

NATIONAL HUMAN RIGHTS COMMISSION

ANNUAL REPORT - 2001

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Note: This Annual Report was originally written in Kinyarwanda. In the event of any discrepancies between the English and Kinyarwanda versions, the Kinyarwanda version prevails.

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FOREWORD

The National Human Rights Commission has the privilege and pleasure to present this report for the year 2001 to His Excellency the President of the Republic of Rwanda. This is the Commission's third report since it commenced its duties in accordance with the law that established it. This report has also been given to the Government, the National Assembly, and the Supreme Court.

This report is divided into sections, as indicated in the Table of Contents, and is generally similar in format to the year 2000 report.

The Commissioners are confident that this report clearly shows the progress the Commission made in 2001. That progress, in particular, included appropriate growth, increased capacity and bringing its services closer to the population. Moreover, the Commissioners wish that this progress be seen as a sign of their willingness to continue to work with vigour in creating a culture of respect for human rights in Rwanda, a task that will require time, tenacious effort and dedication.

In order to achieve this, it is necessary that organisational entities concerned with the findings of the Commission take a particular interest in those findings and find appropriate solutions to them.

In conclusion, the Commission would, once again, like to unreservedly thank the Government of Rwanda, Rwandan Associations and other Organisations, countries friendly to Rwanda and International Organisations who have, until now, demonstrated trust and confidence in the Commission, and, supported the work carried out and described in this report.

Gasana Ndoba
President of the Commission

I. INTRODUCTION

This report describes the work of the Commission carried out from January 1 to December 31st, 2001. It deals mainly, on one hand, with human rights issues, their protection and their propagation among Rwandans, the development of the Commission and its partnership with organisations; and on the other, the report reveals how the Commission used the funds given to it, provides conclusions on issues it has been involved with, indicates what it proposes to do for the year 2002 and provides recommendations to various organisational entities.

1.1 SOME OF THE EVENTS THAT CHARACTERISED RWANDA IN 2001

At the level of good governance, the citizens of Rwanda participated in local governance by electing grassroots authorities, as was clearly shown by the elections on March 6th, 2001. An advisory committee was also formed at the grassroots level, thus giving authorities some assistants through whom citizens may play their role in decision-making on matters concerning their welfare.

Moreover, during elections held on October 4th, 2001, citizens voted-in people with integrity (inyangamugayo) who, in turn, chose from amongst themselves those who would form the GACACA Courts.

Another event that united the Rwandans took place on October 23rd, 2001, a day on which the work of the National Unity and Reconciliation Commission was assessed. On that day, discussions were held in all provinces of the country, and decisions taken there, after a full exchange of ideas, were made public.

Much has been done in the legislative area, as a result, the following laws were passed, signed and published in the official gazette: law N° 27/2001 of April 28th, 2001 Law relating to rights and protection of the child against violence, law N° 47/2001 of December 18th, 2001 against discrimination and divisionism, and law N° 20/2000 of July 28th, 2000 governing non-governmental organisations/non-profit making associations. On the other hand, the law governing the mass-media was passed by Parliament but has yet to be signed. A Law Reform Commission was established, a decision that complied with the National Human Rights Commission's proposal in its 2000 report.

With regards to security, in the provinces of Ruhengeri and Gisenyi, there was once again evidence of infiltrator activity in May 2001. When those in charge of security, in collaboration with the local population brought the situation under control, a programme of rehabilitating those caught during the invasions, as well as those who surrendered to the security organs, was put in place. The inhabitants of those affected areas understood fully the role they must play to ensure their own security. Announcements about those caught were made, and their relatives were informed about where they could be found. Their relatives were even allowed to visit and speak to them.

The National Human Rights Commission visited the area where captives were held and talked to them, as well as to their guards. The Commission was happy to note that the rights of the war captives were respected. Acts of infiltration were also found in the Provinces of Gikongoro and Cyangugu in areas bordering Nyungwe Forest.

One cannot fail to mention the suspicion that existed between Uganda and Rwanda, as far as security matters were concerned. After several meetings bringing together the two countries, confidence was restored. The citizens of the two countries continue to trust each other and trade as usual.

