicle and fuel. In AYABAGABO's opinion this was a kind of impediment to the progress of his case, in attempt to make him give up his property.

The issue of AYABAGABO Jean de Dieu had already been explained in details in the Commission's report for the year 2003.²

¹ The Commission's annual report for the year 2003, page 32-33 (Kinyarwanda version)

² The Commission's Report for the year 2003, p.38-40.

In its conclusions, the Commission found fault with the conduct of the Acting President of the former Kigali Court of Appeal with regard to AYABAGABO Jean de Dieu's case. He took advantage of the disputant's weakness to delay proceedings of his case.

The Commission requests the Supreme Court to do all it can so that this case of AYABAGABO Jean de Dieu which for the entire seven years, has been lying in the hands of the Court of Appeal could at last be tabled in court for trial.

3. The case of NIMUKUZE Pascasie.

The Commission recalls that the question of NIMUKUZE Pascasie, a resident of Nyabushingitwa cell, Mukono sector, Rushaki district in Byumba Province was reported in great detail in the annual Report for the year 2003³.

As said by the Commission in its report for the year 2003, proceedings of this case had been stopped because NIMUKUZE Pascasie had been asked to provide means of transport for the judges to go to the site where the object of contention was found. The vehicle could not be availed due to NIMUKUZE Pascasie's financial inability.

In its conclusion, the Commission asked the Byumba Court of First Instance not to be based on NIMUKUZE Pascasie's poverty to deny her her rights of being tried within reasonable time.

NIMUKUZE Pascasie had written to the Commission on 27 October 2003 reminding it of her complaint in connection with case n° R.C. 357/XXVII/2001/BY which was being handled by the Byumba Court of First Instance since the year 2001. The case was between her and BUZOYA Dismas (her paternal brother) and the dispute concerned inheritance of NIMUKUZE Pascasie's mother, NANGWAHAFI (now dead), but the proceedings of the case continue being delayed.

In the 2003 annual report, the Commission asked the higher authorities in the country to do every thing possible so that the courts could get the requirements necessary for the smooth carrying out of their duties. Thus would come to an end the tendency to ask the parties to struggle on their own if they wanted their cases to progress.

The Commission carried out investigation and found out that on 14 May 2004, the Byumba Court of First Instance went to the site where the object of contention was; on 19 May 2004 the proceedings of the case went on and the judgement was pronounced on 27 May 2004.

NIMUKUZE Pascasie won the case, and BUZOYA Dismas was ordered to surrender the two pieces of land in dispute. On 26 October 2004, the delegation of the Commission came to the Byumba Court of First Instance in the context of following up this issue, and they found that NIMUKUZE Pascasie had not yet received a copy of the judgement because the judge by the name of RUGANZU Obed had not yet signed it; and as he was not a judge any more, it was not easy to trace him.

³ The Commission's annual Report for the year 2003, p.34.

The Commission therefore requests the concerned authorities to do every thing possible to enable NIMUKUZE Pascasie get back her rights in accordance with the decision of the court that handled the case.

4. The case of NDIZIHIWE Vénuste.

On 7 January 2004, UWIZEYIMANA Victoire, a resident of Buremera sector, Nyaruguru district in Gikongoro Province wrote to the Commission requesting it to approach the relevant authorities so as to enable her husband, NDIZIHIWE Vénuste to be tried.

In the case n° RMP 90600/S3/KD/ST-RP 561/4/02, the charges against NDIZIHIWE Vénuste are that on 19 October 2000, he, together with MURERE Philippe was involved in an armed robbery. The two men also allegedly raped two girls, daughters of one KAMBARI. This case has been postponed eight times, precisely on the following dates: on 9 February 2002, on 5 December 2002, on 17 December 2002, on 21 October 2003, on 29 October 2003, on 7 November 2003 and on 19 November 2003. The court did not give any convincing reasons for this repeated postponement.

The delegation of the Commission advised UWIZEYIMANA to tell her husband to write again to the Gikongoro Court of First Instance, requesting it to fix another date for his case proceedings. Meanwhile, the delegation of the Commission requested that the case should not be postponed again. The proceedings of the case took place on 2 April 2004 and the judgement was pronounced on 20 May 2004. NDIZIHIWE Vénuste and MURERE Philippe were sentenced to a five year imprisonment each, and a fine of three hundred thousand francs (300.000 Frw) which they were to pay jointly as damages.

The Commission notes that this case was postponed many times and without any reasons given by the judges.

5. The case of HITIMANA François.

On 1 April 2004, HITIMANA François who lives in Mubuga cell, Kinteko sector, Save district in Butare Province reported to the Commission an issue regarding the delay of a case against which an appeal had been lodged requesting that it should be forwarded to another court.

HITIMANA François lodged a complaint as a civil party claiming damages, in the case n° RC 18917/50/01 against NSHIMIYIMANA Henri who allegedly had killed HITIMANA's brother, by the name of NDEKEZI Augustin. NSHIMIYIMANA was a police officer in Shyanda district. The court sentenced him to five years imprisonment but HITIMANA was not satisfied with this settlement of the case. He appealed on 11 April 2002 but the case was not forwarded to the Nyabisindu Court of Appeal where he had lodged the appeal. HITIMANA sought assistance of the Commission to ask the Court of First Instance to quickly transfer his case file to the Nyabisindu Court of Appeal. He actually feared that the five year period of the said sentence would elapse before the case file is transferred.

A delegation of the Commission went several times to the Butare Court of First Instance to monitor the progress of this case file. On 1 April 2004, the case file was looked for but could not be

found; on 5 April 2004, it was found with the judge who was recording its contents, and on 6 May 2004, the case file was transferred to the Nyabisindu Court of Appeal.

The Commission requests those responsible for the transfer of case files to courts of Appeal to do so quickly so as to avoid violation of the parties' rights to be tried within reasonable time.

6. The case of MUKABAZIGA Suzanne.

On 2 June 2004, MUKABAZIGA Suzanne who resides in Ruyege cell, Muzenga sector, Save district in Butare Province reported her complaint to the Commission regarding the delay of case n° RCA 9583/134 between her and her husband, MINANI and for which she had lodged an appeal.

MUKABAZIGA Suzanne had married MINANI legally. Later, MINANI chased her away and got another woman. MUKABAZIGA lodged a plaint in Butare Court of First Instance, in the case n° RC 18613/49/2000, claiming that MINANI kept for himself the family's property, giving it to another woman not married to him legally. The judgement of the case was pronounced on 23 February 2001. The court ordered that the entire property of the family should belong to the first wife's home, that the concubine should have no claim over it and that indeed she should be sent away.

MINANI was not satisfied with this judgement which had been passed in his absence. On 28 February 2001, he applied for opposition of the judgement and the new case was registered under n° RC 18928/51/01 in the Butare Court of First Instance. The judgement of this case was pronounced on 30 January 2004. The court ordered that MUKABAZIGA should be allocated the piece of land she was living in, the small piece of land and terraces in the valley, a small piece of land which is in Buhurambuga cell, three cows and four goats. She would also receive half of the rent of a house situated at Gisagara centre, less government taxes. MINANI was unsatisfied with this judgement. On 12 February 2004, he appealed to Nyanza Court of Appeal and the appeal was registered under n° RCA 9583/134. MUKABAZIGA finds that the proceedings of this case are being delayed.

MUKABAZIGA sought the Commission's help saying that the property the Court of First Instance declared as her right was not given to her and the Nyabisindu Court of Appeal was not summoning her for trial.

The Commission's delegation went to follow up this case in the Nyanza Court of Appeal and was told that the problem was that, the Court had sent for the case file from the Butare Court of First Instance but that till then it had not reached them yet. This made it necessary for the Commission's delegate to go and investigate into this affair in the Butare Court of First Instance. The court promised they were going to finish preparation of the case file and forward it.

The Commission notices that this question of transferring case files to the Nyanza Court of Appeal is a problem shared by many people who complain that the process is too slow. The new authorities of the courts in Butare should be quick to settle such problems as the case of MUKABAZIGA Suzanne, caused by their predecessors.

The Commission will continue follow up of this matter.

7. The case of MUKANKUSI Rose.

On 20 October 2003, MUKANKUSI Rose who lives in Gatara cell, Kavumu sector, Kisaro district in Byumba Province, wrote to the Commission asking for assistance so that the case n° R.C.A 348/XXX/89/By which has been delayed for so long by the Byumba Court of First Instance could be tabled for trial.

In the case n° R.C.A 348/XXX/89/By, MUKANKUSI Rose has a dispute against MUCYARA Spéciose over a piece of land, in the Byumba Court of First Instance, since 28 September 1989. The case was scheduled to be heard for the first time on 15 May 2001 but it was not.

In the investigations carried out, the Commission learnt that the parties to the case have been summoned eleven times as shown in the table below:

Date	Findings of the Commission
6/2/2001	The opponent of MUKANKUSI Rose did not appear
29/5/2001	Both parties did not appear
16/1/2002	For unknown reason
5/3/2002	For unknown reason
4/6/2002	MUKANKUSI Rose's opponent, summoned from an unknown address did not appear
24/9/2002	MUKANKUSI Rose's opponent, summoned from an unknown address as well as the prosecution did not appear
8/1/2003	MUKANKUSI Rose's opponent did not appear
23/4/2002	MUKANKUSI Rose's opponent did not appear
2/5/2003	MUKANKUSI Rose's opponent did not appear
20/10/2003	MUKANKUSI Rose's opponent did not appear
26/11/2004	The judges did not appear, for there was a meeting for all the Provincial Court Staff.

The Commission wrote to the President of Byumba Court of First Instance the letter n° CRDH/137/04 inquiring about the nature of MUKANKUSI's complaint so the Commission could follow it up, but there was no reply.

On 8 September 2004 a delegation of the Commission went to Byumba Provincial Court following up the same case file and was told that the process of sorting out case files was going on. The delegation was informed that by the end of October 2004 this process will have been completed, thus the case files would be sent to the relevant courts.

Until 17 November 2004, when the Commission went again to the Byumba Provincial Court, the Commission's delegation found that nothing had been done about MUKANKUSI's case.

The Commission recommends that proceedings of this case be scheduled quickly because it has been pending for many years.

8. The case of NDEMEZO Appolinaire.

On 9 December 2003, NDEMEZO Appolinaire of Munini cell, Shangasha sector, Rushaki district, Byumba Province wrote to the Commission requesting assistance in reinstating his rights regarding case n° R.C. 322/XXVII/01/BY which is being handled by Byumba Court of First Instance. In that case, NDEMEZO Appolinaire filed an action for damages caused to him in connection with a criminal case he won earlier. He wants the new case to be tabled for hearing, thus he would be spared from the constant to and fro trips.

NDEMEZO Appolinaire was shot at by a policeman by the name of RUBAYIZA John from the former Mukarange commune, resulting in amputation of his leg. The prosecution lodged a complaint against the policeman in the case n° RMP 13.188/CT/S3/AD/RBS-RP 434/XXI/1999/BY handled by the Byumba Court of First Instance. The policeman lost the case. Based on the criminal case n° RP 434/XXI/1999/BY, NDEMEZO Appolinaire filed an action for damages. The case was registered under n° R.C. 322/XXVII/01/BY. The court ruled that the former Mukarange commune which has become the current Rushaki district should intervene in the case.

The case was convened three times so that NDEMEZO Appolinaire could be heard and does not continue going to and fro to the court. However, for all these three times, the Rushaki district authorities did not respond to the summons.

After investigations, the Commission wrote to the President of the Byumba Court of First Instance on 8 June 2004, wanting to know the progress of this case, but there was no reply.

At the time of preparing this report, the case n° R.C. 322/XXVII/01/BY had not yet been convened for hearing. The Commission learnt that after the reforms effected in the judiciary, this case was transferred to the Rushaki District Court on 13 October 2004, and was given no R.C. 138/R1/04/TD/RKI. The Commission learnt further that this case was scheduled to convene on 22 February 2005.

The Commission recalls to mind that NDEMEZO Appolinaire had his leg amputated and that laws exist providing that special attention should be drawn to handicapped persons. Article 18 of the African Convention on Human and Peoples' Rights for example states "The aged and disabled shall also have the right to special measures of protection in keeping with their physical or moral needs".

The Commission finds that the failure of Rushaki district to appear in court caused the case to be postponed many times. The Commission has pointed out in its earlier reports that often the authorities do not respond to courts' summons and as a result they themselves violate the rights of certain people whose rights they are supposed to protect.

The Commission appeals to the Ministry having internal affairs in its duties to follow up the leaders who behave in this manner.

9. The case of RUTABAGUZA Jean.

On 26 February 2004, RUTABAGUZA Jean, a resident of Zoko sector, Kisaro district in Byumba Province wrote to the Commission requesting assistance so that the case he reported to the Byumba Court of First Instance as early as the year 2002 be tabled for hearing. The object of the case is the cows and pieces of land he disputes with MUKANKUBANA Agnès.

RUTABAGUZA Jean has a dispute with his former wife MUKANKUBANA Agnès, over cows and pieces of land. This case in which MUKANKUBANA Agnès is the plaintiff against RUTABAGUZA Jean, started in the Buyoga Canton Court on 7 January 2002 under n° R.C. 04/1/2002/BYG and RUTABAGUZA Jean was declared the loser. The court ruled that the family's property was to come under the care of the husband together with his wife MUKANKUBANA. RUTABAGUZA Jean was not satisfied with this ruling and he appealed to the Byumba Court of First Instance on 5/4/2002. After the reforms within the judiciary, the case is now in the Byumba Provincial Court, under n° RCA. 0049/04/BBA-RCA 206/XXIX/02/BY.

While following up this case file, a delegation of the Commission went to the Byumba Court of First Instance on 28 June 2004, to find out the reasons why the case had been delayed for so long. The delegation found out that the case had been convened on different dates and was postponed many times as indicated in the table below:

Date	Findings of the Commission
30/10/2002	MUKANKUBANA's opponent did not appear
06/11/2002	The parties were asked to go and bring their marriage testimonials
27/11/2002	The court jury was not complete
6/2/2003	For unknown reasons
9/4/2003	Both parties did not appear
28/5/2003	MUKANKUBANA did not appear because she had had her leg broken
25/6/2003	For unknown reasons
23/7/2003	MUKANKUBANA did not appear and there is no evidence that she got the summon
22/10/2003	Both parties did not appear
28/1/2004	The reason could not be known
5/2/2004	The court jury was not complete
17/2/2004	On that day, the working hours were over without their being tried
25/2/2004	The judges who initially handled the case did not appear
18/3/2004	Both parties did not appear

On 28 June 2004, the Commission addressed the letter n° CRDH/162/04 to the President of the Byumba Court of First Instance informing him of the complaint reported to it, but he did not reply.

At the time of writing this report, the Commission learnt that the judgement had been pronounced regarding the case n° RCA. 0049/04/BBA-RCA. 206/XXIX/02/BY. The Byumba

Provincial Court had ordered RUTABAGUZA and MUKANKUBANA to jointly take care of the property they own together, consisting of two cows and the house occupied by MUKANKUBANA.

The Commission finds that this case has been postponed many times, mostly because of excuses from the court, and this postponement amounts to violation of parties' rights to appear to court within reasonable time.

- **Non execution of judgements.**

1. **The case of KABERA Théoneste.**

On 20 June 2003, KABERA Théoneste from Gakirage sector, Kahi district, Umutara Province, wrote to the Commission informing it of the injustice done to him and his colleague, KAYONGA Tito by the Ministry of Health.

KABERA Théoneste claims that on 30 November 1997 he and KAYONGA Tito were sacked unjustly from the Nyagatare hospital where they used to work as watchmen. Their employer accused them of causing the theft of the hospital's motorcycle. Investigations carried out by the police indicated that no evidence was found as to cause these men to be prosecuted.

After it had been established that these men were not guilty of theft of the said motorcycle and even the thieves had been arrested, KABERA Théoneste and KAYONGA Tito requested to be reinstated in their job but the employer refused. They reported their problem to the Labour Officer in Umutara Province.

On 10 April 2000, the Umutara Provincial Labour Officer wrote to the administration of the Nyagatare hospital pleading for the two men. Following this letter, KAYONGA Tito was reinstated but KABERA Théoneste was denied reinstatement.

On 26 April 2001, KABERA Théoneste lodged a complaint against Rwanda Government (Ministry of Health) in the Court of First Instance of Umutara Province and the case was registered under n° RC 002/R1/01/MTR. Proceedings went on and the judgement was pronounced on 17 September 2002. The court ruled that Rwanda Government (Ministry of Health) which had lost the case should reinstate KABERA Théoneste into his job and pay him three hundred eighty four thousand five hundred francs (384.500 Frw) as damages for disturbance and expenditure on this case.

On 13 October 2003, the Commission consulted the Administrative Officer in the Nyagatare hospital, GAPINGI Sophonie and he said if the Ministry of Health accepted to reinstate KABERA Théoneste and to pay his salary, the hospital would have no problem to accept him on the job.

Regarding the damages due to KABERA Théoneste, GAPINGI Sophonie argued that this was the responsibility of the Ministry of Health.

The Commission blames the administration of Nyagatare hospital for they discriminated against KABERA Théoneste by refusing him reinstatement whereas they accepted his colleague who had been accused of the same crime as he.

The Commission also appeals to the Ministry of Health to respect court decisions, and let KABERA Théoneste be given all the money due to him without complications.

2. The case of URAYENEZA Séraphine.

On 28 November 2003, URAYENEZA Séraphine of Kigali cell, Rwahi sector, Shyorongi district, Kigali-Rural Province reported to the Commission her complaint regarding the fact that she was not given the property declared as her right by the court.

URAYENEZA had a case n° RC 7380/84 against her husband who had left her. The case was handled by the Kigali Court of First Instance, and the judgement was pronounced on 26 September 1985. URAYENEZA was claiming that UZARIBARA Gérard who had been her husband (now dead) allocates to her part of the property to enable her bring up the children they have had together. URAYENEZA won the case but the decision of the court was not executed, such that the piece of land declared by the court as her share was still occupied by the new wife and the children she has had with UZARIBARA.

Two letters have been written wanting to see the court's judgement executed but it was not:

- On 18 August 2003, the letter n° 396/07.04/02 addressed by the Shyorongi District Mayor to the Co-ordinator of Rwahi sector asking him to execute the court decision regarding the case n° RC 7380/84;
- On 11 November 2003, the letter n° 484/06.04/H.S/B.A written by the Bailiff of the Kigali Court of First Instance reminding the Co-ordinator of Rwahi sector to implement the court decision regarding URAYENEZA Séraphine's case. However all this was in vain.