In April 2001, Rwanda was removed from the list of countries considered by the United Nations as not respecting human rights – a list on which it has been listed for seven years. This came as a result of the willingness of the Government of Rwanda to establish structures of good governance, including the setting up of the National Human Rights Commission. It also came as a result of the positive report by the United Nations' Human Rights High Commission Special Rapporteur for Rwanda, Mr. Michel MOUSSALI, who commended the work of the Rwandan Commission and the agreements the Commission has with the United Nations Office of the High Commissioner for Human Rights.

The Government of Rwanda has continued to encourage Rwandan refugees in foreign countries to return home. The refugees in the Democratic Republic of Congo (DRC) and Tanzania continued to heed this call.

From May 20th to 22nd, 2001, a meeting of the First Ladies from Sub-Saharan Africa was held in Rwanda with the aim of fighting the AIDS scourge. On August 16th and 17th, 2001, a consultative meeting was held to prepare Rwanda's contribution to the World Conference on Racism, Xenophobia and Intolerance, held in Durban, South Africa.

An annual meeting of Rwanda's Development Partners was held in Kigali from November 14th to 16th, 2001. During that meeting, friendly countries and international organisations showed the trust they had in Rwanda by agreeing to support the country's poverty alleviation programme. In particular, Sweden announced its decision to assist Rwanda in the area of communication.

Another international meeting bringing together various survivors of the World's Genocides, was held in Rwanda from November 25th to 30th, 2001. Groups of survivors attending included Amerindians of America, Australian Aborigines, Armenians, Jews, Cambodians and the Batutsi. The meeting, which was organised by the IBUKA Association with the assistance from the Government of Rwanda, had as its theme "LIFE AFTER DEATH". The most important conclusion of the meeting was the establishment of a world-wide network for Genocide survivors.

In December 2001, a meeting bringing together Rwandans Diaspora was held in Kigali. They reviewed their role in national development and their right to stay and work anywhere they like while retaining their right to their country of origin.

On December 31st, 2001, a new National anthem, a new National flag, and a new National coat of arms and motto were introduced. The symbols previously identifying the country contained some elements that conformed with, and reminded Rwandans of the oppression they had been subjected to during past years.

Unlike the two previous years, 2001 was marked by fertility and a bumper harvest in spite of the heavy rains that destroyed personal property and even killed some people in addition to spoiling development projects.

1.2 MISSION OF THE COMMISSION AND EVENTS THAT MARKED 2001

1.2.1 Duties

The following are the duties of the Commission as set out in the law that created it: *"In general, the Commission has an objective to investigate and follow-up on human rights violations committed by anyone on the Rwandan territory, especially State organs and individuals under the cover of the State organs as well as any national organisation working in Rwanda."* (Article 3).

In particular, the functions of the Commission are: *"to sensitise and train the Rwandan population in matters of human rights; to advise relevant authorities to eventually initiate judicial proceedings in case of human rights violations by anyone"* (Article 4).

Regarding what issues the Commission pursues, the Law says: *"the investigations of the Commission are unlimited in time, in order to shed light on and punish, within the limits of the law, past and present cases of human rights violations"* (Article 7).

1.2.2 Events that marked 2001:

In 2001, the Commission recruited one hundred and seven (107) staff members for different departments. In July 2001, the Commission set up ten provincial offices excluding Kigali City and Kigali Rural; the employees of the Commission at its headquarters follow up issues related to human rights violation in the two provinces. That step enabled the Commission to pursue many cases in all corners of the country.

In the same year, the Commission improved its relations with other organisations. That co-operation was characterised by consultations with senior government officials on acts which violated human rights, acts highlighted in the report for the year 2000.

It is at that level that, on October 27th, 2001, members of the Commission met the President of the Supreme Court, and his Deputy, who is also Incharge of administration of Courts. On July 16th, 2001, they met the Minister of Justice and Institutional Relations together with the Chairperson for the National Unity and human rights Parliamentary Committee in Transitional National Assembly. Also present were senior prosecutors of various levels such as those of the Supreme Court, the Court of Appeal, the Military Appeal's Court, and with the Directorate of Military Intelligence (DMI).

On December 20th, 2001, top authorities in the Office of the President received members of the Commission and they discussed human rights matters in Rwanda, the work of the Commission and problems it encounters in the course of its duties.

Another important activity carried out by the Commission during the course of the year worth mentioning is the in-service workshop on human rights investigation techniques that was attended by sixty seven (67) of its staff of different categories.

The Commission prepared a three-year strategic plan (2001 – 2003) covering the protection and promotion of human rights.