As the District Mayor had resigned, the delegate of the Commission met the Executive Secretary on 4 June 2004 and together they discussed this issue. The Executive Secretary agreed he would soon take action about it.

The Commission carried forward investigations and found that the court judgement had been executed on 18 June 2004 by the Acting Co-ordinator of Rwahi sector, by the name of MPABUKA Phocas.

Although the case has now been settled, the District authorities, and more particularly the Co-ordinator of Rwahi sector, have been negligent with regard to this issue.

The Commission recommends that such leaders should be followed up, otherwise this would amount to entertaining injustice.

3. The case of NTAMITARIZO Xavier.

On 27 July 2004, NTAMITARIZO Xavier, who lives in Rukore cell, Ruhinga I sector, Bugarura district, Ruhengeri Province, reported to the Commission a complaint regarding non execution of the judgement in a case he had won.

NTAMITARIZO Xavier accuses the Officer in charge of social affairs, MBARUSHIMANA Christophe, claiming that the latter made it difficult for him to have the court judgement executed regarding the case between him and BIGIRABAGABO Gabriel.

NTAMITARIZO Xavier had a dispute against BIGIRABAGABO, over a piece of land and they appeared in the Bugarura Canton Court in the case n° RC 108/RI/2000. BIGIRABAGABO lost the case, and he appealed in the name of an Association called ABATERANKUNGA to the Court of First Instance, arguing that the piece of land in contention is not his but belonged to the Association and that the Association had borrowed it from Bugarura district. The case was given n° RCA 22252/R55/2000; the judgement was pronounced on 28 March 2003 and again NTAMITARIZO Xavier won the case.

On 13 November 2003, the Bailiff in the Ruhengeri Court of First Instance went to execute the court decision, the District authorities intervened saying the piece of land did not belong to BIGIRABAGABO but it had been lent to the Association by the district. The district did this and yet it had not intervened when the case was going on and it had given to NTAMITARIZO a certificate of ownership of the piece of land.

On 2 June 2004, representatives of the Commission in Ruhengeri Province went to see the Bugarura District Officer in charge of social affairs mentioned above and wanted to know from him why the district did not want the case to be settled; showing him that there was no reason for the district to stop execution of the court decision. He told the representatives of the Commission that on 9 June 2004, he would come and execute the court the decision actually asked them to be present.

On the fixed date, the representatives of the Commission came to the place and waited for him but he was no where to be seen; on 18 June 2004, the representatives of the Commission went there again, and this time he showed them a letter addressed to NTAMITARIZO by the district informing him that the piece of land was situated in a swamp and that swamps are Government property. The representatives found out that this letter, not copied to them, had been written on 13 June 2004. This was an indication that some of the Bugarura district authorities must have personal interest in the piece of land declared by the court long ago as NTAMITARIZO's rights.

At the time of preparing this report, the Bugarura district authorities informed the Commission's representatives in Ruhengeri Province that they were going to call for NTAMITARIZO and settle his case saying however they would take the land away from him, based on the law governing environment protection.

On 16 November 2004, when the same representatives went to see the Bugarura District Mayor on the matter, he informed them that he had asked the District Political and Social Affairs

Officer by the name of MBARUSHIMANA Christophe to write to NTAMITARIZO informing him of the date they would come to settle the case, but MBARUSHIMANA did not write the letter.

The Commission blames the Bugarura district authorities which violated the rights of the very people whose rights they are supposed to protect; such as NTAMITARIZO who found his rights to property violated; moreover, the same authorities disregarded the court decisions.

The Commission also blames these authorities for not telling the truth with regard to this case.

The Commission asks the Ministry in charge of Local Government, Good Governance, Community Development and Social Affairs to do every thing possible to have this issue settled and to take measures against all those involved in violating the rights of NTAMITARIZO.

4. The case of NYIRABASARE Zayina.

On 12 June 2004, NYIRABASARE Zayina, a resident of Rurembo cell, Rubona sector, Nyamyumba district, in Gisenyi Province, wrote to the Commission requesting execution of the court decision in connection with a case she had won.

NYIRABASARE informed the Commission that she was knocked down by a motorcycle on 2 November 2001, resulting in body injuries. In the case n° RP 843/R3/2003 heard on 6 May 2003 the court ordered NTIRUGIRIMBABAZI Donatien who was the motorcycle driver to pay damages amounting to one hundred thousand francs (100.000 Frw) but he refused to pay this sum.

NYIRABASARE Zayina informed the Commission that when she asked the Bailiff of the Gisenyi Court of First Instance to go and execute the court decision on this case, the Bailiff said he had no money to travel for the purpose.

The delegation of the Commission went to see the President of Gisenyi Court of First Instance on 18 June 2004, and he said he was going to follow up the matter. He added that he was going to summon NTIRUGIRIMBABAZI Donatien for the last time and ask him why he does not pay the money and that if he still refuses to pay, this sum will be recovered by from his property by the Government authorities.

When he was summoned on 28 June 2004 by the President of the Gisenyi Court of First Instance, NTIRUGIRIMBABAZI Donatien explained to him that he had been unable to pay the sum due to problems he had found himself facing. He accepted to pay a sum of twenty thousand francs (20.000 Frw) every month starting 28 July 2004 until he finishes paying the debt and he signed this commitment.

At the time the Commission was preparing this report, it learnt that NTIRUGIRIMBABAZI Donatien was not living in Gisenyi Province any more.

The Commission will continue to follow up this case to find out whether NYIRABASARE Zayina has been paid the whole sum owed to her.

5. The case of NDEREYEMUNGU Augustin.

On 5 January 2004, NDEREYEMUNGU Augustin of Gihundwe A, in Kamembe town, Cyangugu Province wrote to the Commission requesting assistance regarding execution of the judgement in case n° R.C. 1539/R4/98 passed by the Cyangugu Court of First Instance on 17 October 1999, in a case he had had against the former Gishoma commune together with an inhabitant by the name of RYANZEKWIRA Sylvestre. The court declared that NDEREYEMUNGU Augustin had the right over a sum of money equivalent to four hundred thirty three thousand three hundred and eighty francs (433.380Fw) together with a piece of land.

The Commission informed this to the Mayor of Gashonga district which includes former Commune of Gishoma, in Cyangugu Province, on 31 March 2004. The Commission was requesting the District Mayor to report to it the nature of this issue and the decision that might have been reached in this regard.

On 25 May 2004, the Gashonga District Mayor replied in the letter n° 539/07.16/07 addressed to the Mayor of Cyangugu Province with a copy sent to the Commission. In the letter, the Mayor said that the district had paid the money to NDEREYEMUNGU Augustin on 17 May 2004 and that only the question of land remained unsettled but was being handled by the Bailiff of Cyangugu Court of First Instance. The Mayor added that they were prepared to assist NDEREYEMUNGU Augustin where he will need their help within their responsibilities.

On 25 October 2004, the Commission's representatives went to see NDEREYEMUNGU Augustin. He showed him copy of the report on the execution of the court decision carried out on 18 April 2000 by the court Bailiff, KAYIHURA Ephraim.

However, after investigations, the Commission found out that, though NDEREYEMUNGU had the court decision executed, part of his claim remained, consisting of a piece of land measuring 32 m by 22,5 m occupied by SEGATARAMA François' household.

On 28 October 2004, the representative of the Commission went to see the Assistant Mayor in charge of Social Affairs together with the Executive Secretary in Gashonga district with a view to inquire about the reason why the district was not settling the matter and let NDEREYEMUNGU Augustin be given the remaining part. Their answer was that the district could not execute the court decision regarding a case in which it was an interested party, though it would help the Bailiff who would come to do the execution so that the decisions he would take could be actually adhered to.

The Commission blames the Gashonga district authorities because, as leaders responsible for protecting the people's rights they should, from their own initiative, have executed the court decision without waiting for the intervention of the court Bailiff. Moreover, the amount of money paid was given late.

6. The case of KAYITABA NYIRANDEGE Marie.

On 6 February 2004, KAYITABA NYIRANDEGE Marie who lives in Gisagara cell, Rugeza sector, Impala district in Cyangugu Province reported to the Commission a complaint that

execution of judgement regarding case n° R.C. 3788/2001, decided on by the Gafunzo Canton Court does not take place. In this case, KAYITABA NYIRANDEGE Marie disputed with her son, NSENGUMUREMYI Emmanuel, over the property left to her by her husband.

The Gafunzo Canton Court heard on 5 November 2001, the case n° R.C. 3788/2001 between KAYITABA NYIRANDEGE Marie and her son, NSENGUMUREMYI over the property comprising a piece of land in use, left by her husband. The court settled the case and ruled that "NSENGUMUREMYI should let NYIRANDEGE do as she willed with the property left to her by her husband KAYITABA". Execution of judgements regarding this case never took place allegedly because the Co-ordinator of Rugeza sector wanted to implement it in a manner contrary to the court decision.

On 16 June 2004, the Commission wrote a letter to the Mayor of Impala district wanting to know why the court decision on this case was not being executed, but the letter got no reply.

A representative of the Commission went to see the Co-ordinator of Rugeza sector, GAKUSI Alfred, and inquired about the non settlement of the matter. He answered that when he went to execute the judgement, KAYITABA NYIRANDEGE Marie refused because according to her the exercise was not being conducted properly.

On 10 December 2004, the representative of the Commission met both parties to the case and found out that the issue had not yet been settled.

The Commission blames the working of the Co-ordinator of Rugeza sector, GAKUSI Alfred, for he should have executed the court decision as ordered by the court, and if NYIRANDEGE was unsatisfied she would complain against the execution exercise.

The Commission requests Impala district authorities to find quick solution to this matter in accordance with the decision of the court that heard the case.

7. The case of MUKAGAKWANDI Marie.

MUKAGAKWANDI Marie who lives in Nyagishubi cell, Kibirizi sector, Mudasomwa district, Gikongoro Province reported verbally to the Commission a complaint that the Mudasomwa district authorities did not want to execute the court decision in connection with case n° RCA 0453/2/98 of 8 June 2000. In that case, MUKAGAKWANDI disputed with MUSABYIMANA Zabuloni over a piece of land in Gikongoro Court of First Instance and she won the case.

Representatives of the Commission discussed many times with the Mudasomwa district authorities asking them to settle the case n° RCA 0453/2/98 and let MUKAGAKWANDI be given her piece of land as ruled by the court.

On 25 February 2004, the representatives of the Commission went to Mudasomwa district but they could not meet the District Mayor, instead they met the Assistant District Mayors responsible for Youth and Women Affairs. These said they were going to do everything possible to enable MUKAGAKWANDI get her dues.

On 27 April 2004, the representatives of the Commission met the Acting Mayor of the district, MUNYAMPENDA Célestin, and he fixed them an appointment to come back on 11 May 2004, but he did not respect the appointment. The representatives went back to the district on 3 June 2004, and the Acting Mayor of the district fixed them another appointment to meet him on 18 June 2004 at Kibirizi, the locality where the object of contention was. On the said date the representatives went to the place where the object of contention was located and found that the concerned parties had not been informed that they were required to report there. The Acting District Mayor told the representatives of the Commission there and then, that on 7 July 2004, he was going to settle the matter. However, by the end of the year, no solution had yet been found to the issue.

The Commission blames the working of the Acting Mayor of Mudasmwa District, MUNYAMPENDA Célestin, who did not show willingness to settle the problem of a citizen whose rights he is supposed to protect. Nor did he respect the court decisions, not even the appointments he himself fixed.

The Commission requests the Ministry of Local Government, Good Governance, Community Development and Social Affairs to do everything possible so that this issue finds solution.

8. The case of MUKAKARANGWA Véronique.

On 23 June 2004, MUKAKARANGWA Véronique who lives in Cyamuganza cell, Kibiyagira sector, Mudasmwa district, in Gikongoro Province, brought to the Commission a complaint concerning non execution of the court ruling regarding a case she had had against her husband.

MUKAKARANGWA Véronique lodged a complaint against her husband, HAZABUMUHANGA, in Gikongoro Court of First Instance requesting body separation. The case was given n° RC 20945/02, and the ruling pronounced on 13 December 2003.

In the pronouncement, MUKAKARANGWA was granted the body separation she requested, and the court ruled that "MUKAKARANGWA and HAZABUMUHANGA should continue to jointly take care of the children, to share equally the movable property they together worked for; HAZABUMUHANGA should pay MUKAKARANGWA damages equivalent to fifty thousand francs (50.000 Frw). However, HAZABUMUHANGA did not respect the court decisions.

MUKAKARANGWA requested the Commission to help her and ask the Mudasmwa district authorities to execute the court ruling because up to the day she submitted the complaint to the Commission, the district had just ignored her.

On 30 June 2004, the representatives of the Commission went with MUKAKARANGWA to Mudasmwa District Office. They explained the nature of the issue showing to the Acting Mayor of Mudasmwa district two letters addressed by the Bailiff of Gikongoro Court of First Instance to the district authorities asking them to execute the court judgement with regard to this case. The two letters were written on 23 April 2004 and 6 May 2004, respectively.

The Acting Mayor of Mudasomwa district agreed to go to Kabyagira sector on 5 July 2004 and execute the court ruling on this case. On 8 July 2004, MUKAKARANGWA reported again to the Office of the Commission in Gikongoro Province saying that the district had done nothing to help her.

On 8 July 2004, the representatives of the Commission went again to see the Bailiff in the Cyangugu Court of First Instance, and he told them he himself would go and execute the court ruling on 20 July 2004.

The Commission learnt that on 20 July 2004, the Bailiff in Gikongoro Court of First Instance actually started the process of executing the court decision, and that MUKAKARANGWA was given five thousand francs (5.000 Frw); the Bailiff promising that he would make her get the remaining sum sometime in the middle of August 2004. By this fixed time, court Bailiffs had ceased to exist and thus the execution of the court ruling stopped.

The Commission blames once again the Acting Mayor of Mudasomwa district for his conduct in this case.

9. The case of NTOYUMUTWA Joseph.

On 21 January 2004, NTOYUMUTWA Joseph, a resident of Nyakirambi cell, Cyobe sector, Mushubi district in Gikongoro Province reported to the Commission a complaint regarding non execution of a case he had won.

NTOYUMUTWA had a dispute against his mother, NYIRATUZA Alivera in case n° RC 20/1/2003 in Mushubati Canton Court. The case was heard on 18 June 2003 and NTOYUMUTWA was declared the rightful owner of three pieces of land but he says that the Mushubi district authorities do not want to execute the court ruling. This is indicated by different letters addressed to the Mushubi district authorities:

- Letter n° 1417/07 of 4 June 2003, addressed to the Mushubi District Mayor by the Governor of the Gikongoro Province, asking him to look into this issue and find a solution to it;
- Letter n° 024/07.15/05 of 9 January 2004, the Mushubi District Mayor wrote to the Co-ordinator of Cyobe sector asking him to settle this case;
- Letter n° GR/06.04/03 (j) 7787 of 9 February 2004, the court Bailiff of Gikongoro Court of First Instance addressed to the Co-ordinator of Cyobe sector asking him to settle the case of NTOYUMUTWA.

On 29 June 2004, the representatives of the Commission went to see the person representing the district Mayor who was on leave. They told him the question of NTOYUMUTWA and he agreed he would follow it up and settle it immediately.

On 18 November 2004, a delegate of the Commission went to see the Acting Mayor and found that nothing had been done.

The Commission blames this leader who appears unwilling to settle NTOYUMUTWA Joseph's problem. The Commission also finds fault with the manner of working of certain leaders which lacks collaboration and co-ordination between different levels and to make follow-up to ensure that decisions made are actually translated into actions; and this caused NTOYUMUTWA to remain in suspense and uncertainty.

The Commission requests the Mushubi district authorities to find solution to this matter without any further complications.

10. The case of KABAZAYIRE Suzanne.

On 26 January 2004, KABAZAYIRE Suzanne who lives in Rugari cell, Gatore sector, Rusumo district in Kibungo Province, wrote to the Commission asking to be reinstated in her rights, by giving to her the property declared as her right by the Rusumo Canton Court in the case n° R.C. 145/R1/2003, heard on 18 June 2003.

KABAZAYIRE Suzanne was married legally to HABIMANA Albert and they had together three children. Later, HABIMANA Albert left her and took on another wife. KABAZAYIRE lodged a complaint in the Rusumo Canton Court, claiming to be given the rights over part of her family's property. The case was registered under n° R.C. 145/R1/2003.

The court heard the case on 18 June 2003, ruling that HABIMANA Albert "should give, on a monthly basis, the sum of five thousand francs (5.000 Frw), starting from the month of May 2001. This sum would be drawn from HABIMANA Albert's account which is in U.C.T Kibungo". The court also ordered that "HABIMANA Albert should pay to KABAZAYIRE Suzanne, two thousand francs (2.000 Frw) every month as arrears for taking care of the children; and he would meet medical expenses for her children when sick, by using «RAMA» booklet".

HABIMANA Albert never put into action the ruling of the court. So KABAZAYIRE Suzanne sought the intervention of the Rusumo district authorities so that the Canton Court ruling could be executed.

On 8 May 2003, the Rusumo District Mayor wrote to HABIMANA Albert, asking him to immediately present his RAMA booklet to RAMA Head Office at Kayonza, so as to have the children registered in the booklet. He remained silent with regard to the other contents of the court ruling.

After receiving the complaint from KABAZAYIRE Suzanne, on 5 April 2004, the Commission wrote to the Rusumo District Mayor the letter n° CRDH/CPL/017/04 asking him to help KABAZAYIRE get the property as decided by the Rusumo Canton Court in case n° R.C. 145/R1/2003.

On 28 April 2004, the Rusumo District Mayor informed the Commission that KABAZAYIRE Suzanne had received all she was claiming. KABAZAYIRE Suzanne met the representative of the Commission in Kibungo Province on 20 May 2004, and she confirmed that her problem had been solved.

11. The case of NYIRAHUMURE Alphonsine.

On 26 April 2004, NYIRAHUMURE Alphonsine of Shaburondo cell, Gishali sector, Muhazi district in Kibungo Province, brought in to the Commission, a complaint that she had not been given her dues as decided by the court.

In the case n° RCA 1181/R4/2002/KGO, NYIRAHUMURE Alphonsine and MUKAGIHANA Domitille were disputing the property of their parents. The court had concluded that both the parties were partially right in their respective claims and it decided that they should share the property such that each could have part of her own. The court decided that even the other children of the same parents, with the exception of MUKAGIHANA who had had her own share of cows, should share among themselves the sum of eighty thousand francs (80.000 Frw) obtained from the sale of two cows. Thus each would be given twenty thousand francs (20.000 Frw).

Later on, the district authorities took away from NYIRAHUMURE the part allocated to her and they gave it to BIZIMANA, the son of her elder sister.

During the distribution, NYIRAHUMURE says that BIZIMANA had inherited his mother's property and she did not see why he should get part of her property as well.

On 21 May 2004, the Commission wrote to Muhazi District Mayor the letter n° CRDH/CPL/034/04, wanting to know what might have been done about the problem of NYIRAHUMURE Alphonsine. The letter got no reply.

On 21 July 2004, a representative of the Commission went to the district office to follow up the matter. The district authorities informed the Commission that the Commission for the fight against injustice in the district went to the site where the question in contention was located and distributed the property in accordance with the ruling of the court., in clause n° 2 of the part: "The court orders", which states that "NYIRAHUMURE shall continue staying in her father's household undisturbed, until the household property is distributed".

On 18 October 2004, the representative of the Commission went to see NYIRAHUMURE and she explained that the question had been settled, that she was already established in her property without any other problem.

Although it took long to execute the court ruling on this case, the Commission finds that from the time the Muhazi district authorities were informed of the matter by the Commission, they acted quickly to have it settled.

12. The case of MUKAMUTARA Jacqueline.

On 30 January 2004, MUKAMUTARA Jacqueline who lives in Tyazo cell, Rusengesi sector, Gisunzu district in Kibuye Province, wrote to the Commission saying that he had had a dispute with UZABAKIRIHO over two pieces of land, in case R.C. 027/R35/1996 delivered by the Kibuye Court of First Instance on 10 October 1996. She won the case, but ever since the case was heard, the decisions have not been executed.

On 27 August 1996, MUKAMUTARA Jacqueline lodged a complaint against his father-in-law, SEBAHIMA, in Bwakira Canton Court. She claimed that SEBAHIMA had taken away from her four pieces of land she had obtained from her husband, GATORANO, and that one of these pieces was planted with trees. The case was registered under n° R.C. 027/R35/1996.

UZABAKIRIHO, who had lived with GATORANO illegally and who earned a living by GATORANO's pieces of land and who had had three children with him was lured to get involved in this case.

The Bwakira Canton Court heard this case on 18 October 1996 and decided that "MUKAMUTARA Jacqueline and SEBAHIMA both won the case; that SEBAHIMA won because he had played no role in taking away by force the pieces of land from MUKAMUTARA Jacqueline, that UZABAKIRIHO who was lured to get involved in the case lost the case, because she wanted to unlawfully misappropriate the pieces of land of MUKAMUTARA Jacqueline".

Investigations carried out by the Commission indicated that the authorities that went to execute the judgement were doing it contrary to the decision of the court, and that MUKAMUTARA was opposed to the execution of the judgement. This was indicated in the report of 9 March 2003, prepared on this issue by the Officer in charge of Political Affairs and Governance in Kibuye Province, HAKIZIMANA J.B. He went to execute the judgement on this case, but not conforming to the decision of the court.

In the conclusion of his report, the Officer in charge of Political Affairs and Governance in Kibuye Province, HAKIZIMANA J.B. says that "the fact that MUKAMUTARA Jacqueline claims that the case between her and UZABAKIRIHO had been heard in the Canton Court and that she had won the case, should not be the reason for her to take whatever she wanted of the husband's property". He says further that "there is no reason whatsoever for MUKAMUTARA Jacqueline to continue saying that her husband had taken the property away from her, whereas the place in contention had never been recognised as hers".

On 2 February 2004, the Acting Mayor of Gisunzu district, MUSABYIMANA Théophile, told the representatives of the Commission that MUKAMUTARA Jacqueline should not be given all the property declared as her right by the court, whereas there were children her husband had with another woman, though they lived together illegally. This is also the opinion of the Co-ordinator of the sector on this issue.

In the Commission's opinion, if this problem exists, it should be followed up by the court, as it is not the concern of district authorities.

The representatives of the Commission explained to the Acting Mayor that he should execute the judgement in accordance with the decisions of the court, because after all, those who lost the case have lodged no appeal; and that the question of children would be settled by the courts. He promised he was going to bring together all the parties concerned with this matter and then he would execute the judgement.

On 4 November 2004, as a follow-up to this issue, the representatives of the Commission found out that the execution of judgement had not taken place. MUKAMUTARA Jacqueline

explained to the representatives that on two occasions the Gisunzu district authorities gave her appointment for the settlement of her problem, but they didn't. Apparently the major role in this matter is played by the Co-ordinator of Rusengesi sector, whom the Commission's representative did not manage to meet on that day for he had been summoned to report to the Kibuye Police.

Although many letters have been written wanting this issue to be settled, it was clear to the Commission that there was unwillingness on the part of the Co-ordinator of Rusengesi sector to have this question solved. This is indicated by the fact that on 5 February 2004, he had promised to the representatives of the Commission to execute the judgement on this case, but he did not. It is also indicated by letters addressed to him by his higher authorities wanting him to solve the problem, but still he did not:

- Letter n° 0836/07.17/03 of 8 December 2003 from the Acting Mayor of Gisunzu district, MUSABYIMANA Théophile, addressed to the Co-ordinator of Rusengesi sector asking him to speed up execution of judgement on case n° R.C. 027/R35/1996 between MUKAMUTARA Jacqueline and UZABAKIRIHO, in the Bwakira Canton Court, and which MUKAMUTARA Jacqueline won;
- Letter n° 103/07.17 of 21 January 2004, addressed by the Mayor of Gisunzu district, with a copy to the Co-ordinator of Rusengesi sector, asking him to execute judgement on MUKAMUTARA's case.

The Commission learnt that the Mayor of Gisunzu district fixed an appointment for MUKAMUTARA Jacqueline to have her case settled on 8 November 2004, but that still he did not go.

The Commission finds that the Acting Mayor of Gisunzu district, MUSABYIMANA Théophile, contradicted himself both in words and in his letter, thus he, together with the Co-ordinator of Rusengesi sector, NDERABAKURA Mathias played a direct role in violating MUKAMUTARA's rights. Another serious issue is that both these leaders took a decision to contradict court rulings.

The Commission requests the Ministry of Local Government, Good Governance, Community Development and Social Affairs to do everything possible to have this question settled; and see to it that steps are taken against these leaders.

13. The case of SEMINARI Djuma.

On 19 October 2003, SEMINARI Djuma, a resident of Rubona cell, Kibirizi sector, Kibuye Town, in Kibuye Province reported to the Commission a complaint regarding non execution of judgement, by the Bailiff of Kibuye Court of First Instance.

SEMINARI Djuma lodged a complaint against MUNYANGANGO Japhet, NZANANA Emile and IYOMENYAKARE Amiel, in the Kibuye Court of First Instance, claiming payment for the car of NYIRIBARAZA Augustin (SEMINARI Djuma is his paternal uncle) allegedly stolen by them in 1994. The case was registered under n° RC 17/66/98, decided on on 16 April 1999, declaring SEMINARI Djuma the winner. The court ruled that, MUNYANGANGO Japhet, personally, pays to the family represented by SEMINARI Djuma, the sum of thirteen million five hundred fifty seven thousand,

five hundred francs (13.557.500 Frw), comprising the money accruing through the work the car used to do, together with damages. Since then execution of judgement has not taken place and yet no appeal against it has been lodged.

SEMINARI Djuma says that an inventory of MUNYANGANGO Japhet's property was made with the intention to auction it, but he adds that currently, MUNYANGANGO Japhet has started having it disappear slowly, putting part of it in the custody of third parties to avoid its auction. It is also said that the Co-ordinator of Kibirizi sector, KAYITARE Alexis, has a role in this, because he is aware of the property's being sold but he does nothing to stop it.

Another thing SEMINARI Djuma says, is that the Bailiff in the Kibuye Court of First Instance, MUSABYIMANA M., seems to be unwilling to execute judgement in connection with his case.

What was clear after the Commission's investigations is that SEMINARI Djuma has documents showing that he won the case together with copy of the report of 27 November 2003 on confiscation of MUNYANGANGO Japhet's property so that it might not be sold.

On 10 February 2004, representatives of the Commission asked the Bailiff in the Kibuye Court of First Instance why he does not settle this matter. He told them that he went to auction MUNYANGANGO Japhet's property but it found no buyer, so the auction was postponed.

Concerning the items MUNYANGANGO Japhet could be selling in secret while they are part of the property to be auctioned, the Bailiff answered that he had asked SEMINARI Djuma to present to him a document on the items sold in the way, then both the buyers and the seller would be taken to the Prosecutor's Office. The Commission finds this explanation unsatisfactory because the Bailiff also has the responsibility to take care of confiscated property and ensure that it is not sold.

This question of non execution of the court judgement was reported to the authorities of Kibuye City and those of Kibuye Province but it remained unsolved.

The Commission on its part, requested these authorities to find solution to this issue, but they did nothing about it.

On 28 October 2004, SEMINARI Djuma brought to the attention of the Prosecutor of the Republic in Kibuye Province the complaint concerning the property that was being sold whereas it was confiscated.

The Commission finds that regarding SEMINARI Djuma's issue, the very authorities responsible for settling it have neglected it purposely.

The Commission requests the Ministry of Justice and the Ministry of Local Government, Good Governance, Community Development and Social Affairs to do everything possible to help SEMINARI Djuma get his rights reinstated and to ensure that punitive measures are taken against those who played a role in dragging out this matter.

14. The case of MUHATSI Eustache.

On 25 February 2004, HAGENIMANA Primitiva who lives in Nyakarambi cell, Sanza sector, Budaha district in Kibuye Province, reported to the Commission a complaint regarding non execution of judgement in connection with the case of his parent, MUHATSI Eustache.

HAGENIMANA Primitiva says that his parent, MUHATSI Eustache, won against one KAYITABA Jean in the Kibuye Court of First Instance, the case n° RCA 296/58/87 in which he claimed a compensation equivalent to six thousand francs (6.000 Frw) for his crops destroyed by somebody's domestic animals.

The case was heard on 14 May 1988, but since then the execution of judgement did not take place. HAGENIMANA now requests that he and his father should get the dues declared as theirs by the court 16 years ago.

On 31 October 2004, when the delegation of the Commission went to see HAGENIMANA Primitiva, he told them that the judgement has not been executed. He said that the Commission for the fight against injustice at provincial level, jointly with the Governor of the Province had fixed him an appointment on 16 June 2004 but they did not appear because of an unexpected matter the Commission went to attend to in Rutsiro district.

The Commission requests the authorities of Kibuye Province to find a solution to this question, for execution of judgement on the case has been dragged out for too long.

- **Other issues concerning cases.**

1. The case of KAMABANO Frédéric.

On 19 April 2004, KAMABANO Frédéric of Gihundwe A Primary School, in Cyangugu Town, wrote to the Commission the letter it received on 12 May 2004 requesting to get his rights in connection with case n° RA 090/13.03.98 heard by the Cassation Department within the Supreme Court, on 6 November 2001. He was saying that the Assistant Ombudsman, NDAYISHIMYE Bernardin, had reversed the decision of the court, and given to MUKAKOLONI Colette the piece of land declared by the court as KAMABANO's due.

The case between KAMABANO Frédéric and MUKAKOLONI Colette started in the Kamembe Canton Court under n° RC 73/97, whereby KAMABANO claimed that MUKAKOLONI had trespassed on KAMABANO's piece of land and laid water pipes where the house stood. MUKAKOLONI also had illegally occupied KAMABANO's plot. The case was heard on 21 August 1997, declaring KAMABANO the loser. KAMABANO was not satisfied with this decision and he appealed in Cyangugu Court of First Instance, under n° RCA 796/R2/97. The case was delivered on 23 April 1998, and KAMABANO was the winner. The court decided that part of KAMABANO's plot consisted of the area occupied by his brick house plus the area referred to by MUKAKOLONI as an alley up to the wall of MUKAKOLONI's house. Cassation of the case was requested in the Cassation Department of the Supreme Court under n° RA 090/13.03.98 and was heard on 6 November 2001. KAMABANO won the case against MUKAKOLONI and was declared the rightful owner of the piece of land between their houses, an area 2,5 m wide and 13 m long.

On 5 March 2002, execution of the judgement was carried out by the Bailiff in the Cyangugu Court of Appeal, KAYIHURA Ephraim, as shown in the report prepared that day on the execution of judgement. KAMABANO was given the property declared as his by the court. MUKAKOLONI kept on seeking the intervention of different authorities so that she could be given that area she calls an alley leading to the back yard of her restaurant.

On 24 March 2004, at Cyangugu Stadium, during a general meeting chaired by the Assistant Ombudsman, NDAYISHIMYE Bernardin, both KAMABANO and MUKAKOLONI asked for help to have their trial settled. The Assistant Ombudsman, accompanied by the authorities of Cyangugu Town, came to the area in contention and it was decided that the alley remains where it is. This was stressed in the letter n° 198/07.16/01, signed by the Mayor of Cyangugu Town, on 30 March 2004.

On 15 September 2004, a delegation of the Commission came to the place where the object of contention was located and found out that there is no reason why the court decision should not be implemented.

At the time of preparing this report, the Commission learnt that KAMABANO had obtained his dues in accordance with the court decision.

The Commission draws once again the attention of all institutions and indeed all individuals to article 140 of the Constitution, clause n° 5 which states that "Judicial decisions are binding on all parties concerned, be they public authorities or individuals. They shall not be challenged except through ways and procedures determined by the law".

2. The case of MUKANTWARI Dancile.

On 27 May 2004, MUKANTWARI Dancile who lives in Rwinkuba cell, Rwintare sector, Bukunzi district in Cyangugu Province reported his complaint to the Commission requesting it to help him recover his rights because the Co-ordinator of Rwintare sector executed the court ruling in the case n° R.C.A 4157/R10/2003, and yet MUKANTWARI had requested cassation of the case.

MUKANTWARI Dancile had a case n° R.C. 4629/2002-R.C.A 4157/R10/2003 in Cyangugu Court of First Instance against her husband, NDOREYABO Augustin who lived with her illegally, disputing pieces of land. The case was heard on 11 November 2003, and the court ordered MUKANTWARI Dancile to return back to NDOREYABO one of the pieces of land in dispute, as long as he has not yet assigned to the children they had together, their respective shares of the property; and that after this is done he would be given back all his property.

On 11 January 2004, MUKANTWARI Dancile requested cassation of this case in the Cassation Department of the Supreme Court, saying that the District Mayor had sent a letter asking the Co-ordinator of Rwintare sector to execute the court ruling in connection with the case.

On 14 September 2004, MUKANTWARI Dancile wrote again to the Commission saying that on 11 August 2004, the Co-ordinator of Rwintare sector, RUGARAGAZA Théoneste, jointly

with the Assistant Mayor in charge of Social Affairs, TWAGIRAMARIYA Sophie, then representing the Bukunzi district, executed the court ruling on the case.

After investigations carried out, the Commission found that execution of judgement on case n° RC 4629/2002-RCA 4157/R10/2003, between MUKANTWARI Dancile and NDOREYABO had been effected by the Co-ordinator of Rwintare sector, in the presence of the Assistant Mayor in charge of Social Affairs.

The Commission finds that the rights of MUKANTWARI Dancile to her property have been violated and yet her case was still in process.

The Commission requests the Bukunzi district authorities to reverse their action and leave things as they were, until the case n° RCA 4157/R10/2003, cassation of which has been sought, finds final settlement.

F. On follow-up of human rights respect in Gacaca Jurisdictions.

During the year 2004, the Commission followed up human rights respect in Gacaca courts, in a total of 222 cells, in all provinces and Kigali City. In this activity, the Commission monitored the observance of the laws governing Gacaca courts, the respect for the rights of those accused of the crime of genocide and their accusers, and the rights of the persons of integrity.

The issues that were often observed with regard to the functioning of Gacaca courts include disregard of the laws and instructions governing them, intimidation of survivors and those willing to tell the truth on what happened during genocide, telling the untruth, poor performance of the “persons of integrity” and interference by certain leaders in the functioning of Gacaca Jurisdictions.

➤ Disregard of laws and regulations governing Gacaca Courts.

In general, the laws and regulations governing Gacaca Courts are adhered to, but the Commission found that certain “persons of integrity”, due to blood relationship they have with perpetrators of genocide, have detracted from their responsibilities and they took sides with the perpetrators.

Among the persons of integrity themselves, are some accused of genocide, who had not been excluded from the Seat members, and yet the law provides that the Seat members should be replaced if they are suspected of this crime.

Disregard of the law n° 40/2000 of 26 January 2001, which formally governing Gacaca, and the instructions n° 001/2003 of 4 April 2003, issued by the President of the Supreme Court, is indicated in the table below:

Province	Number of cells where monitoring took place	Number of cells and problems observed there					
		Proceedings contrary to the law	Dismissing request for the floor	Non respect of the time fixed	Carrying out proceedings while quorum in not attained	Keeping among Seat members someone witnessed against	Arrests and release of people contrary to the law
Butare	4	2	0	0	2	0	0
Byumba	24	1	0	0	4	0	0
Cyangugu	27	0	1	0	2	2	2
Gisenyi	9	0	1	3	0	0	1
Gikongoro	11	0	0	0	0	1	0
Gitarama	33	0	0	0	1	0	0
Kibungo	37	0	0	0	4	1	0
Kibuye	28	0	0	0	2	3	3
Ruhengeri	18	1	0	0	2	0	1
Kigali City	10	0	0	0	0	0	0
Kigali Rural	10	1	0	1	0	1	0
Umutara	11	0	0	1	0	0	1
TOTAL	222	4	2	5	17	4	5

Disregard of the laws and the regulations governing Gacaca Courts leads to violation of the rights of the accusers to make their complaints clear; thus discouraged, they do not say all that happened and the accused on their part, continue to move about undisturbed.

➤ **Intimidation of genocide survivors and those willing to tell the truth about what happened during genocide.**

Concerning intimidation in Gacaca Courts, the Commission found that this problem is a serious one and that it occurs in many places in Rwanda in different forms.