The organisational structure of the Commission is set out in appendix 3.

II. ACHIEVEMENTS

2.1 PROJECTED ACTIVITIES FOR THE YEAR 2001

2.1.1. Human Rights Protection

Regarding the protection of human rights, the Commission planned to request the Ministry of Justice, particularly, prosecutors and security agents, to fight against the incidence of illegal arrests and detentions.

The Commission planned to request the Executive to implement court decisions, since these decisions, when taken, are binding.

As mentioned in its report for the year 2000, the Commission had assigned itself the duty of working closely with the organs of the Government of Rwanda, local non-governmental organisations working to promote and protect children's rights and the United Nations International Children's Emergency Fund (UNICEF) so as to ensure that the rights of children, particularly orphans and the defenceless, are respected. Orphans of genocide should, in particular, be given back the property left to them by their parents.

The Commission planned to request the Government and Parliament to find a comprehensive and appropriate solution to the land and property issues of those individuals who became refugees during the years between 1959 and 1973.

In the year 2001, the Commission looked forward to the setting-up and the commencement of the GACACA Courts.

The Commission also planned to carry out a national base line study on the situation of human rights in Rwanda and related problems, whose findings would be published in a special report.

2.1.2 Human Rights promotion

In the year 2001, with a view to promote human rights, the following were planned:

- To continue organising seminars and open discussions with people of different categories, on matters concerning human rights: e.g. the youth in solidarity camps, local defence forces, teachers and students, the police and prison warders, members of various districts and town committees, media people, etc...
- To collaborate with the Ministry of Education and Universities in preparing support material for secondary schools, higher learning institutions and universities in the teaching of human rights.
- To start radio and television programmes to create awareness of human rights among the citizens of Rwanda.
- To prepare for an international conference on combating racism, to be held in Durban, South Africa. The aim was to gather ideas that Rwanda would bring to that meeting.

- To work closely with the Constitutional Commission with the view of enhancing human rights in the new Constitution under preparation.
- To set up the Commission's newspaper which the Commission would propagate human rights.

2.1.3 Institutional Development

At the level of increasing the capacity of the Commission, the following was planned for the year 2001:

- To ask the relevant organs to amend the law establishing the Commission with the view of increasing its powers of investigation of human rights violations. The Commission was also to complete its internal regulations so as to perfect its operations;
- To recruit and train required staff;
- To work with experts in the preparation of a three-years strategic plan setting out the strategies of the Commission and how they were to be implemented;
- To open up offices in the provinces so as to bring its services closer to the population.

2.2 MAIN ACHIEVEMENTS

2.2.1 Human Rights Protection

2.2.1.1 Civil and Political Rights

The Commission dealt with three main categories of human rights investigations, each of which has different sub-categories.

The first category is made up of problems identified in the report for the year 2000 that were not properly solved or for which proper answers were not provided and which are in the process of being followed up by relevant authorities.

The second category includes complaints that were followed up in the 2001. Among these, some, while received by the Commission before 2001, had not been included in the last report because of the inconclusiveness of the investigations undertaken.

The third category includes problems identified by the Commission during its visits to different prisons and detention cells.

A. Problems identified in the Report of the year 2000.

a. Illegal Detention

The following are among the problems highlighted in the report for the year 2000 and which continued to be pursued in 2001.

1. The arrest and detention of MBANDA Jean

The National Human Rights Commission's report for the year 2000 covers exhaustively the case of MBANDA Jean, showing how he was illegally detained. At the end of 2001 he was still in prison. Even after the publication of the Commission's report for 2000, the responsible organs did not look into the matter of his release. He has not even been brought to court for his detention to be confirmed. Later on the court legalised his temporary detention for 30 days on June 23, 2000. At the time of the compilation of this report, MBANDA Jean had spent 20 months in prison contrary to the law.

During the year 2001, the Commission continued to pursue this case, and visited MBANDA Jean where he was imprisoned with the aim of determining the reason for which the Supreme Court imprisoned him temporarily. The Commission met with those in charge of the Supreme Court and saw what had been written in relation to his case by MBANDA Jean himself, by his advocate, and by the judges. Apart from a case that MBANDA Jean had presented before the Court on which no decision has been rendered, revealed in the Commission's previous report, there was also a letter he wrote to the Commission on April 22nd, 2001, which reached the Commission on August 8th, 2001, showing the injustice he faced in hands of prosecution at the Supreme Court in relation to his illegal detention.

On January 11th, 2001, the former advocate to MBANDA Jean, MUTAGWERA Frederic, wrote to the Vice-President of the Supreme Court, who is also the President of the Cassation Court, asking him to revoke the Court's decision N°003 justifying the temporary imprisonment of MBANDA Jean because the decision had been taken after the time provided for in Section 38 Subsection 2 of the Criminal Procedure Code had expired. What came out clearly was that the day indicated in the decision to imprison MBANDA Jean temporarily had expired and that the prosecution had not bothered to apply for extension of the detention order as provided for by the above mentioned law in Section 44 Subsection 1.

The reasons given by the Vice-president of the Supreme Court, who is also the President of the Cassation Court, as revealed in the letter N° 540/CA/01/2001 of January 25th, 2001, were that the file of MBANDA Jean was still being investigated by the prosecution at the Supreme Court and had not, as such, been brought before the Court. The letter goes on to mention that the prosecution had powers to set him free so long as he had not been brought before the Court as provided for in Section 40, Sub-section 1 and in Section 43, Sub-section 1 of the Criminal Procedure Code.

Basing on Article 9, Sub-article 4 of the International Covenant on Civil and Political Rights, which states that "any person denied of his or her rights due to imprisonment, has a right to take to court his/her case so that it may prove without delay that the arrest and imprisonment were done in accordance with the law and if the person's detention was contrary to the law, the same person who may be arbitrary detained, should be released". On that basis the Commission finds that MBANDA Jean was illegally detained.

Among other problems under investigation is that MBANDA Jean says that he is being held together with those suspected of having killed his family during the genocide, which threatens his security, therefore, requests to be transferred elsewhere. He also adds that the letters he writes no longer get released. That is a denial of his rights.

As made clear in the report for the year 2000, the Commission wonders why MBANDA Jean is still being pursued by Senior Prosecutors of the Supreme Court as the crime he is accused of appears to have been committed before he became a Member of Parliament. If there is any crime he should be pursued for, it should be the public prosecution at the Court of the First Instance of Kigali that should handle the matter.

The Commission finds that the senior prosecutor of the Supreme Court has had sufficient time to carry out the investigations.

Due to reason mentioned above, the Commission also finds MBANDA Jean should be released temporarily without any conditions, because, up to now, he is being held illegally as it was pointed out in the report for the year 2000.

2. Weekly Summons of BUGINGO Eudes and Failure to bring his Case before the Court

After the Commission revealed in its report for 2000 the injustice inflicted against BUGINGO, he was redressed, after having spent 13 months in prison illegally without any court decision to imprison him. He was released on June 30th, 2001.

The release of BUGINGO was related to the imprisonment of MBANDA Jean; he claims that he had committed no crime, but was accused of being an accomplice to MBANDA Jean whenever he resisted pressure put on him to implicate MBANDA Jean.

During its investigations, the Commission found that the Senior Prosecution of the Supreme Court had carried out exhaustive investigations even outside the country before BUGINGO was released.

What worries the Commission is that at the time this report is being compiled, BUGINGO Eudes is being ordered to appear every week before the Senior Prosecutor at the Supreme Court. He is not even permitted to leave the country, yet there are no clear or valid reasons to support those investigating him.

The Commission feels that the Senior Prosecutor of the Supreme Court should stop the surveillance of BUGINGO Eudes, so that he may enjoy his full rights, such as moving freely in his country, and leaving or returning to it as he so wishes. He should also be freed from permanent suspicion.

b. Disappearances of Persons

1. The Disappearance of HATEGEKIMANA Jacques

In the report for the year 2000, the Commission pointed out the disappearance of HATEGEKIMANA Jacques from his place of abode on May 13th, 1998, at Remera, Kigali, after being taken by the Police. At that time, HATEGEKIMANA Jacques was a student at a Kigali Secondary School called "La Promise".

In 2000, due to the fact that some of those suspected to have had a hand in the disappearance of HATEGEKIMANA Jacques were employees of the Ministry of Defence, the Commission requested to be facilitated in its investigation by availing those suspects so that they may be asked relevant questions.

In 2001, the Commission sought the assistance of the National Police to carry out investigations and to provide names of those it may have found to have played a role in the disappearance of HATEGEKIMANA Jacques.