● **Intimidation during the General Assembly.**

During the General Assembly sessions, members of the families accused of genocide form groups, and they keep on laughing, making funny noises, mocking and ridiculing those who give witness.

This kind of intimidation was observed in two (2) out of eighteen (18) cells in Ruhengeri Province; 5 out of 28 in Kibuye Province; 6 out of 37 in Kibungo Province; 3 out of 27 in Cyangugu Province; one out of 24 in Byumba Province; one out of 4 in Butare Province, 9 out of 37 in Kibungo Province; one out of 10 in Kigali Rural Province and one out of 10 in Kigali City. In the whole country these cells total to 29 out of 222 cells where monitoring took place.

- **Intimidation at their places of residence.**

Intimidation against genocide witnesses occurs in form of tracts saying that they will be killed if they continue to witness, banging doors and windows of their houses, throwing stones onto their houses and burning the houses, destroying their crops and tree-planted areas, injuring and killing them.

All these forms of intimidation are shown in the table below:

Province	Districts	Burning houses	Tracts	Heart breaking words	Attacks to the home	Destroying crops	Throwing stones on houses	Injuring and killing domestic animals	Injuring and killing people
Butare	Kiruhura	0	0	2	10	0	1	10	1
	Butare Town	0	0	1	2	1	0	0	1
	Nyanza Town	0	0	0	1	0	0	0	0
	Nyamure	0	0	1	2	0	0	0	3
	Kibingo	0	0	0	0	0	0	0	1
	Nyakizu	2	0	0	0	0	0	0	0
	Save	0	0	1	5	0	0	0	0
	Maraba	0	0	0	0	0	0	0	0
Byumba	Rebero	0	0	1	0	0	0	0	0
	Humure	0	0	0	0	0	0	1	0
Cyangugu	Impala	0	1	2	0	0	0	0	0
	Cyangugu Town	0	0	1	0	0	0	4	0
	Bukunzi	0	0	0	0	0	0	16	0
Gisenyi	Nyagisagara	0	0	0	0	0	0	0	1
	Kageyo	0	1	0	0	0	0	2	1
	Kayove	0	0	0	0	0	0	0	7
	Gisenyi Town	0	0	0	2	0	0	1	0
	Mutura	0	0	1	0	0	0	0	0
	Cyanzarwe	0	0	2	0	0	0	0	0
	Nyamumba	0	0	0	0	0	1	0	0
Gikongoro	Kaduha	0	0	0	0	0	1	0	4
	Nyaruguru	0	0	0	0	0	1	4	2
	Karaba	0	0	1	0	0	1	1	6
	Gikongoro Town	1	0	1	0	0	1	1	0
Gitarama	Kayumbu	0	0	0	0	1	1	0	0
Kibungo	Cyarubare	0	0	1	0	0	4	0	5

	Kabaro-ndo	0	0	0	0	0	0	0	1
Kibuye	Rutsiro	0	0	0	1	0	0	0	0
	Gisunzu	0	0	0	1	0	0	0	0
Ruhengeri	Bukonya	1	0	0	0	2	0	0	0
Kigali City	Kicukiro	1	0	0	0	1	0	0	0
	Kanombe	0	0	0	0	0	0	0	0
Kigali Rural	Nyamata	0	0	1	0	0	0	0	3
	Shyorongi	0	0	0	0	0	2	1	0
	Buliza	0	0	1	1	0	0	0	0
	Gashora	0	0	0	0	0	1	0	0

The Commission found that this intimidation discourages the witnesses and some of them choose to give up witnessing, thus the truth expected from Gacaca Courts is not found.

➤ **Not telling the truth and keeping silent in Gacaca Courts.**

In Gacaca Courts, it became clear to the Commission that some individuals in the Seat of the “persons of integrity”, some witnesses among those released in accordance with the Decree of the Office of the President of the Republic on 1st January 2003 and certain individuals among ordinary people, do not tell the truth. They give witness only about people who are either dead or in exile, or they simply keep silent.

The table below indicates examples of this phenomenon that the Commission managed to know:

Province	Number of cells where monitoring took place	Telling the untruth on the part of Council Members	Telling the untruth on the part of those released in accordance with Decree of the Office of the President of the Republic	Telling the untruth on the part of ordinary people
Butare	4	0	1	0
Byumba	24	0	0	0
Cyangugu	27	0	1	0
Gisenyi	9	2	1	2
Gikongoro	11	0	0	0
Gitarama	33	0	0	0
Kibungo	37	3	2	3
Kibuye	28	2	4	6
Ruhengeri	18	5	0	6
Kigali City	10	0	0	2
Kigali Rural	10	0	0	2
Umutara	11	0	0	1
TOTAL	222	12	8	22

➤ **Poor performance of the persons of integrity.**

In different provinces of the country, the Commission found that poor performance of the persons of integrity was characterised by taking the side with the accused, on the part of certain Seat members, placing the accused in categories not corresponding to the crime they are accused

of, omitting some names from the list of those accused, scoffing at witnesses and improper filling of forms.

Poor performance is also observed on the part of those persons of integrity who replaced those who left this responsibility, and yet the former have got no training.

The table below presents the provinces where such poor performance is observable:

Province	Number of cells where monitoring took place	Placing the accused in the category not corresponding to the crime committed	Omissions in the list of those accused	Improper filling of forms	Scoffing at witnesses
Butare	4	1	0	0	0
Byumba	24	1	0	0	1
Cyangugu	27	1	1	0	2
Gisenyi	9	0	0	0	0
Gikongoro	11	0	0	0	0
Gitarama	33	0	1	0	1
Kibungo	37	2	0	1	0
Kibuye	28	0	0	1	0
Ruhengeri	18	2	4	0	0
Kigali City	10	0	1	0	0
Kigali Rural	10	0	0	1	0
Umutara	11	0	0	0	0
TOTAL	222	7	7	3	4

➤ Interference with Gacaca Court Proceedings.

Interference in Gacaca Court proceedings is done by some authorities with the intention of protecting the accused, sometimes due to their blood relationship.

This interference of authorities in Gacaca Court proceedings was observed in one cell out of 33 in Gitarama Province; 2 out of 28 in Kibuye Province; 2 out of 9 in Gisenyi Province and one out of 11 in Umutara Province. In the whole country, the total is 8 cells out of 222 where monitoring took place.

G. On follow-up of human rights respect during elections.

During the year 2004, the Commission followed up different elections conducted in Kibungo, Butare, Gikongoro, Kibuye, Umutara, Kigali City and Cyangugu Provinces.

These elections aimed at filling vacancies within Councils and Steering Committees at different levels, electing Mediators in all sectors, electing the Nation Women's Council and Persons of Integrity.

In this activity, the aim of the Commission was to check whether elections are conducted in security and freedom; whether no one is denied his or her rights to elect or be elected if he or she

fills the conditions as provided in the law governing elections; or whether no one votes without authorisation of the law. This included also checking whether the counting of votes is done in transparency.

These elections were conducted as follows:

➤ **Elections to fill vacancies in Councils and Steering Committees in the Districts, Towns and Municipalities.**

- On 22, 23, 30 and 31 March 2004, in Kibungo Province ;
- On 22 and 23 March 2004, in Butare Province vacancies were filled in the District, Town and Municipality Councils, whereas on 30 and 31 March 2004, vacancies were filled in the Steering Committees ;
- On 10 and 13 August 2004, in Gikongoro Province ;
- On 22 March 2004, in Kibuye Province ;
- On 6 May 2004 and 30 November 2004, in Kigali City ;
- On 10 and 13 August 2004, in Cyangugu Province.

➤ **Elections of Mediators.**

- On 13 July 2004, in Kibungo Province ;
- On 12 July 2004, in Kibungo Province ;
- On 12 and 15 July 2004, in Gikongoro Province ;
- From 19 to 23 July 2004, in Umutara Province ;
- On 13 July 2004, in Kigali City ;
- On 12 and 13 July 2004, in Cyangugu Province.

➤ **Elections of Persons of Integrity in Gacaca Courts.**

- On 19 June 2004, in Kibungo Province ;
- On 20 June 2004, in Butare Province.

➤ **Committee of the National Women's Council.**

- On 12 and 15 July 2004, in Gikongoro Province ;
- On 31 March 2004, in Kibuye Province ;
- From 19 to 23 July 2004, in Umutara Province ;
- On 16 July 2004, in Kigali City ;
- On 12,13,14 and 15 July 2004, in Cyangugu Province.

In general, in the provinces where the Commission monitored the elections activity, it found that the activity was well carried out, for a great number of people participated, the elections were conducted in security and liberty; and the counting of votes was done in transparency.

H. Complaints regarding Property.

In this part, there is one complaint, that of BIREGEYA Boniface whose piece of land left by his father, was taken away cunningly.

On 25 November 2002, BIREGEYA Boniface, a resident of Burega sector of Buliza district, Kigali Rural Province, wrote to the Commission requesting to help him have his rights rehabilitated, in connection with the piece of land of his father, MAKUZA who used to be Chief of Buliza region during the reign of King Rudahigwa MUTARA III.

The said land is located in Rusamanzuki cell, Taba sector in Buliza district. Part of this land had been taken over by NGIRABANZI, a former labourer working for MAKUZA, who died later leaving the land to his son, RWUBAHUKA Papias. The other part of the land was taken by NGERAGEZE Andereya who also died, and currently this part is occupied by his wife, NYIRAMPONGANO popularly known as MPONGANO.

According to BIREGEYA Boniface, the land in question was taken over by NGIRABANZI and NGERAGEZE Andereya as early as 1963, after NGIRABANZI and his brother, RUBIBI Innocent and MUKARUGAMBWA were forced to flee and take refuge in Kigali.

However, those BIREGEYA Boniface accuses to have caused him and his brother and sister to flee, see things differently. NYIRAMPONGANO says that the proof of this friendship lies in the fact that it was MAKUZA who paid the dowry when NGERAGEZE Andereya was getting married. RWUBAHUKA Papias, on his part confirms that his father NGIRABANZI, used to work under MAKUZA as his master and that later MAKUZA gave him freely the part of the land he is occupying today.

Before bringing his complaint to the Commission, BIREGEYA had sought assistance of other government authorities which tried to find a solution, though the issue kept on being dragged out at district level.

On 15 March 2001, in Rusamanzuki cell, Taba sector where the land in question is located, a meeting was held which examined the issue that opposed BIREGEYA and those occupying his land. At this meeting, those occupying the land were claiming they had been given it freely by MAKUZA, but participants at the meeting, including BAPFAKURERA, KAMASHARA and NKUNDIBIZA, witnessed against them, certifying that only NGIRABANZI who used to work for MAKUZA had been given the part he was occupying. They opposed the claim that NGERAGEZE had been given anything by MAKUZA because of their friendship.

On 15 June 2001, the former Head of Kigali Rural Province, GASAMAGERA Wellars, wrote to the Mayor of Buliza district, NAMBAJIMANA Zéphanie, requesting him to collaborate with the District Council and seek assistance from the people in the neighbourhood to settle BIREGEYA's issue immediately.

On 28 November 2003, Prefect INYUMBA Aloyiziya who replaced Prefect GASAMAGERA Wellars as Head of the Kigali Rural Province, also wrote to the Buliza District Mayor asking him to

explain to her, the obstacles he had met such that BIREGEYA's case is not settled, after the letter n° 194/07/12/07 of 3 March 2003, which she had addressed to him earlier requesting him to settle this issue.

After investigations, the Commission discussed with the Buliza District Mayor, NAMBAJIMANA Zéphanie, regarding BIREGEYA's case, and he told the Commission that the matter had been settled.

On 29 July 2004, the Commission went to BIREGEYA's place and he told the Commission that his case had been examined in his absence. He added that when he came, he found that he had been allocated a piece of land forty seven meters long from the part occupied by NYIRAMPONGANO because she had distributed the other part among her children; and this, BIREGEYA does not accept at all.

On 13 September 2004, the Commission went back to Buliza District Mayor. They once again discussed BIREGEYA's piece of land. The Commission wanted to know what had been done by the authorities of the district under his leadership, after the letters of the Kigali Rural Province Heads, GASAMAGERA Wellars and INYUMBA Aloyisiya, asking settlement of the issue.

After well understanding the nature of the matter, the new Mayor of Buliza district and the Commission fixed an appointment to meet on 16 September 2004, in Taba sector. As agreed upon, they met there on the fixed date, in the presence of seventy six other people, residents of this same sector.

After hearing from different inhabitants of the sector on this issue, it was decided that RWUBAHUKA Papias should take the part that his father, NGIRABANZI had been given freely by MAKUZA, and that the part he simply appropriated later should remain the property of MAKUZA's family. As for NYIRAMPONGANO, she was asked to surrender the part of MAKUZA Family's land she occupied and go to occupy her husband's piece of land located at a place called Kanunga. BIREGEYA was asked to let NYIRAMPONGANO keep possession of her house to which he agreed. Furthermore, of his own free will, he agreed to let her have the small part of the land surrounding her house.

Although NYIRAMPONGANO was not happy with the decisions reached in this distribution exercise, she requested three months to harvest the crops that were still on the piece of land, and then she would move away.

On 7 February 2005, BIREGEYA submitted to the Commission a copy of the decisions made at that meeting, declaring also that, after this, he had no problem any more, for each party adhered to what was required of them.

Although the Commission finds that there has been collaboration among all authorities in finding a solution to this issue, it nonetheless discredits the conduct of the former Mayor of Buliza district, NAMBAJIMANA Zéphanie, because he played a role in delaying settlement of this issue.

I. Complaints regarding rights of the Child.

In this category of complaints, one observes issues related to violations of rights to property, rights of the child to education and welfare of the child in general, done more often by those supposed to take care of the children, like parents or guardians.

1. Malignant sale of the house of the orphans of SEBAZUNGU Jean Bosco and MUSANINGARE Mariya.

On 3 November 2004, SEBAZUNGU Olivier, a student in Bulinga Secondary School in Gitarama Province, and representative of his younger brother, SEBAZUNGU Odila and SEBAZUNGU Olivène, presented his problem verbally to the Commission requesting that the Commission continues to assist him with regard to the issue he had reported to it earlier on 26 December 2001, in connection with their house that had been sold malignantly.

The Commission presented this case in detail in its report for the year 2002. The Commission had requested that the courts should be careful in issuing certificates relating to inheritance and guardianship of children and that the authorities responsible for property transfers should take great care so as to avoid cheating often existing in such exercises. The Commission had also asked the Supreme Court, specifically the Department in charge of Court Administration to follow up this issue.

On 3 November 2004, SEBAZUNGU Olivier informed the Commission that every time he went to the court, he was pushed back and told that children could not be received. SEBAZUNGU Olivier waited until he reached 21, and that is when he came back to ask the Commission what he could do.

In its investigations, the Commission learnt that on 9 December 2004, instead of convening the existing guardianship committee to present to SEBAZUNGU Olivier his parent's property, the court of Muhanga district issued certificate n° 17/2004 giving to SEBAZUNGU Olivier the powers to be guardian of his younger brothers. This court issued a guardian certificate and yet the first certificate was still valid.

The Commission requested again the Supreme Court to follow up the issue of these children and have their rights rehabilitated; and render the decisions nul and void.

Based on article 28 of the Constitution, the Commission reminds the Kigali City authorities, the Court of First Instance and the Supreme Court that they ought to have done something to the rights of these children.

The Commission will carry further follow-up of the issue.

2. Refusal to give to MANIRAHU Joséphine, represented by GAKWAYA Dieudonné, her father's social security dues.

On 6 January 2004, GAKWAYA Dieudonné, a resident of Akabacuzi cell, Nyamagana sector, Gashonga district in Cyangugu Province, wrote to the Commission requesting that his

sister, MANIRAHU Joséphine, should be rehabilitated in her rights and be given the money collected as social security savings of their late father, GAKWAYA Juvénal.

GAKWAYA Juvénal died in 1997. From the year 1965 to 1994 (a period of 29 years) he served as a soldier.

The birth certificate issued by the authorities of Gashonga district, on 24 May 2004, indicates that in 2003, MANIRAHU Joséphine was 17 years old because she was born in 1986. When GAKWAYA Dieudonné brought the complaint to the Commission, MANIRAHU Joséphine was a class six pupil in Nyamagana Primary School.

GAKWAYA Dieudonné had asked for the money on behalf of MANIRAHU Joséphine, at the Office of the Rwanda Social Security Fund in Cyangugu Province. He was then told that the child should not be given any money because the act of sending her to school was a means concocted in order to enable her to obtain the money. The argument advanced being that her age is more advanced, as compared to the class she is attending at school.

On 5 May 2004, the Commission wrote to the Officer in charge of the Rwanda Social Security Fund in Cyangugu, HATEGEKIMANA Jérôme, wanting to know the obstacles that lead to denial the rights of this child. The Officer in charge did not reply.

On 9 July 2004, the Commission met HATEGEKIMANA Jérôme, and he told the Commission that MANIRAHU Joséphine deserves receiving no money because of the reasons mentioned above.

On 29 October 2004, the Commission met again the Officer in charge of the Rwanda Social Security Fund in Cyangugu and explained to him that it found no reason whatsoever, based on the law, why the social security savings claimed by GAKWAYA Dieudonné should not be given to the child, MANIRAHU Joséphine. The Commission explained him clearly that even if MANIRAHU Joséphine were not going to school, her age gave her the right to be given her parent's savings.

At the end of the discussions, the Officer in charge of the Rwanda Social Security Fund accepted to prepare the file, and that the child will continue receiving the money in question as long as she stays in school because she continued with studies and she is now in Gishoma Secondary School.

At the time of preparing this report, the Commission learnt from the Officer in Charge of the Rwanda Social Security Fund in Cyangugu that MANIRAHU Josephine had not yet been given her parent's money because the documents to be issued by the district as required in this file are not complete.

The Commission is unsatisfied with the conduct of the authorities of the Rwanda Social Security Fund in Cyangugu Province that kept on dragging up this child's case, thus causing delay in her receiving her parent's savings.

The Commission will continue follow-up of this issue to know whether the child obtained her legal dues.

- **Specifications on how to follow up the protection of the rights of the child.**

In this part, the Commission presents achievements with regard to its duty provided by article 24 of the Law n° 27/2001 of 28 April 2001 relating to rights and protection of the child against violence. This article states that the Commission must set up specifications on how to follow up the protection of the rights of the child.