As the Commission was compiling this report, it had not yet obtained the conclusion from the National Police in connection with this case, nor has it even received an answer from the Ministry of Defence.

The Commission feels that the Ministry of Defence and the National Police should put more efforts in pursuing this serious matter.

B. Cases Dealt With in 2001

In 2001, the Commission followed up some of the problems that remained unresolved from the year 2000. It also inquired into new cases that reached the Commission in 2001 either in writing, by telephone or verbally by the very persons concerned or other people at various levels / organisations. The following include some of those cases:

- Cases of illegal arrests and detention
- Violation of human rights purportedly by the civil authority
- Cases of disappearances of persons
- Problems related to cases that are not brought before the courts

a) Cases of Arbitrary Arrests and Illegal Detention

2. Arrest and Detention of TWAHIRWA Martin

The Martin TWAHIRWA complaint reached the Commission on November 21st, 2000, brought by his parent, NYIRABAGISHA Drocella. She informed the Commission that her son had been arrested during a patrol swoop in Kabuga town and that he was detained on October 4th, 1994 on orders of a soldier whose name she did not mention.

That soldier may have caused his arrest because the father of TWAHIRWA Martin, who used to be a Police Commander of Rubungo District was suspected of having had a hand in the genocide of April 1994.

During investigation, the Commission approached the office of the prosecutor in Kigali. The prosecutor informed the Commission that he had met various obstacles in that case, including: failure to get any witness; having a lot of work and that the prosecutor who had been in charge of the previous case file had quit the job and gone into exile.

After listening to these reasons in the delay on the part of the prosecution, the Commission, based on its own investigation that revealed Twahirwa Martin's innocence, demanded that he be set free. On February 26th, 2001, TWAHIRWA Martin was released.

2. The Arrest and Detention of NDAZIGARUYE Cyprien

NDAZIGARUYE Cyprien's written complaint reached the Commission on July 5th, 2001. The case involved his being detained again for genocide crimes of which the Special Chamber of the Kigali Court of the First Instance had declared him innocent. Having examined his case, the Commission found that he had actually appeared before the court and that the said court had found not guilty.

While preparing this report, the Commission met with the court prosecutors UWAKIGELI Joseph and SINDAYIGAYA Marc who said that NDAZIGARUYE was not being pursued for the crimes he had been accused of in the case RP 159/CS/Kg for which he had been declared innocent, but rather he was being accused for murder he may have committed in Cyangugu. The Commission is still pursuing this case.

3. Arrest and Detention of UZAMUKUNDA Isabelle

UZAMUKUNDA Isabelle is the daughter of MUGAMBIRA Aphrodis and MUKAKARANGWA Eliane. She was born in Rusenyi District, Kibuye Province, on August 28th, 1975, and is currently residing in Kacyiru District in Bibare Sector.

UZAMUKUNDA Isabelle was detained on January 30th 2001. On May 16th 2001, the Commission went to see those in charge of investigations at the Prosecution's office (Judicial Police) to ask why the said person had been detained. The investigation officers replied that the said lady had been detained so that they may find out why RWAKA Théobald, who was her friend, had fled the country. That same RWAKA Théobald was formerly the Minister of Interior and fled the country after being relieved of his duties.

On May 25th 2001, the Commission wrote to NTIRUHUNGWA Jean de Dieu (Minister of Internal affairs), a letter n° 258/2001, asking for the reasons behind UZAMUKUNDA Isabelle's detention. In the letter n°624/08/09 of July 2nd 2001, the Minister of Interior replied to the Commission confirming that UZAMUKUNDA Isabelle had been detained so that she can explain to the relevant organs the reasons which made RWAKA Théobald flee the country.

When the Commission visited UZAMUKUNDA Isabelle at her place of detention, she informed it that RWAKA was her friend, but that she did not understand why she had been detained in order to explain what she knew and what she did not know about the departure of RWAKA Théobald; she added that her detention was un-called for as she could have provided the information while outside detention.

The Commission found that UZAMUKUNDA Isabelle could have been interrogated without being detained, as criminal liability is personal. After the Commission met the National Police authorities and after it wrote to the Minister of Internal affairs, UZAMUKUNDA Isabelle was released on June 5th, 2001.