In this regard, from 28 to 30 June 2004, at Kibuye, the Commission organised a consultative meeting on the establishment of a forum for the protection of the rights of the child. This meeting brought together government institutions and different organisations having in their responsibilities the promotion and protection of the rights of the child.

So as to finalise the outcome of the Kibuye meeting, the Commission organised another meeting on 13 December 2004 with the intention of examining together with different institutions, how to meet the requisites so that the forum starts functioning in the year 2005.

In this meeting, final decision was made as to the institutions and organisations constituting the forum as well as its major responsibilities. It was also decided that the Permanent Secretariat of the forum would function within the National Commission for Human Rights.

The meeting decided that the forum will have representative committees from national to district level.

The Commission continues to examine more closely the specifications on how to follow up the protection of the rights of the child.

J. Complaints regarding the right to employment and observance of the labour code.

The complaints reported to the Commission regarding rights to employment and observance of the labour code relate to cases of employees who were sacked illegally, and without being given their dues in accordance with the provisions of the law. Furthermore, some workers, after termination of their employment, find out that their employer never paid any contribution for them to the Social Security Fund.

1. Illegal dismissal of RUGERO Jean Baptiste.

On 18 November 2003, RUGERO Jean Baptiste who lives in Rwiri cell, Byumba sector in Byumba Town, reported his complaint to the Commission saying that he was employed by the "Centre Diocésain de Pastorale" of Byumba. He was dismissed on 24 October 2003, without being given his dues provided by the law. These include fifteen days' prior notice, accompanying allowances, three months' unpaid salary, arrears owed to him for the months of June and July

2003, payment in-lieu of leave for the year 2003 and a certificate of service by the latest employer. He also indicates clearly that his employer never paid contribution for him on the Social Security Fund.

RUGERO says that on 28 October 2003, he reported his problem to the Labour Office Authorities in Byumba Province but they showed little willingness to settle it.

On 24 December 2003, the Commission discussed the issue with the Labour Officer in Byumba Province, IYAMUREMYE Daniel, and he informed the Commission that RUGERO used to be an employee of the “Centre Diocésain de Pastorale” in Byumba, and he was dismissed because he was unproductive. He added that RUGERO was given a three months notice and a certificate of service by his latest employer, and that he did not understand what else RUGERO wanted.

On 13 January 2004, RUGERO was informed of what the Labour Officer had declared to the Commission and he said he did not agree with the Labour Officer, and that he was going to seek the assistance of the courts.

Informed by the Labour Officer in Byumba Province, the Head of “Centre Diocésain de Pastorale” at Byumba, a nun by the name of MUKABYAGAJU Epiphane, learnt that RUGERO was about to take them to court, and she accepted to pay two hundred and nine thousand, five hundred francs (209.500 FRw) as accompanying allowances, three months salary, compensation for leave and the fifteen days’ notice.

On 8 October 2004, both parties agreed on these terms in the presence of the Labour Officer in Byumba Province, and they signed the conclusion reached in this agreement.

Although they agreed on this arrangement, it is clear that the Labour Officer in Byumba Province colluded with the administration of the “Centre diocésain de Pastorale” to deny RUGERO Jean Baptiste his rights.

Moreover, it is evident that injustice has been done to RUGERO Jean Baptiste because the issue of his social security savings has not been settled.

2. Illegal dismissal of ILIBAGIZA Marie Rose.

On 5 June 2003, ILIBAGIZA Marie Rose who lives in Bungwe cell, Rukoro sector in Ruhengeri Town, wrote to the Commission requesting to be rehabilitated in her rights, for injustice had been done to her by her employer, the “Ligue Rwandaise pour la Promotion et la Défense des Droits de l’Homme (LIPRODHOR)”. She says she had been employed by LIPRODHOR since May 2001 and her service was terminated for unknown reasons, in February 2003.

ILIBAGIZA Marie Rose says injustice has been done to her because she has worked for all this period without any contribution being deposited in her name on the Rwanda Social Security Fund and yet deductions were made from her salary for that purpose, as her salary was lower compared to those of her colleagues having the same certificate of education as hers. She also says that her employer terminated her contract illegally, and that the contract was for an indefinite

period. She added that on her dismissal, she did not get accompanying allowances, nor did she get a certificate of service by her latest employer.

On 18 October 2004, the Commission met the Executive Secretary of LIPRODHOR, UKIZEMWABO Florian. They discussed this issue and he indicated to the Commission that he was willing to have it solved. UKIZEMWABO Florian asked the Commission to act as facilitator between the two parties.

On 24 October 2004, negotiations between ILIBAGIZA Marie Rose and LIPRODHOR took place with the Commission as their facilitator in accordance with the wish expressed earlier. LIPRODHOR was represented by its President, GAHUTU Augustin, accompanied by the LIPRODHOR Legal Adviser, TURINDWANAMUNGU Jean Paul. At the end of the negotiations, it was agreed that LIPRODHOR should give to ILIBAGIZA Marie Rose a sum of eight hundred thirty two thousand Rwandan francs (832.000 Frw) to make up for the injustice she suffered, together with a certificate of service by the latest employer.

The decision reached in these negotiations were translated into action on 16 November 2004. LIPRODHOR gave to ILIBAGIZA Marie Rose a cheque for the agreed sum of eight hundred thirty two thousand francs (832.000 Frw), including two hundred twenty five thousand francs (225.000 Frw) as salary arrears, fifty two thousand francs (52.000 Frw) as social security dues, three hundred ninety thousand francs (390.000 Frw) as damages, a hundred and fifty thousand francs (150.000 Frw) for her travel and telephone expenses while following up her case, and fifteen thousand francs (15.000 Frw) as per diem for the working mission she had effected.

Although pleased that the issue has been settled through negotiations, the Commission cannot but discredit LIPRODHOR, for it should have deposited the sum for ILIBAGIZA's Social Security to the Social Security Fund, instead of handing it to her. Another thing that is clear is that, in paying her, LIPRODHOR never took into account the contributions which it, as the employer, should have deposited regularly onto the Rwanda Social Security Fund in the name of ILIBAGIZA.

3. Refusal to reinstate Mr NGAMIJE Stérus.

On 2 September 2003, NGAMIJE Stérus of Kamutwa cell, Kacyiru sector, Kacyiru district in Kigali City, wrote to the Commission requesting rehabilitation of his rights, because he had been dismissed illegally by his employer, ELECTROGAZ.

NGAMIJE Stérus started employment with ELECTROGAZ on 2 July 1990. He was suspended from work without salary, for a period of one month, from 13 October 2000 to 10 November 2000 when ELECTROGAZ addressed him the letter n° 11.07.025/4384/DRH-DIR/u.a with a copy to Ministry of Public Service and Labour, informing him that with effect from 14 November 2000 he would be at the disposal of this Ministry.

NGAMIJE says that the root cause of his dismissal by ELECTROGAZ is a letter written by the workers under him at Karongi ELECTROGAZ Station, in Kibuye. The letter was addressed to ELECTROGAZ higher authorities on 22 September 2000, explaining the problems encountered in their work due to lack of necessary equipment. The Management of ELECTROGAZ took this to be a serious offence of discrediting the institution employing them. Thus some of the employees

recruited by ELECTROGAZ were dismissed, whereas NGAMIJE was sent back to the Ministry of Public Service and Labour as it was this Ministry that had posted him to ELECTROGAZ.

In its investigations, the Commission found out that the ELECTROGAZ Management admits to have sent NGAMIJE Stérus to the Ministry of Public Service and Labour, with charges that he had led the insurrection of workers under him, at the Karongi ELECTROGAZ Station, after writing a letter warning ELECTROGAZ Management that if they did nothing by 22 October 2002, they should blame nobody for what would happen later.

The ELECTROGAZ Management claims that after NGAMIJE was found guilty of the offence, he apologised. Before the said date, ELECTROGAZ Management placed other workers at Karongi and dismissed those who had collaborated with NGAMIJE Stérus in writing the letter.

On 10 November 2002, ELECTROGAZ addressed NGAMIJE the letter n° 11.07.025/4384/DRH-DIR/u.a, with copy to the Ministry of Public Service and Labour, informing him that, with effect from 14 November 2000, his address would be in the said Ministry. The Ministry did not accept him either and they immediately wrote to ELECTROGAZ the letter dated 9 January 2001, informing them that NGAMIJE should be disciplined in accordance with the laws governing disciplining workers in the Public sector.

On 18 September 2003, the Commission wrote to the General Manager of ELECTROGAZ the letter n° CRDH/787/03, in attempt to examine together possibilities of solving this problem but ELECTROGAZ did not reply.

On 5 April 2004, the Commission wrote to the Chairman of ELECTROGAZ Governing Board the letter n° CRDH/058/04 requesting him to make a conclusion on this issue, thus rendering justice to the offended party.

At the time of compiling this report, the Commission discussed with NGAMIJE Stérus and he informed the Commission that he finally sought intervention of the Office of Ombudsman, in the letter addressed to them on 5 February 2004. The Commission also learnt that ELECTROGAZ had written to the Ombudsman promising that within one month it would have settled the matter between itself and NGAMIJE Stérus.

The Commission learnt that ELECTROGAZ had called NGAMIJE Stérus for negotiations with a view to settling the matter.

The Commission is pleased that the new management of ELECTROGAZ understood this problem and is willing to find solution to it.

K. Complaints regarding rights to marriage.

1. The case of MUKAYIRANGA Chantal.

On 26 May 2004, MUKAYIRANGA Chantal of Karangiro cell, Kamembe sector, Cyangugu Town in Cyangugu Province, reported a complaint to the Commission requesting assistance in

following up rehabilitation of her rights. The Impala district wedded her husband, UWITONZE Jean to another woman by the name of NYIRANSABIMANA Jacqueline on 11 February 2004 and yet their marriage vows signed in Cyangugu Town are still valid, as the divorce case between them is still in court and has not yet found final conclusion.

MUKAYIRANGA Chantal and UWITONZE Jean had between them the divorce case n° 3874/R9/2002 in Cyangugu Court of First Instance. This case was concluded on 24 March 2003, the court ruling that they should divorce. Immediately, both the parties lodged an appeal each and their cases were registered under n° R.C.A. 373/R1/2003 and R.C.A 393/R2/03 respectively, in one and same court, the Cyangugu Court of Appeal.

The ruling on these cases was heard on 15 December 2003, the Cyangugu Court of Appeal deciding that the couple should divorce. MUKAYIRANGA Chantal claims that she immediately requested cassation in the Supreme Court – Cassation Department, and that before decision was made at this level, the Impala district authorities wedded her husband, UWITONZE Jean to another woman by the name of NYIRANSABIMANA Jacqueline.

On 18 June 2004, the Commission wrote to the Mayor of Impala district wanting to know about this issue. The Mayor replied in the letter dated 6 July 2004, n° 658/07.16/04 saying that the Impala district wedded UWITONZE Jean to NYIRANSABIMANA Jacqueline on 11 February 2004, on the basis of the certificate presented by UWITONZE, dated 26 September 2003 and issued by the authorities of Cyangugu Town certifying that he was single.

On 4 August 2004, the representative of the Commission in Cyangugu Province went to see the Officers in charge of the census in Cyangugu City, including one NKUNDWANABENSHI Hassan who issued the said certificate. The representative of the Commission wanted to know why they certified that UWITONZE was single whereas he had been wedded there to MUKAYIRANGA Chantal with whom he had a divorce case in the courts. They replied that they had issued the certificate on the basis of certificates from local leaders testifying that the couple had been divorced by the court. The Commission finds that this explanation given is not valid because even if final decision had been taken on the case, neither of the couple would have been single again.

A copy of the case n° R.C.A 373/R1/2003 – R.C.A 393/R2/03 which divorces the couple is attached to the sheet of UWITONZE Jean, indicating that the case was concluded on 15 December 2003 and yet the said certificate was issued on 26 September 2003.

The Commission finds that, the fact that Cyangugu Town Authorities issued a “single” certificate before final ruling of the case is heard thus making clear the rights of the married to do everything possible so that, while waiting final decision on the case which is in the Supreme Court, there should be no obstacle against any of the interests of MUKAYIRANGA Chantal.

2. The case of SHUMBUSHO Protogène.

On 14 January 2004, SHUMBUSHO Protogène who lives in Kidashira cell, Bugungu sector, Impala district in Cyangugu Province wrote to the Commission saying that the Impala district refused to wed him to NATETE Béatrice because he was not giving evidence of provisions of the three children he had had with NYIRANAMBAJIMANA Dative who lived with him illegally.

After investigations, the Commission wrote to the Mayor of Impala district letter n° CRDH/098/04 dated 6 May 2004, wanting to know the nature of this issue.

On further follow-up of the matter, on 8 September 2004, a delegate from the Commission met the District Mayor who said the matter had been settled. SHUMBUSHO Protogène gave evidence of sources of food supplies for the three children he had had with NYIRAHABIMANA Dativa and he immediately was wedded to NATETE Béatrice on 28 June 2004.

The Commission disapproves of the workers in the registration office of Impala district because they obstructed his right to marry a person of his choice on the basis of matters that could have been settled by other authorities and by other means.

L. Complaint regarding someone who had their foot cut off hospital, in Gatagara, without prior notice.

On 22 March 2004, SHUMBUSHO Garasiyani from Nyarutovu sector, Gashonga district in Cyangugu Province wrote to the Commission, reporting injustice done to him on 21 November 2003 by the Gatagara hospital for the disabled. The hospital amputated his leg without prior notice and yet he had gone there to have it straightened up.

On 5 April 2004, the Commission wrote to the management of Gatagara hospital wanting full explanation on this question.

In their letter dated 13 May 2004, the management of Gatagara hospital replied that SHUMBUSHO had his leg amputated because the hospital found that it was the only way possible to help him in his disease, and that they were prepared to give explanation on this matter.

On 18 June 2004, the Commission went to Gatagara and discussed this issue with Brother NGENDAHIMANA Célestin, Head of the Centre. He again confirmed that SHUMBUSHO had his leg amputated because they found that it was the only way possible, to help him in his problem. He added that the decision had been taken by an orthopaedic specialist, Dr Philippe, an employee with “Médecin sans vancances” in Belgium.

Given the seriousness of this issue, on 9 September 2004, the Commission went back to Gatagara and had further discussion with Brother NGENDAHIMANA Célestin and he told them that SHUMBUSHO had been informed that he was going to undergo an operation, as they normally do to all their patients. He added that, a card has been introduced such that any person about to undergo an operation will have first to sign his/her consent.

The Commission discussed with the Gatagara Centre Administration and they agreed that the Commission would facilitate a meeting between them and SHUMBUSHO in attempt to settle the matter through negotiations, or else they would go to court.

3.5. VISITING PRISONS AND CHECKING WHETHER THE RIGHTS FOR DETAINEES THEREIN ARE SECURED (Article 3[g]).

In order to know the problems existing in cells and prisons with regard to respect of the right to decent premises, to be visited, to be fed, have medical care and services related to their welfare in general. The Commission visited cells and prisons in the Provinces of Kibungo, Kibuye, Butare, Gikongoro, Ruhengeri, Gisenyi, Cyangugu and Byumba. The prisons and cells visited include civil and military ones, as indicated in the table below:

3.5.1. Cells and Prisons visited.

Province	Cells and Prisons visited	Dates of visit
Kibungo	Kabarondo Cell	On 19 and 24 April, on 31 May, on 21 and 29 July, on 21 and 30 September 2004
	Mugesera Cell	On 19 on 24 April, on 21 and 31 September 2004
	Muhazi Cell	On 19 and 24 April, on 21 and 31 September 2004
	Rukira Cell	On 19 and 24 April, on 21 and 29 July, on 21 and 31 September 2004
	Rusumo Cell	On 19 and 24 April, on 21 and 30 September 2004
	Nyarubuye Cell	On 19 and 24 April, on 21 and 29 July, on 21 and 31 September 2004
	Kigarama Cell	On 19 and 24 April, 21 and 29 July, on 21 and 31 September 2004
	Rwamagana Town Cell	On 19 and 24 April, on 21 and 31 September 2004
	Kibungo Town Cell	On 19 and 24 April, on 21 and 29 July 2004
	Cyarubare Cell	On 19 and 24 April, on 21 ad 29 July 2004
	Kayonza Cell	On 31 May, on 21 and 29 July 2004
	Murindi Cell	On 31 May, on 21 and 31 September 2004
	Mirenge Cell	On 31 May, on 21 and 29 July, on 21 and 31 September 2004
Kibuye	Mabanza Cell	On 26 April 2004
	Gisunzu Cell	On 26 April 2004
	Nyange Cell	On 26 April 2004
	Rutsiro Cell	On 31 March 2004
	Rusenyi Cell	On 22 April 2004
	Itabire Cell	On 2 May and 7 July 2004
Butare	Police Station Cell of Butare Town	On 20 September 2004
	Huye Police Station Cell	On 23 October 2004
	Karubanda Prison	On 13 October 2004
Ruhengeri	Police Station Cell of Ruhengeri Town	On 28 February and 30 April 2004
	Kinigi Cell	On 27 April 2004
	Cyeru Cell	On 30 April 2004
	Bugarura Cell	On 20 July 2004
	Nyamugari Cell	On 23 July 2004

	Kidaho Cell	On 6 July 2004
	Ruhengeri Prison	On 23 January 2004
Gikongoro	Police Station Cell of Gikongoro	On 8 January, on 10 March, on 4 May, on 7 July and 22 September 2004
	Mudasomwa Cell	On 30 September 2004
	Police Station Cell of Munini in Nyaruguru District	On 13 May 2004
	Kinyamakara and Karaba Cells	On 1 October 2004
	Gikongoro Prison	On 10 February, on 5 and 15 October 2004
	Gisenyi	Vunga Cell
Ramba Cell		On 8 July 2004
Kabaya, Gaseke and Kayove Cells		On 18, 19 and 23 August 2004
Cyanzarwe Cell		On 22 July 2004
Ngororero Cell		On 27 July 2004
Kanama Cell		On 15 September 2004
Nkamira Cell		On 16 and 17 September 2004
Cyangugu	Gisuma Cell	On 26 August 2004
	Gafunzo Cell	On 27 August 2004
	Kamembe Police Station Cell	On 14 September 2004
	Nyakabuye and Karengera Cells	On 22 September 2004

In general, what was found in these cells and prisons is that detainees are visited and get medical treatment when sick. Those in cells are brought food by their families whereas those in prisons are fed by the Government.