4. Arrest and Detention of MUTEGBWARABA Anonciata

MUTEGBWARABA Anonciata, a former worker with the registration department in Rusumo District, was detained on November 23rd, 2000 due to a mistake she acknowledged having made in connection with the writing out of dates on new identity cards belonging to MUKADUSABE Agnès and NYIRAMANA Patricia. That mistake was partly due to the fact that she was copying out the dates from an old identity card belonging to MUKADUSABE Agnès who had had an operation on the cleft on her lips and changed appearance as a result.

As regards NYIRAKAMANA Patricia's identity card, the mistake was made as the date was being copied out from a registration card since NYIRAKAMANA's house had caught fire and her identity card, as a result, had been burnt.

MUTEGBWARABA Anonciata was detained in Rusumo. When the case was brought before the Kibungo Public Prosecutor who found that MUTEGBWARABA had unintentionally made a mistake and even released her with a request that she be reinstated.

On January 17th, 2001, MUTEGBWARABA Anonciata was re-arrested and detained on orders from the Prefet of Kibungo, one BARIKANA Eugene. On that day, MUTEGBWARABA was given permission to go out but did not come back.

The Commission met with the Prefet BARIKANA Eugene and proved to him that MUTEGBWARABA Anonciata had been illegally detained as no case file had been made and that she had not even been given a warrant of arrest. In any case, there was no incriminating evidence showing that she had sold the identity cards, as the Prefet was alleging. The Commission asked that legal channels be followed should the Prefet wish to go on with the desire to pursue the case. After that meeting, the Commission came to learn that MUTEGBWARABA Anonciata was not being pursued any longer.

5. Arrest and Detention of MFASHINGABO Mathieu

MFASHINGABO Mathieu was in charge of the registration of persons in the Rusumo district. He was an assistant to MUTEGBWARABA Anonciata, mentioned above.

MFASHINGABO Mathieu was detained for 8 days at the Rusumo Detention Cell from November 20th, 2000. He was believed to be MUTEGBWARABA Anonciata's accomplice in the case mentioned above.

On November 28th, 2000, the two appeared before Christopher, a prosecutor (whose other name the Commission was unable to get) who informed them that he did not find any crime justifying their detention and that he would explain their case to the Prefet. Yet on January 19th, 2001, the same prosecutor sent MFASHINGABO Mathieu a warrant of arrest, which caused the latter to flee to Kigali as he felt he would not have peace if he remained there.

As in the case of MUTEGBWARABA Anonciata, MFASHINGABO Mathieu was not pursued anymore after the Commission met with the Prefet of Kibungo over the matter.

6. The arrest and detention of RWIGEMA Eulade

At the time the Commission was pursuing cases of some of those who had been dismissed from the leadership of Kibungo Province, citizens brought to it a particular case concerning RWIGEMA Eulade, who was the leader of what used to be Rusera Sector of KABARONDO District in Kibungo. The case concerns his arrest and detention.

During the investigation, the Commission was informed that RWIGEMA Eulade's crime had been his refusal to convene a meeting, as he had been asked to do by the Prefet BARIKANA Eugene. The reasons for which made RWIGEMA Eulade refused to convene that meeting was that he had heard its aim was to remove him from the sector leadership after having been personally criticised by the Prefet of Kibungo.

RWIGEMA Eulade was arrested on December 15th, 2000 and was detained in the Kibungo prison, where he was also handed a warrant of arrest and temporary detention for having disobeyed the administration.

The Commission talked to the Kibungo Prefet who informed them that RWIGEMA Eulade had been detained because he had disobeyed the administration.

On October 10th, 2001, the Commission, knowing that RWIGEMA Eulade was still in detention, asked the Public Prosecution's office in Kibungo to pursue his case. On October 31st, 2001, the Prosecutor wrote to the Commission to say that RWIGEMA 's case file had been sent to the Magistrate Court of the First Instance in Kibungo and that the case was to be heard on November 2nd, 2001. The case was mentioned on the November 9th, 2001 and RWIGEMA Eulade was sentenced to ten-months imprisonment with a fine of 5,000 RWF for having talked ill of the administration. Because RWIGEMA Eulade had been in detention for a period of more than ten months, he was immediately set free, even though his detention does not appear in the case n° RP17142/R56/M.R/KGO of November 9th, 2001.

The Commission criticises the manner in which RWIGEMA Eulade was arrested and detained without an arrest warrant or a temporary detention warrant or a court's order to detain him. The Commission also feels that RWIGEMA Eulade was harassed in a way, as he had not been brought before the court as provided for by the law, which resulted in his being detained temporarily for a long period.