In these cells and prisons, there are many detainees in small rooms such that there is little cleanliness. An example is Cyangugu prison where the number of detainees is greater than the number the rooms are designed to accommodate. The prison is roofed with old sheeting such that during the rainy season, it leaks.

There are also some places where people are detained and yet they are not designated as cells by competent authorities. Examples are the cells in the sector offices of Mahama in Nyarubuye district, Rubona and Ndamira in Kibungo Town and in Nyakariro sector, Bicumbi district in Kigali Rural Province.

3.5.2. Military Cells and Prisons visited.

Province	Cells and Prisons visited	Dates of visit
Kigali Rural	Cells in Kigali Rural	On 13 May 2004
Kigali City	Kanombe Military Police Cell and Mulindi Military Prison	On 10 March 2004
Gitarama	Gitarama Cell	On 9 March 2004 and on 15 April 2004
Kibuye	Kibuye Cell	On 16 and 17 April 2004
Cyangugu	Cyangugu Cell	On 21 April 2004
Gikongoro	Gikongoro Cell	On 22 April 2004
Butare	Butare Cell	On 22 April 2004
Ruhengeri	Ruhengeri Cell	On 26 April 2004
Gisenyi	Gisenyi Cell	On 27 April 2004
Byumba	Byumba Cell	On 28 April 2004
Umutara	Nyagatare Cell	On 3 May 2004.

In general, no welfare problems were observed in Military Cells and Prisons. However, the Commission noticed that in some places military people and civilians were detained together and it requests that they be separated.

3.6. REQUESTING THAT ANY PERSON COMMITTING HUMAN RIGHTS VIOLATIONS BE PROSECUTED (Article 3[i]).

Regarding this responsibility, the Commission, based on issues brought to it or on its own initiative, identified from time to time individuals or those using their positions as cover to get involved in human rights violation activities. Concerning certain issues, the Commission wrote to judicial authorities and those of the National Police requesting them to prosecute those involved in human rights violation. An example is the case concerning those who played a role in the killings and persecution of genocide survivors and those willing to tell the truth on what happened during the genocide in Gikongoro and Butare Provinces. After carrying out investigations, the Commission requested the judicial authorities to quickly follow up those involved in the killings and take exemplary punitive measures against them.

Besides, in the conclusions regarding the complaints reported to and followed up by the Commission during the year 2004, the Commission requested judicial authorities and the National Police to follow up and prosecute the people who have been involved in the persecution of the citizens.

As regards rehabilitation of the rights of a citizen once violated, the responsibility of the National Commission for Human Rights mentioned in article 3 [i] of the Law n° 37/2002 of 31 December 2002 establishing the Commission is limited only to "requesting that any person committing human rights violations be prosecuted".

And concerning rehabilitation of the rights of any person who had his or her rights violated, article 177 (3°) of the Constitution of the Republic of Rwanda of 4 June 2003 assigns to the Commission a clearer responsibility, for it states that the Commission has the responsibility to “carry out investigations of human rights abuses in Rwanda and filing complaints in respect thereof with the competent courts”.

The Commission pondered on how to carry out this responsibility and found out that it requires amendment of different existing laws such that they conform to this article of the Constitution. In order to examine whether the decision made by the Commission was a right one, the Commission sought assistance from three specialists in legal matters:

- Two lecturers, one from the National University of Rwanda and one from the Independent University of Kigali.
- A lawyer from the Bar of Rwanda.

Each of these three was sent a written document requesting them to show how the Commission could carry out the responsibility assigned to it by the Constitution, namely to file a complaint in courts.

The specialists replied, each individually, and they all converged to the idea of amending some of the existing laws such that they conform to the responsibility provided by the Constitution.

The laws found by these specialists as requiring amendment in a few of their articles are mainly the following:

1. In the Law n° 13/2004 of 17 May 2004 relating to the code of criminal procedure, amendment could be made in:

- **Article 2, clause 2:**

“A criminal action is one brought in the name of the public, before a criminal court, seeking to impose punishment on an individual convicted of having committed a criminal offence. **Such an action is prosecuted by the Prosecution”.**

- **Article 10:**

“Any person who has been injured by an offence can file a civil action. Such a person can be a natural or legal person, whether public or private. **However, associations, which have been legally constituted to fight against violence, can exercise the right available to civil parties on behalf of a victim, claiming damages arising from the offences”.**

2. The Law n° 18/2004 of 20 June 2004 relating to the civil, commercial, labour and administrative procedure, amendment could be made in:

- **Article 12:**

“An action may be filed in court of first instance by a written or verbal complaint, presented either **by the plaintiff himself or herself, or by his or her attorney or by any other person duly authorised by him or her**”.

3. The Law n° 03/97 of 19 March 1997 establishing a bar in Rwanda:

- **Article 50:**

“Except as otherwise provided by law, **a person must be a lawyer in order to plead cases before a court of law**. A lawyer who appears before a court is considered to be authorised to so appear without having a power of attorney unless the law requires one. **Apart may represent himself in a court, prepare pleadings and plead his own case or be represented and have his pleadings prepared and case pleaded by his spouse, parent or, with the written authorisation of the judge, his guardian or other legal representative**”.

4. The Law n° 37/2002 of 31 December 2002 modifying and complementing the law n° 04/99 of 12 March 1999 establishing the National Commission for Human Rights:

- **Article 3 [i]:**

“**Requesting that any person committing human rights violations be prosecuted**”.

- **Article 4 ter:**

“In their duties, members of the Commission are competent as judicial police officers. They exercise their duties on the whole territory of the Republic of Rwanda. The Commission Chairperson, where need be, may request the competent authority to transfer such competence to any employee of the Commission”.

After the Commission had seen this list of laws that should be modified so that the responsibility assigned to it by the Constitution to file complaints in courts could be carried out, it realised that this was the very opinion the Commission had adopted; especially as it is a usual practice that whenever there is a new Constitution, amendment of existing laws to conform them to the new Constitution is expected.

Although the law establishing the Commission is the last on the official list of laws to be amended, the Commission finds that modification of this law should come first so as to conform it to the Constitution, and have everything necessary for the Article 177 (3°) of the Constitution to be integrated in the law governing organisation and functioning of the Commission. Thus the responsibility mentioned in the Constitution could be integrated in the said law and could be sufficiently explicated.

At the time of preparing this report, the Ministry of Justice jointly with the Commission are working on the first draft of the bill regarding the said law and the exercise is in final stages.

Based on these explanations, the Commission takes this opportunity to request the Parliament to respond positively in that direction of modifying laws and to exercise it when time comes.

3.7. COLLABORATING WITH OTHER HUMAN RIGHTS COMMISSIONS IN OTHER COUNTRIES, ASSOCIATIONS OPERATING IN THE COUNTRY AND INTERNATIONAL ORGANIZATIONS AS REGARDS ACTIVITIES AIMING AT RESPECTING AND PROMOTING HUMAN RIGHTS (Article 3 [j])

So as to exchange ideas on the protection and promotion of human rights, the National Commission for Human Rights followed up the activities of various conferences by different Human Rights Commissions and Associations. Given the importance of certain Conferences, it became necessary that the Commission participates in some of them using funds from the Government budget allocated to the Commission.

- **Collaboration with other Human Rights Commissions.**

From 19 to 20 February 2004, the Commission participated in the Conference on the Freedom of Speech held in Pretoria, South Africa. This Conference was organised by the African and Peoples' Human Rights Commission, jointly with an Association called "Article 19" and aimed at examining together how freedom of speech, freedom of the press and freedom of access to information could be respected in African countries. In the conclusions of this conference, the Commission found that the people should be sensitised on the freedom of the press for their benefit. It finds also that Government Institutions should be sensitised on the responsibility of the press in countries governed by the rule of law and the principles of democracy. The Commission finds further that the press should be sensitised on the fact that freedom does not mean unanswerability.

On 24 and 25 February 2004, on the invitation of the Co-ordinating Committee of the African Human Rights Commission to a meeting organised at Johannesburg in South Africa, the Rwanda Commission for Human Rights, as a member of the Co-ordinating Committee, collaborated with other Commissions to examine ways and means of establishing a Permanent Secretariat for this Committee. The meeting also examined matters relating to the collaboration that should exist between this Committee and other institutions fighting for human rights, whether African or international. Participants at the meeting also discussed the nature of the logo of the Committee Secretariat. Under other business, discussions related to the role of economic, social and cultural rights as well as human and national sovereignty and respect.

From 6 to 18 April 2004, a delegation of the National Commission for Human Rights participated in the 60th Session of the International Conference of the United Nations High Commission for Human Rights held at Geneva in Switzerland.

On 7 April 2004, a delegation of the Commission took part in the ceremony to commemorate the genocide in Rwanda. The ceremony was organised by the United Nations High Commission for Human Rights. At the ceremony, the General Secretary of the United Nations indicated that the International Community should admit their responsibility in the genocide that

took place in Rwanda and admit that they should have done something to prevent it or to stop it immediately at the beginning. He further presented a plan of action to fight against genocide, to be carried out by all United Nations Agencies.

At that meeting, the delegate of the Rwanda Commission for Human Rights addressed the General Assembly stressing particularly the stage reached in the promotion and protection of human rights. The delegate requested that the international community plays a role in finding solution to problems resulting from effects of genocide. This includes contributions to a Fund for Assisting Genocide Survivors and give support to programmes for the promotion of Rwandans' social welfare and good governance.

At the time of this meeting also, a delegation of the Commission attended the 15th Meeting of the International Committee responsible for the co-ordination of the activities of National Human Rights Commissions. The delegation also attended the 4th Meeting of the Governing Council of the Association of French Speaking Countries Commissions, the Rwanda Commission being member of this Governing Council.

From 29 to 30 April 2004, on invitation of the Kenyan National Commission for Human Rights, the Commission attended the meeting organised in Nairobi on the draft of the United Nations International Convention concerning people with disability. Besides Rwanda's National Commission for Human Rights, other National Commissions present at the meeting included those of Kenya, Uganda, Tanzania and Ethiopia. The said Convention is a special one because it declares socio-political rights, economic rights as well as cultural and development rights of people with disability.

From 8 to 22 May 2004, on the invitation of the United Nations High Commission for Human Rights, a delegation of the Commission participated in a Workshop on "Strengthening the Implementation of Human Rights Treaty Bodies Recommendations at National Level", that was held in Switzerland. The delegation of the Commission presented to participants at the workshop, how a three-year Plan of Action on the implementation of Human Rights Treaty Bodies Recommendations at the National level could be designed.

From 16 to 19 May 2004, the Commission was invited to attend the First World Conference on Human Rights held at Nantes, in France. The main themes discussed related to terrorism, discrimination and its forms as well as poverty. Participants at the Conference found that discrimination and poverty should be fought against, so as to ensure that man's value is more firmly rooted and the terrorist pretexts are eradicated. The participants at the Conference also found that no reason can explain terrorism except the desire to encroach on democracy and human rights.

From 21 May to 4 June 2004, the Commission participated in the 35th Ordinary Session of the African Commission for Human and Peoples' Rights, held at Banjul in Gambia. The main points dealt with at the Session included examining country reports submitted to the African Commission; the question of signing the Protocol to the African Charter on Human and Peoples' Rights establishing the African Human Rights Court and to integrate it into the national laws; the question of refugees and displaced communities in Africa; matters relating to signing and ratifying the Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa.

The delegate of Rwanda's Commission, speaking on behalf of the National Human Rights Commissions having the membership status, expressed satisfaction as regards collaboration that existed between the National Commissions and the African Commission for Human and Peoples' Rights. He reminded the participants that the African countries that do not have National Commissions in accordance with what was called the Paris Principles, should quickly create such Commissions and where they exist, their freedom should continue to get support. The delegate of the Rwanda Commission for Human Rights indicated that the Batwa issue had been misinterpreted at this session; that it should be considered as a question regarding all other Rwandans having common social problems, educational problems or problems concerning insufficient land and the like. The Batwa question should not be solved on the basis that they claim to be "Abasangwabutaka", allegedly the first to come to Rwanda before the other inhabitants of the country. At this session also, Commissioner MUKIRYA NYANDUGA Tom submitted a special report on prisons and the treatment of prisoners in Africa. He said that the countries he had visited included Rwanda and that among the prisons he visited was the one of Gitarama where he found that things were done as they should be and that the treatment of prisoners was not bad though they were many because of the genocide that took place in Rwanda.

From 14 to 17 September 2004, the Commission participated in the 7th International Conference of the National Commissions for Human Rights, held in Seoul in South Korea. The Conference was intended to find together ways and means of fighting against terrorism, explaining its danger as an impediment to the principles of democracy. Another thing pointed out at this Conference was that economic, social, cultural and development rights should be given special consideration because they are part of the pretexts for this terrorism. The role of the National Commissions responsible for human rights during times of war and terrorism was also pointed out. In a special way, these Commissions should draw their attention to women's rights because these are the most violated during such times. At this Conference, the Rwanda National Commission for Human Rights gave a speech on Women's Rights and the stage reached by Rwanda in this regard.

From 18 to 21 October 2004, on the invitation of the African Union Commission, a delegation of the Commission attended the First Session of the Human Rights Commissions on the African continent, held at Addis-Ababa in Ethiopia. This Session was organised by the Political Department of the African Union jointly with the Office of the United Nations Human Rights Department in Addis-Ababa. The Session was intended to encourage National Commissions for Human Rights to improve further on their functioning and their collaboration with other Commissions as well as government and private institutions. The aim of this is to enable the Commissions on the African continent accomplish better their mission because doing so would be a way leading to peace, good governance, democracy and development.

From 23 to 30 November 2004, the Commission attended the 36th Ordinary Session of the African Commission for Human and Peoples' Rights, held in Dakar, Senegal. The Session was intended to examine the collaboration existing between Human Rights Commissions and Non Governmental Organisations, to examine country reports on human rights, establishment of the African Court on Human and Peoples' Rights. The Session also examined the question of the death penalty, prisoners' welfare and the nature of their detention premises, conditions of their imprisonment and what could be done to ensure respect of their rights. Discussions also related to the question of terrorism and human rights. The delegate of Rwanda Commission for Human

Rights explained to the participants at the Session the stage reached by Rwanda with regard to the respect of human rights.

- **Collaboration with associations operating in Rwanda.**

The Commission continued collaborating with associations operating in Rwanda, dealing with the protection and promotion of human rights. This collaboration was in the form of seminars, activities relating to follow-up of human rights respect in Gacaca Jurisdictions, exchange of ideas and participating in the commemoration of Annual Human Rights Days.

- **Seminars:**

Some seminars were organised by these Associations and the Commission was invited to support them giving lectures on human rights issues. Such seminars include those organised by HAGURUKA and the High Council of the Press. Other seminars were organised by the Commission and these Associations were invited to take part. Such Associations include CLADHO and L.D.G.L.

- **Follow-up of Gacaca Courts Activities.**

Regarding follow-up of human rights respect in Gacaca Jurisdictions, the Commission collaborated with other Associations having this activity in their duties. It is the Commission's responsibility to co-ordinate the activities of those organisations and associations following up the functioning of Gacaca Jurisdictions.

- **Follow-up of Consultative meetings organised by other Associations.**

The Commission followed up the two-day consultative meeting organised by CCOAIB on the security of witnesses in Gacaca Jurisdictions. The meeting was held in Kigali.

- **Commemoration of Annual Human Rights Days.**

Regarding the commemoration of the Human Rights Day celebrated on 10 December, the Commission collaborated with CLADHO to prepare the celebrations at national level, which were held in Kigali Rural Province.

- **Collaboration with International Organisations.**

In this part, are presented activities that characterised collaboration between the Commission and international organisations, whether operating in Rwanda or having their headquarters abroad.

The French-speaking Communities Organisation invited the Commission to take part in monitoring the elections of Members of Parliament in Guinea Bissau. The delegate of the Commission followed up this activity from 21 March to 3 April 2004. It was clear to the delegate of the Commission that, at international level, the Rwanda Commission for Human Rights continues

to win peoples' confidence, to be famous and be consulted as an institution with knowledge and experience as regards activities of monitoring elections.

The Centre for Human Rights and Democracy of the United Nations Department responsible for children invited the Commission to participate in the seminar organised in Cotonou, Benin, from 10 to 25 July 2004, regarding Human Rights and Democracy.

The Non Governmental Organisation by the name of "Kituo cha Katiba" operating in countries of the East African Region invited the Commission to attend a meeting organised at Arusha in Tanzania, from 12 to 13 November 2004, on matters regarding Human Rights Commissions and their mission in the East-African Region. The National Commissions of the countries in this region exchanged views and information on their respective functioning and on their achievements so far. The Rwandan Commission addressed participants at the meeting, in relation with economic, social and cultural rights explaining how the Commissions should promote and protect these rights. The delegate indicated that the Commissions should follow up implementation of Government Programmes relating to the promotion of economic, social and cultural rights.

The Commission carried out further collaboration with the German Service dealing with development, DED in activities of training and sensitising Rwandans on human rights.

During the year 2004, the Commission strengthened further collaboration with UNICEF based on the promotion of the rights of the child through the establishment of a Forum for the Defence of the Rights of the Child.

The Commission continued collaborating with the European Union, based on the project following up human rights respect in Gacaca Jurisdictions in which the Commission is sponsored by this organisation.

The Commission maintained collaboration with the Office of the United Nations High Commissioner for Human Rights, based on the RWA/02/001 Project. This Office sponsored a seminar on matters relating to International Conventions on Human Rights and how these conventions could be implemented. One Commissioner and three employees of the Commission attended this seminar which was held in Geneva, Switzerland and which related particularly to International Conventions on the rights of the child. Collaboration with this Office was also based on the invitation the Office extended to the Commission to participate in the annual meeting of the Co-ordinating Committee of the National Commissions for Human Rights and in this Office's annual meeting. Besides, this Office gave financial support to the Commission for the seminars attended by two of the Commission's employees on Introduction to the Human Rights, carrying out investigations, monitoring and preparing reports on human rights violation that took place in Rwanda and Kenya.

Besides the collaboration based on exchange of ideas on protection and promotion of human rights, the Commission was also characterised by co-operation and institutional relations.

- **Collaboration with Embassies.**

The British Embassy supported the Commission in training with a view to increase capacity for employees of the Commission. Employees at the Commission's Head Office and in the provinces were trained in matters relating to economic, social and cultural rights, as well as follow-up and fact-finding.

The Co-operation Office of the Swiss Embassy continued co-operation with the Commission in activities of promoting human rights and increasing the capacity of the Commission's employees, particularly in seminars on human rights organised for local government leaders. This Office also assisted the Commission in the training of two of the Commission's employees in matters of Human Rights. They underwent this training at Strasbourg in France.

- **Collaboration based on institutional relations.**

- **Collaboration with Government Institutions.**

- **The Office of the President of the Republic.**

In preparation for the International Conference for the Great Lakes Region on peace and development presided over by the Office of the President of the Republic on Rwanda's side, the Commission is head of the group responsible for examining social, intervention and human rights issues. The group led by the National Commission for Human Rights comprises the National Commission for Human Rights itself, the Office of Ombudsman, the Commission for Unity and Reconciliation, the Ministry having Social Affairs in its duties, CLADHO and AMUR. This Conference is intended to lead to peace and co-operation agreement so that the countries in this region could reach sustainable development.

- **The Parliament.**

Collaboration with the Parliament took the form of giving advice on bills. It was also observed in the fact that the Commission submitted to the Parliament its report of activities for the year 2003 and its programme of action for the year 2004. This collaboration was also evident in the relationship that existed between the Commission and the Senate, the Commission in charge of international relations, co-operation and security, discussing the gravity of the crimes of murder, violence and banditry and their impact on people and their property.

- **The Supreme Court.**

Collaboration between the Commission and the Supreme Court was based on the provisions of the Constitution which includes the President of the National Commission for Human Rights among members of the Supreme Council of the Judiciary. The Commission participated and contributed ideas in this Council whenever it convened. The Commission also organised seminars on human rights, for all judges who had taken up their posts.

- **Ministry of Justice.**

On the invitation of the Ministry of Justice, the Commission took part in seminars intended for the mediators who had been selected so that they too could later conduct similar seminars for others. This activity took place throughout Rwanda. The Commission was also invited by the Ministry of Justice to participate in various meetings. In this connection mention could be made of meetings that brought together the parties involved in follow-up of the functioning of Gacaca Jurisdictions. The Commission also provided the Ministry of Justice with a permanent employee to work together with the staff of this Ministry for the publishing of the pamphlet "*Inkiko Gacaca*" (Gacaca Jurisdictions). On the invitation of the Ministry of Justice, the Commission participated in a consultative meeting on the preparation of this Ministry's Strategic Plan on Justice.

- **Ministry of Local Government, Good Governance, Community Development and Social Affairs.**

The Commission collaborated with the Ministry of Local Government, Good Governance, Community Development and Social Affairs in connection with the preparation of a Civic Education Programme, the Commission being the Vice Chairman of the Administrative Committee for this activity. This collaboration was also in form of seminars for local government leaders in which the Commission plays a role giving lectures on human rights.

- **Ministry of Education, Science, Technology and Research.**

The Commission continued collaboration with the Ministry of Education, Science, Technology and Research with regard to integration of human rights in Secondary School Curricula. The Commission collaborated with this Ministry in organising seminars for all Officers in charge of studies and principles in the Model Teacher Training colleges (TTC) in the country.

- **Ministry of Gender and Family Promotion.**

Regarding collaboration with the Ministry of Gender and Family Promotion, the Commission was invited to participate in various meetings related to the rights of the child and women rights. The Commission collaborated with this Ministry in the preparations for the commemoration of the International Women's Day and it worked with this Ministry in the creation of the Forum for the Defence of the Rights of the Child. The Commission also collaborated with this Ministry to prepare a report on the rights of the child, submitted to the United Nations Committee of the Rights of the Child in May 2004.

- **Ministry of Youth, Culture and Sports.**

As regards collaboration with the Ministry of Youth, Culture and Sports, the Commission was invited to take part in a consultative meeting on the law governing the mission, the organisation and the functioning of the National Commission for the Fight against Genocide. The Commission collaborated also with this Ministry in the preparations of the mourning week at national level, and in the preparations for the Commemoration of Genocide.

- **Ministry of the Information and the Press in the Prime Minister's Office.**

On the invitation of the Ministry of Information and the Press in the Prime Minister's Office, the Commission attended the seminar on the principles and ethics of professional journalism. Participants at the seminar examined together the relationship between the laws and the principles governing the press and finalised the strategic plan of this Ministry. The Commission was also invited several times to participate in various meetings in relation with the press.

- **The National Commission for Unity and Reconciliation.**

On the invitation of the National Commission for Unity and Reconciliation, the National Commission for Human Rights continued to give lectures on human rights in solidarity camps organised by the National Commission for Unity and Reconciliation. The National Commission for Human Rights collaborated with this other Commission to prepare the Children General Meeting at national level.

- **The National Commission for Demobilisation of Ex-Soldiers.**

On the invitation of the National Commission for the Demobilisation of ex-soldiers, the National Commission for Human Rights continued to give different lectures on human rights in solidarity camps for ex-soldiers and those who had been among infiltrators.

- **The National Commission for Fighting against AIDS.**

The National Commission for Human Rights collaborated with the National Commission for Fighting against AIDS in the preparation of a Programme of Actions against AIDS. The Commission also participated in different meetings on fighting against AIDS.

- **The Chief Prosecutor's Office.**

The Collaboration between the Commission and the Chief Prosecutor's Office was based on the provisions of the Constitution which includes the President of the National Commission for Human Rights among members of the Supreme Council of the Prosecution. The Commission participated in the meetings of this institution, giving advice on different points on the agenda to be discussed. The Commission also was invited to a meeting preparing a long term strategic plan for this institution.

- **The National Service for Gacaca Courts.**

Collaboration between the Commission and the National Service for Gacaca Courts was in form of seminars organised for persons of integrity within the Gacaca Courts, on rights and duties of a citizen. The Commission also collaborates with this Service in following up the functioning of Gacaca Court and submit to it the report on the results of its follow-up. The Commission was invited to participate in different meetings where it expressed views regarding the smooth running of Gacaca courts.

3.8. CAPACITY BUILDING WITHIN THE COMMISSION.

Regarding capacity building of the Commission, seminars and workshops were organised for the Commissioners and other Commission's staff, both inside and outside the country.

- **Seminars and Workshops in Rwanda.**

From 5 to 9 January 2004, in Kigali, thirty workers of the Commission followed a workshop on training and sensitising the people on human rights.

From 16 to 20 February 2004, in Kigali, thirty-two employees of the Commission attended a seminar on new methods of training – the participatory training methods.

From 22 to 25 March 2004, in Kigali, twenty-five Commission employees attended a seminar on economic, social and cultural rights.

From 26 to 30 March 2004, in Kigali, a seminar was organised for the staff of the Commission on follow-up and fact-finding. Twenty-five participants attended this seminar.

Two members of the Commission's staff took part in a seminar, through the modern method of distant learning. They followed different courses on human rights, especially in relation with fact-finding, collection and dissemination of information on human rights violation.

- **Seminars and Workshops outside the country.**

From 8 to 22 May 2004, one of the Commissioners together with three of the employees attended a workshop organised at Geneva in Switzerland on International Conventions on the rights of the child.

From 11 to 13 November 2004, one of the Commissioners participated in a seminar on fighting against torture and monitoring detentions, held at Kampala in Uganda.

From 5 to 30 July 2004, the Commission sent two staff members to Strasbourg, in France to undergo training on International Laws regarding human rights.

From 12 to 23 July 2004, the Commission sent one of its employees to a seminar held in Cotonou (Benin), at Abomey-Calavi University. The seminar was on Civil and Political human rights.

From 11 to 22 August 2004, the Commission sent two of its staff to Nairobi (Kenya), at the Education Centre for Women in Democracy, to attend a seminar on gender and women promotion.

*

* *

IV. FINANCIAL REPORT.

4.1. INTRODUCTION.

The financial report for the year 2004 presents the funds allocated to the Commission by the law determining the budget for the year 2004, funds allocated to the Commission in the Ordinary Government Budget for the year 2004, funds received by the Commission from donors and expenditure of the funds by the Commission. This report presents expenditure of the funds of the Commission from 1 January through to 31 December 2004.

As can be seen in the report for the year 2003, at the end of the year, the Commission had on the debit side the sum of twenty five million four hundred seventy five thousand seven hundred and thirty nine francs (**25.475.739 Frw**). The greater part of this sum comprises the bills the Commission could not pay from its budget for 2003.

The funds allocated to the Commission in the Ordinary Government Budget for the year 2004 amount to seven hundred forty two million, one hundred eighty thousand, and nine hundred thirty one francs (**742.180.931 Frw**).

The funds given to the Commission as donations amount to six hundred sixty nine million, forty eight thousand and six hundred thirty three francs (**669.048.633 Frw**).

Funds spent by the Commission amount to six hundred nineteen million, six hundred thirty eight thousand, six hundred fifty francs (**619.638.650 Frw**).

During the year 2004, the Commission received from donors the sum of two hundred forty five million, three hundred fifty five thousand and seven hundred eighty two francs (**245.355.782 Frw**).

By 31 December 2004, the Commission had a balance on the allocations from the Ordinary Government Budget equivalent to forty nine million, four hundred and nine thousand and nine hundred eighty three francs (**49.409.983 Frw**).

*

* *

4.2. EXPENDITURE OF FUNDS FROM GOVERNMENT BUDGET FOR THE YEAR 2004.

The expenditure of the funds allocated to the Commission in the Ordinary Government Budget for 2004 is shown in the table below and is understood further by the accompanying explanations.

Budget line	Amount authorised by the law	Amount allocated	Amount spent	Balance or surplus for the year 2004
ARREARS		10 951 596*	25 475 739	-14 524 143
1. EXPENDITURE ON STAFF AND COMMISSIONERS	379 137 624	325 307 339	301 710 901	23 596 438
2. DAILY ROUTINE OPERATIONS				0
2.1. Office equipment	15 358 708	14 078 816	13 517 393	561 423
2.2. Water and electricity	2 000 000	1 833 333	3 647 783	-1 814 450
2.3. Fuel	30 073 008	27 566 924	36 430 368	-8 863 444
2.4. Technical equipment	1 175 515	1 077 555	4 064 367	-2 986 812
2.5. Sports equipment	4 931 000	4 520 083	394 500	4 125 583
2.6. Teaching equipment	2 282 795	2 092 562	1 328 900	763 662
2.7. Other different equipment	500 000	458 333	2 560 595	-2 102 262
2.8. Maintenance of computer systems	2 500 000	2 291 667	1 256 002	1 035 665
2.9. Maintenance of vehicles	14 000 000	12 833 333	33 109 303	-20 275 970
2.10. Maintenance and repairs of motorcycle	2 000 000	1 833 333	820 485	1 012 848
2.11. Maintenance and repairs of Office equipment	1 200 000	1 100 000	6 175 904	-5 075 904
2.12. Rent of offices	80 100 000	73 425 000	70 033 778	3 391 222
2.13. Maintenance and repair of technical equipment	5 808 000	5 324 000	4 878 400	445 600
2.14. Maintenance of archives	1 920 940	1 760 862	0	1 760 862
2.15. Travel abroad	10 704 480	9 812 440	7 623 461	2 188 979
2.16. Local travel	2 223 040	2 037 787	539 200	1 498 587
2.17. Local missions	28 308 865	25 949 793	19 194 200	6 755 593
2.18. Missions	42 504 150	38 962 138	25 539 934	13 422 204

abroad				
2.19. Security	6 836 199	6 266 516	5 947 200	319 316
2.20. Rent for conference rooms	200 000	183 333	211 852	-28 519
2.21. Subscription to journals	925 000	847 917	1 409 154	-561 237
2.22. Purchase of books	6 904 000	6 328 667	1 745 400	4 583 267
2.23. Printing	17 213 528	15 779 067	16 481 733	-702 666
2.24. Advertisement and radio programmes	1 850 514	1 696 305	2 589 322	-893 018
2.25. The press	59 895	54 904	15 000	39 904
2.26. Seminars and conferences	11 221 124	10 286 030	10 619 124	-333 094
2.27. Receptions	2 475 000	2 268 750	4 042 200	-1 773 450
2.28. Celebrations of Human Rights Days	2 000 000	1 833 333	2 888 625	-1 055 292
2.29. Training for Commissioners and staff	8 351 250	7 655 313	1 148 800	6 506 513
2.30. Postage	2 329 790	2 135 641	323 584	1 812 057
2.31. Telephones, fax and internet	20 453 381	18 748 933	24 534 048	-5 785 115
2.32. Other expenditure on postage	726 000	665 500	47 742	617 758
2.33. Honorarium	1 573 000	1 441 917	4 264 072	-2 822 155
2.34. Translation	4 615 800	4 231 150	2 709 000	1 522 150
2.35. Insurance of vehicles	4 970 000	4 555 833	5 624 943	-1 069 110
2.36. Sports and recreation	3 258 000	2 986 500	578 750	2 407 750
2.37. Consultancy	16 269 500	14 913 708	420 000	14 493 708
2.38. Investigations	1 838 400	1 685 200	0	1 685 200
2.39. Budget preparation	1 382 425	1 267 223	1 212 627	54 596
SUB TOTAL	363 043 307	332 789 698	317 927 749	14 861 949
GRAND TOTAL	742 180 931	669 048 633	619 638 650	49 409 983

Source: Accounting documents of the Commission for the year 2004.

*Arrears for a two-months office rent paid for the Commission by MINECOFIN (Ministry of Finance and Economic Planning)

Explanations of the table on expenditure of funds the Commission received from Government.

As can be observed in this table, by 31 December 2004, the Commission had a balance of forty nine million, four hundred and nine thousand, nine hundred and eighty three Rwandan francs (**49.409.983 Frw**).

Until December 2004, the Commission had been given funds for running costs for nine months only.

As the Ministry of Infrastructure could not buy vehicles for the Commission to replace old ones, the Ministry of Finance and Economic Planning gave to the Commission a sum of forty nine million six hundred twenty nine thousand five hundred and forty six Rwandan francs (**49.629.546 Frw**) equivalent to running costs for the months of October and November, and this was the sum that was on the account by the end of the year as provisions for buying vehicles.

By 31 December 2004, the Commission had unpaid bills equivalent to thirty five million, forty seven thousand, three hundred and thirty six Rwandan francs (**35.047.336 Frw**).

In general, this table indicates that for some items there was a surplus while for others there was a deficit.

Regarding expenditure on Commissioners and staff, there was a balance of twenty three million five hundred ninety six thousand four hundred thirty eight Rwandan francs (**23.596.438 Frw**). This sum comprises funds remaining unused on certain items relating to expenditure on staff, for no reason was found to spend the money. An example of this, is the money provided for the family of a member of staff who dies or whose member of the family dies. There are also funds that continued to come in form of annual salaries for workers who ceased employment with the Commission. Similarly, one Commissioner left the Commission and for one year he was not replaced and yet his salary continued coming.

Large amounts were spent on water and electricity due to shortage of electricity in the whole country, the Commission resorted to the use of a generator for service in its premises and this consumed a lot of diesel.

Expenditure on fuel went up because Commission's vehicles are old and consume a lot of petrol and diesel, in addition to the price of fuel that kept on increasing from time to time.

Expenditure on technical equipment was greater than estimated because it was necessary for the Commission to buy air conditioners to be placed in particularly hot rooms, including protection of the server for the Commission's computer network.

With a view to promote sports for the Commissioners and members of staff, the Commission had requested funds for sports (2.5.). Of the funds provided, only small amounts were spent from time to time because the funds required could not be found at once to buy needed equipment as planned.

The item concerning other different equipment (2.7.) is usually allocated small amounts in the estimates but actual expenditure is high, because this line includes all small purchases not included in the Budget estimates.

Maintenance of the vehicle of the Commission was very costly. As explained in last year's annual report, vehicle maintenance took large amounts of funds because the vehicles purchased in 1999 are now old, added to the nature of the work which in most cases is carried out upcountry. It follows that the vehicles are often sent into the garage.

Maintenance of office technical equipment (2.4.) was costly because this equipment is old. Most of the machines have been in use for more than four years and yet they are designed for a three year period. Examples are the computers and photocopiers.

There was no expenditure on the line of maintenance of archives because after only five years of the Commission's existence, the archives are still not many and the Commission's library is still new.

Not all the funds provided for missions (2.16.) and travel (2.17.) abroad were spent. This was due to the fact that the Commission did not attend certain international conferences on human rights, due to some other urgent activities in the country.

The funds from Government Budget provided for the purchase of books (2.22.) were not spent entirely because during the year 2004, the Office of the United Nations High Commissioner for Human Rights gave to the Commission a donation for purchase of books.

Expenditure on postage (2.30.) was little because the Commission's work usually needs speedy communication such that it is necessary to use telephones, fax and internet and this explains why expenditure on this budget line was high. As explained in previous annual reports, this means of communication is largely used, whether in following up cases, carrying out investigations, preparations of meetings organised, communication with donors, exchanging documents through modern technological means and collaboration with other foreign organisations concerned with the protection and promotion of human rights.

There was little expenditure on consultancy (2.37.) because more efforts were put into activities relating to the protection of training and sensitisation of Rwandans on human rights. Thus, research on different themes regarding human rights was not done whereas the funds on this line had been set apart for this purpose.

Although the budget estimates for the line concerning investigations (2.38.) were low, these funds were not used because the money spent in relation with this activity was included in expenditure on local missions.

*

* *

4.3. ENDOWMENTS FROM DONORS AND THEIR EXPENDITURE.

During the year 2004, the Commission received from Donors a total sum equivalent to three hundred and eleven million, four hundred ninety five thousand, seven hundred seventy one Rwandan francs (**311.495.771 Frw**).

Table on endowments from Donors and their expenditure during the year 2004

Donor	Purpose of the donation	Amount of provisions	Amount received in 2004	Amount spent	Balance
European Union	Follow up of Gacaca activities	541 168 998	211 085 917	203 465 545	7 620 372
Swiss Co-operation	Training	115 625 800	73 317 908	71 440 457	1 877 451
United Nations Children Funds	Promotion for the rights of the Child	7 016 360	7 016 360	6 948 795	67 565
German Service for Development*	Promotion of Human Rights	20 075 586	20 075 586	20 075 586	0
TOTAL		683 886 744	311 495 771	301 930 383	9 565 388

Source: Accounts documents of the Commission and Project Reports.