7. The Arrest and Detention of KAYITESI Christine

Her husband, IYAMUREMYE Innocent, brought KAYITESI Christine's complaint to the Commission on June 19th, 2001. He requested the Commission's assistance in the release of KAYITESI Christine who had been unlawfully arrested and detained. KAYITESI Christine was a domestic servant in HIMBARA David's home in Kigali City. She was arrested on May 14th, 2001 on the accusation by her employer of having stolen seven thousand (7 000 US\$) American dollars. She was detained for three weeks at Remera Police Station in Kigali City. KAYITESI Christine was brought before the Public Prosecutor at the Kigali Court of the First Instance on June 4th, 2001 and was immediately put in Kigali Prison. On June 8th, 2001, the Prosecution brought her before the court and she did not appear before it again until her case was due on December 13th, 2001. The case was

heard on January 11th, 2002 and the court found her not guilty, yet she continued being kept in prison till January 16th, 2002.

When the Commission learnt of the matter, it pursued it until the case was heard on January 11th, 2002. The commission approached the court clerk and the public prosecution on finding out that KAYITESI Christine was still in detention on January 16th, 2002. The Commission discovered that the prosecution did not go to court to hear the court decision the Commission officer went to court accompanied with the Public Prosecutor so that they could read the decision and hence respect the court proceedings and verdict. On that day the Public Prosecutor set her free.

The Commission is critical of the working procedures of Remera Police which did not take KAYITESI Christine to the Kigali public prosecutor's office as provided for by law, and the Kigali public prosecutor's office for its negligence in taking her to court only once in a period of six months and three days. It also criticised the delaying of the court order and the lack of willingness by the prosecution to implement the court decision.

8. Continual Detention of Persons who had Completed their Penalty in Nyanza Prison, Butare

When the employees of the Commission visited the Nyanza prison in Butare Province, they found therein persons who were still detained even though they had completed their sentences. The same persons informed the Commission that they took themselves back to prison after the Genocide, which occurred before completing their sentences. They are the following:

- RUTARE Stanislas, the son of NZAJYIBWAMI, a resident of Gikombi, Busoro Sector in the former Muyira Commune. He was detained from November 27th, 1991 for having been caught with cannabis. RUTARE Stanislas had been imprisoned for a period of two years and six months;
- UTABUSYA Balthazar, the son of GASIMBA, a resident of Rugarama cellule, Gikirambwa sector, in Kiruhura District, who had been detained for banditry on February 8th, 1992. The court had sentenced him to imprisonment for a period of three (3) years and six months.
- HITIMANA Elisée, the son of GASATSI, resident of Murehe cellule, Kibihe Sector in Kiruhura District, who was detained on June 15th, 1993 for a petty offence. The court had sentenced him to a period of one year's imprisonment.

After the Commission had informed the Butare Public Prosecutor of their cases, the said persons were released on December 12th, 2001.

9. Prolonged Detention of NZAKAMARWANIKI Ramadhan with no concrete evidence

The complaint of NZAKAMARWANIKI Ramadhan of Rulindo Sector, Nyamata District in Kigali Province reached the Commission in writing through his young brother, BAGIRANEZA Daniel on September 7th, 2001. In his letter, BAGIRANEZA Daniel claimed that NZAKAMARWANIKI Ramadhan was detained in Rilima Prison on charges of genocide and yet has no case file to that effect. BAGIRANEZA Daniel also claimed that the Nyamata Court Prosecution took his elder brother to Rulindo Sector where he used to reside so that the citizens could be asked in public whether they know

of any crime he may have committed. Those who attended cleared him any wrong doing, yet the court did not release him temporarily as it is done with others who are detained without evidence. The Commission contacted the public prosecutor at the Nyamata Court by phone in connection with the detention of the above mentioned person and was informed that they were going to follow up his case file.

As of the time of the compilation of this report, the Commission came to learn that NZAKAMARWANIKI Ramadhan had been released.

b. Disappearance Cases

1. The disappearance of BUTUNGANE Anastase

The complaint in relation to the disappearance of BUTUNGANE Anastase reached the Commission on July 20th, 2001 through his elder brother MUTWARANGABO Florian.