*The German Service for Development itself manages its endowments to the Commission.

Explanations on expenditure of endowments to the Commission

The European Union donated to the Commission the sum of two hundred and eleven million, eighty-five thousand nine hundred and seventeen Rwandan francs (**211.085.917 Frw**). This sum was spent on the project relating to follow-up of respect of human rights in Gacaca Courts. This project started in November 2002 and will continue even during the year 2005.

Table on expenditure of endowment for follow-up of human rights respect in Gacaca Courts.

Purpose	Provisions	Amount donated	Expenditure	Balance
1. Follow-up of Gacaca Courts working	207 018 529	184 095 676	184 035 951	59 725
2. Training and meetings of staff	17 598 000	14 606 340	10 728 390	3 877 950
3. Consultancy	2 000 000	1 000 000	1 000 000	0
4. Information on results	3 700 000	0	0	0
5. Meeting to present results	5 000 000	0	0	0
6. Insurance for staff	2 500 000	2 500 000	2 500 000	0
7. Maintenance of vehicles and motor-cycles	11 720 000	8 883 901	5 201 204	3 682 697
TOTAL	249 536 529	211 085 917	203 465 545	7 620 372

Source: Project Report.

The United Nations Children Fund (UNICEF) gave financial assistance to the Commission in connection with the establishment of a Forum for the Defence of the Rights of the Child. The sum received by the Commission for this purpose is equivalent to seven million sixteen thousand, three hundred and sixty Rwandan francs (**7.016.360 Frw**).

The Swiss Co-operation Office in Rwanda gave financial assistance to the Commission in a project started in September 2003 relating to training judges, local government leaders and mediators in matters of human rights, in all the provinces of the country. The sum donated during the year 2004 is equivalent to seventy three million, three hundred and seventeen thousand, nine hundred and eight Rwandan francs (**73.317.908 Frw**). The balance will be spent on training to be agreed upon by both parties.

Another donation to the Commission was for support to the Ministry of Local Government, Community Development and Social Affairs.

Table on expenditure of the donation from the Swiss Co-operation Office in Rwanda.

Purpose	Provisions for the whole project	Provisions for the whole year	Amount donated, add balance for 2003	Amount utilised	Balance
I. Project to support training on Human Rights					
1.Training	66 313 300	53 050 640	44 787 908	36 479 618	8 308 290
2.Co-ordination	20 760 000	3 840 000	3 840 000	4 666 413	-826 413
3.External Monitoring	1 000 000	800 000	1 000 000	600 000	400 000
4.Not in provisions	0	0	0	2 141 926	-2 141 926
SUB TOTAL	88 073 300	57 690 640	49 627 908	43 887 957	5 739 951
II. Project to train Members of the Steering Committees and Mediators in Sectors					
1.Training for Steering Committee Members and Mediators in sectors	27 552 500	23 690 000	23 690 000	27 552 500	-3 862 500
SUB TOTAL	27 552 500	23 690 000	23 690 000	27 552 500	-3 862 500*
GRAND TOTAL	115 625 800	81 380 640	73 317 908	71 440 457	1 877 451

Source: Project reports.

*Funds paid by the Commission from Ordinary Budget, to be refunded by the Swiss Co-operation Office.

The German Service for Development (DED) gave financial support to activities related to training and promotion of human rights. Expenditure on this amounted to twenty million, seventy five thousand five hundred eighty six Rwandan francs (**20.075.586 Frw**).

V. GENERAL CONCLUSION, RECOMMENDATIONS AND PERSPECTIVES FOR THE YEAR 2005.

5.1. GENERAL CONCLUSION.

In general, during the year 2004, the Commission was characterised by different activities related with its major mission to promote and protect human rights. As can be seen in this report, the activities carried out by the Commission are based on the mission entrusted to it by Law n° 37/2002 of 31 December 2002. The activities included in this report related mainly to:

- a) sensitisation and training all categories of people on human rights;
- b) giving advice, on request or on its own initiative, on bills regarding human rights issues;
- c) sensitising concerned Government Institutions as regards ratification of international conventions regarding human rights and integrating them in internal laws;
- d) following up issues related to human rights violations, whether brought to the attention of the Commission, or found out by the Commission itself;
- e) visiting detention premises and checking whether the rights of the detainees there in are secured;
- f) requesting that any person involved in human rights violation activities be prosecuted;
- g) collaborating with other Human Rights Commissions in other countries, associations operating inside the country and international organisations in activities relating to respect and promotion of human rights;

Besides these duties and responsibilities entrusted to the Commission by the law establishing it, the Commission has also another mission entrusted to it by Law n° 27/2001 of 28 April 2001 relating to rights and protection of the child against violence. In its article n° 24, this law provides that the National Commission for Human Rights must set up specifications on how to follow up the protection of the rights of the child.

a. Regarding sensitisation and training all categories of people on human rights.

In order that Rwandans could protect their own rights and the rights of others, it is necessary that they first know these rights. It is in this context that, during the year 2004, the Commission put emphasis on training and sensitising different categories of Rwandans on issues regarding human rights. Beneficiaries included local government leaders, security agents such as the Police and the Local Defence Forces, students and teachers, religious leaders, judges, mediators as well as people brought together in solidarity camps or forming different associations.

Besides this type of training, the Commission's weekly programme broadcasted on Radio Rwanda every Friday, continued to play a role in sensitising Rwandans on issues of human rights in general.

Concerning other activities in relation with the promotion of human rights, the Commission celebrated Annual Human Rights Days and took this opportunity to give messages sensitising Rwandans on the particular type of human rights taken into consideration on the Day in question. Such messages were read out on National Television and Radio or written on bandroles placed in public places. Other messages were given through brochures prepared specifically for that purpose.

b. Advice on Bills.

In this activity, the objective of the Commission is to check whether in these bills, no articles could be against human rights. It is in this context that during the year 2004, the Commission contributed ideas on the draft of the Organic Law determining the use and management of land in Rwanda and on the bill establishing the Commission for the Fight against Genocide.

c. Sensitising concerned Government Institutions as regards ratification of international conventions regarding human rights.

The Commission kept on sensitising competent government institutions as regards ratification of international conventions on human rights, not yet ratified by Rwanda or yet to be integrated in Rwanda's National laws. The Commission, through the Ministry of Foreign Affairs, indicated to the Government of Rwanda the Conventions that should be signed and ratified (p. 28 Kinyarwanda version).

d. Follow up of issues relating to human rights violation.

During the year 2004, the Commission followed up issues regarding human rights violations, on the ground of complaints reported to it, or on its own initiative depending on the gravity of the matter. Most of the issues reported to the Commission related to unlawful arrests and detentions, disregard of court decisions, delayed cases and those for which the judgement is not executed, obstacles against rights to property, rights of the child and issues regarding rights to employment and respect of laws governing employment.

Moreover, the Commission followed up issues regarding persecution of genocide survivors and those willing to tell the truth on what happened during the genocide. It also followed up the respect of human rights in Gacaca Courts and the respect of human rights in the different elections that took place in the country, during the year 2004.

• Concerning unlawful arrests and detentions.

The greater part of the issues the Commission followed up in relation with unlawful arrests and detentions concerned individuals who were arrested and detained at the Police Stations for a

longer period than that provided by the law (seventy two hours), before they are reported to the Prosecutor's Office from where they could be brought before the Council of Judges. In this context also, the Commission received complaints concerning people who are detained by local government authorities who have no authority to do so.

The Commission reminds once again that these unlawful arrests and detentions are the root cause of delays in court proceedings, because a great deal of time is spent dealing with procedures instead of handling the actual offence so as to establish the truth.

- **The question of remaining in detention after having served one's sentence.**

Another problem that was observed at one place is that of remaining kept in detention after the accused have served their sentence, the cause being the Head of the prison. In this regard, the Commission is pleased that, compared to previous years, such cases are clearly less frequent in prisons. However, the Commission requests that they disappear completely and that those involved in such cases should be punished and that they pay some damages to the person they kept in prison after serving his sentence.

- **Disregard of court decisions.**

As indicated in the Commission's annual report for the year 2003, there are people who disregard court decisions. Similarly in the year 2004, the Commission followed up complaints based on court decisions which are not executed. The people involved in such cases include the prosecution that refuses to let go the people released temporarily by the Council of Judges, and yet the law provides that, even in cases where the prosecution has lodged an appeal, the accused should be released. Here too, the Commission thinks that the prosecutors who disrespect court decisions should be punished just like any other person who violates the laws purposely.

Others who disregard court decisions include local government leaders who oppose these decisions and act as they will; and this is an evidence that such leaders do not yet understand that a court decision has become a law, as provided by article 140 of the Constitution. Such cases were observed mostly in the Provinces of Umutara, Byumba, Gikongoro and Cyangugu. The Commission finds that, the concerned authorities should pay greater attention to this question and sensitise local leaders as regards protection of the rights of the people they lead by respecting the decisions taken by the courts. Those who act against these decisions should be punished.

- **Delayed cases.**

The Commission followed up complaints regarding cases that are delayed or postponed several times; and this makes both the complainant and the accused continue to feel that they have been treated unjustly. Most of these problems concern cases that had been submitted to the former Court of Cassation and now they are being sorted out by the Supreme Court. It is the Commission's hope that the reforms made in the judiciary and which are now effective will find solutions to such problems of case delays that had become rather a tradition in the past; and which the Commission kept on condemning in its reports. The Commission finds that disciplinary measures should be taken against court bailiffs who do not accomplish their duties.

- **Non Execution of judgements and Execution contrary to the Courts decisions.**

The Commission followed up complaints regarding cases whereby court rulings are not implemented or are implemented contrary to the court rulings. Among these complaints there are cases where a person is declared by the court to be the rightful owner of a property but it becomes a big problem when it comes to actually give them the said property. Sometimes, this execution of court judgements is interfered with by certain leaders. Such problems are still observable in many places, though the Commission never ceased to condemn them in the past.

The Commission finds that, action should be taken towards solving this problem and recalls that when the judiciary carries out execution of judgement correctly and promptly, it is an indication that the country adheres to the rule of law. Non execution of judgements makes those who seek justice in courts lose confidence in the judiciary. This gives a bad image of the judiciary in general and yet the fault is not with the judicial institutions themselves.

- **Killings and persecution of genocide survivors and those willing to tell the truth on what happened during the genocide.**

Among the serious issues followed up by the Commission are those related to the killings of genocide survivors and those willing to tell the truth on what happened during genocide. Such acts were observed mostly in the Provinces of Gikongoro and Butare. In its investigations, the Commission found out that these killings are intended to carry forward the genocide and to silence those willing to tell the truth on what happened during that period. In the special reports submitted regularly to higher authorities in the country, the Commission condemned these killings and threats, requesting security and judicial authorities to work out reliable strategies to fight against these killings and threats. The Commission is pleased that the security and judicial institutions have taken action in this regard and that the killers and those suspected of the killings have been arrested and their cases are being speeded up.

- **Follow-up on human rights respect in Gacaca Courts and in elections.**

As regards activities of following up how human rights are respected, the Commission followed up the working of Gacaca Courts with the intention to see how much the rights to a fair and impartial trial are respected, both on the side of those accused of genocide and those who lost their relatives in the genocide. Each term, the Commission submitted to the National Service charged with the follow-up, supervision and co-ordination of activities of the Gacaca Courts a report on human rights respect in these courts.

Concerning follow-up on the respect of political rights, during the year 2004, the Commission followed up the elections held in the country those concerning Mediation Committees, elections for completing the District, Town or Municipality Councils and Steering Committees, persons of integrity in Gacaca Courts and elections for members of the National Women's Council.

In this activity, the Commission's intention was to see how far the right to elect a person of one's choice and the right to campaign were respected at individual level. In general, the Commission found that these elections were well conducted because the laws governing them were adhered to and the electorate's response was great.

- **Issues regarding property.**

Regarding questions related to personal property, the Commission followed up cases of disputes over land leading to misunderstandings in the families. This problem actually exists in different places in the country. The Commission thinks that the administrative authorities should look into this question so as to find a permanent solution.

- **The right to employment.**

Cases followed up in this regard concerned people who were dismissed without being given the benefits provided by the law such as terminal benefits, a certificate of service from the latest employer or payment in lieu of leave not taken. Other cases related to employers who made no contribution to the Social Security Fund for their workers and when the latter find themselves dismissed, they are handed with the money and are thus denied their rights to social security for themselves and for their families. The Commission requests that employers should adhere to the provisions of the laws governing employment and social security for their employees.

- **Rights of the Child.**

As regards cases of violation of rights of the child, the Commission followed up complaints regarding orphans who lost their mothers and are neglected by the fathers. There are also orphans who lost both parents and they find their possessions misappropriated by their relatives or guardians. Some are denied the right to education.

The Commission recalls to attention the fact that, as provided for in article 27 of the Constitution, both parents have the right and duty to bring up their children and should not neglect them, even if the children could misbehave. Another thing to be understood is that the parents who neglect their children should be punished for this, as provided for in the article 380 of the Penal Code and that it is the Government's duty to put in place a reliable system for taking care of these children.

- e. **Visits to detention premises and checking whether the rights of the detainees there in are secured.**

- **Visits to cells and prisons**

Concerning visits to cells and prisons, in general the Commission found that the welfare of detainees continues to improve in these detention premises compared to problems that existed there in previous years, be it in connection with large numbers of detainees in small rooms, cleanliness or even food.

It was however clear to the Commission that civilians were still detained together with soldiers.

The Commission also finds that every officially recognised detention place should be known and published in the Government Official Gazette.

f. Requesting that any person committing human rights violation be prosecuted.

Based on its investigations carried out on different cases of human rights violation, the Commission identified from time to time the people involved in these cases, and in some cases it requested the prosecution and the judicial authorities to make follow up. In a special way, the Commission plans to start itself filing complaints to the prosecution and the judiciary against the people committing human rights violations, when certain articles of the laws mentioned in this report regarding court proceedings will have been amended.

g. Institutional Development.

During the year 2004, the activities relating to institutional development concerned particularly training of the Commissioners and the staff of the Commission, both those working at the headquarters and those working in the Provinces. In general, this training was aimed at providing the Commissioners and the staff of the Commission with more knowledge in matters of human rights so as to enable them to carry out more smoothly their mission of promoting and protecting human rights.

5.2. RECOMMENDATIONS.

In general, the Commission finds that the Government of Rwanda has made a commendable step in building a country governed by the rule of law, respecting human rights. However, based on complaints reported to it during the year 2004, together with those it followed up on its own initiative, the Commission observes that in some areas human rights violation activities still exist. This is the reason why the Commission formulates, for the attention of higher authorities in particular and of the Rwandans in general, different recommendations in connection with the human rights violation cases it followed up during the year 2004.

To the President of the Republic, the Parliament, the Government and the Supreme Court.

- Finding solution to the question of unlawful arrests and detentions which violate the rights of suspects and sensitising the Prosecution and the Police Stations as regards respect for the laws governing arrests and detentions;
- Sensitising leaders of local government leaders on the fact that they have no right to arrest and detain suspects, as there are other authorities responsible for this;
- Organising seminars for leaders of decentralised authorities to enable them carry out appropriate settlement of the people's problems;

-
- Taking disciplinary measures against prosecutors and leaders of decentralised authorities who disregard court decisions for this gives a bad image of the judiciary in general;
 - Working out reliable strategies to ensure that execution of judgements is carried out without obstacles thus maintaining the value of these rulings; and disciplining the leaders who act against the court decisions;
 - Sensitising the Prosecution and the National Police as regards keeping proper records of the detainees and prisoners, and registering any transfers effected and informing the families of those transferred;
 - Providing Police Stations, the Prosecutor's Office and courts with the necessary equipment to enable them carry out their duties without making the people run to and fro;
 - Working out reliable strategies to do away with polygamy in the country, because it has a negative impact on children, women and family rights;
 - Sensitising all employees as regards the laws governing employment, making savings for their workers; and taking punitive measures against those who neglect this practice;
 - Taking punitive measures against leaders involved in violation of the rights of the people they are supposed to lead and protect;
 - Strengthening further measures to ensure the security of genocide survivors and those willing to tell the truth in Gacaca Courts, for it is evident that in some provinces of the country, these are victims of killings and prosecution. Taking also punitive measures against leaders involved in these activities or who proved negligent in such a serious issue.

To all Rwandans.

- Becoming more and more aware of human rights and duties;
- Continuing to approach the Commission, bringing to it problems and ideas regarding human rights;
- Reporting cases to relevant authorities before bringing to the Commission false or unfounded cases;
- Protecting their own rights and the rights of others;
- Resisting and fighting against injustice and the culture of impunity.

5.3. PERSPECTIVES FOR THE YEAR 2005.

- **On Promoting Human Rights.**

Regarding the promotion of human rights, during the year 2005, the Commission plans the following main activities:

- Preparing teaching programmes on human rights;
- Training teachers and students, prison wardens, court bailiffs, the youth grouped into associations and other categories of Rwandans in matters related to Human Rights;
- Sensitising Rwandans on avoiding and fighting against discrimination, explaining them the laws preventing and punishing discrimination as well as acts that amount to the crime of genocide;
- Continuing sensitisation of Rwandans in general on issues of human rights, by means of the programmes broadcasted on Rwandan Radio and Television;
- Commemorating Annual International Days for Human Rights and disseminating among Rwandans messages regarding these Days;
- Propagating International Conventions on Human Rights;
- Conducting research on human rights situation in Rwanda;
- Continuing giving advice on bills.

- **On Protecting Human Rights.**

Concerning the protection of human rights, the Commission plans to carry out the following main activities during the year 2005:

- Receiving and examining complaints related to violation of human rights whether in connection with civil and political issues, economic, social, cultural, development or environmental issues;
- Establishing special procedures to monitor and ensure respect of the rights of the child;
- Following up human rights respect in prisons and cells;
- Following up human rights respect in Gacaca Courts;

-
- Following up issues regarding the security of genocide survivors and witnesses in Gacaca Courts;
 - Reminding competent Government Authorities to ratify International Conventions on Human Rights;
 - Filing complaints to Courts and the Prosecutor's Office against people who violate human rights.

- **On Institutional Development of the Commission.**

Regarding institutional development, the activities for the year 2005 will relate mostly to organising training for members of staff and Commissioners. The training will concern mainly lectures on human rights, technology and other sessions regarding special duties in their day to day activities.

*

* *