BUTUNGANE Anastase was born in 1964. He was a resident of Mutara Cellule, Mururu Sector in Cyangugu town. Before his disappearance, he had been put in the Cyangugu main prison for one and a half years on suspicion of having embezzled state funds, when he was an accountant with Cyangugu Prefecture. Its administration carried out investigations of the case and found him innocent. He was set free. This is evidenced in a letter dated November 3rd, 1997 from the former Prefet to what was formerly the Gendarmerie asking for his release. After his release, he did not continue with his job, instead he was made an Assistant Accountant to the new Provincial accountant called NZABAHIMANA Phillipe.

While carrying out its investigations in connection with the disappearance of BUTUNGANE Anastase, The Commission met with various people including the following leaders from Cyangugu Province:

- MUNYAKABERA Faustin (Prefet)
- SIBOMANA Cyrille (in charge of legal affairs), and
- RUGOMOKA Eloi (Administrative secretary of Cyangugu town and a friend to BUTUNGANE Anastase).

The Commission also met with those in charge of security including RANGIRA Bosco (in charge of the Police) and those in-charge of investigations in Cyangugu town, NTAMA Eugène and GASHUMBA Aphrodis, as well as a representative from the Military Prosecution office in Cyangugu Province, KABENGA Pinas. The Commission also talked with MUTWARANGABO Florian (who had reported the case to the Commission) MPUNYU Joseph, who was BUTUNGANE Anastase's friend, and NTIRIMARA Kurusu, the head of Duterimbere in Cyangugu Province.

During the investigation, the Commission came to learn that BUTUNGANE Anastase had disappeared in the morning of November 2nd, 1999. Two people had taken him from his home, one HITAYEZU Charles, who was a messenger at the Province and JAMARI (whose other name the Commission was unable to get) who was a soldier. The said JAMARI is also a brother to NZABAHIMANA mentioned above. They took him saying that one BARAKA Asumani (now dead) who had BUTUNGANE's debt of one million Rwandan francs (1,000,000 Frw) had sent them to him so that he would come for his money.

When they arrived at BARAKA Asumani's home, they asked BUTUNGANE Anastase to go with them to Kigali saying that was where the money was. In its investigation, the Commission was informed that BUTUNGANE Anastase reached Kigali in the company of NZABAHIMANA Philipe, RUTAYISIRE Deo, JAMARI and BARAKA Asumani. It was also informed that from the time the four persons left Cyangugu for Kigali on November 2nd, 1999, BUTUNGANE Anastase has never been seen again.

After the disappearance of BUTUNGANE Anastase, his elder brother MUTWARANGABO took the issue to the grassroots leaders as well as to the Prefet of the Province who advised him to take the case to the Military Police.

One Athanase, whose other name the Commission was not told, was the Investigator at the Military Police and had been following up the case. Although he had prepared a case file before being transferred to Ruhengeri, it later disappeared.

The Commission approached the Cyangugu Police and the Military office and was informed by the Police that it had not followed up the case as, among those suspected to have been involved, was a soldier called JAMARI. The Military Investigator representative in Cyangugu Province, KABENGA Pinas, told the Commission that he was not aware of that case but he was going to follow it up. The Commission is still following up this matter.

C. Human Rights Violation by the Civil Authorities

Having received a letter supposedly from Mr. RUCAMUKIBATSI Paul, dated January 23rd, 2001, the Commission carried out investigations in Kibungo Province on various problems. Basing itself on problems brought before it, the Commission carried out some investigations in the provinces of Gikongoro and Gisenyi on matters concerning the civil authority. The Commission's findings, which are put under various sections of this report, indicate the nature of those problems.

1. Confiscation of RUTINYWA Konoradi's national identity card

During the elections of grassroots leaders between March 6th and 8th, 2001, the Mayor of Rusumo District, RWAGASANA Henry, who alleged that RUTINYWA Conrad was a foreigner from Tanzania, confiscated his national identity card together with its photocopy. Those who know him insisted that RUTINYWA Conrad is a Rwandan national. He was later given back his identity card when his uncle, BARINDA Stephen, head of the National Police for the Provinces of Kibungo, Umutara and Byumba wrote to the Rusumo Mayor on February 12th, 2001 explaining that RUTINYWA Conrad is a Rwandan national and sending a copy (to that effect) to the Provincial Administration in Kibungo.

The Commission's investigations revealed that the case mentioned above related to RUTINYWA Conrad's campaign for an elective post at District Administration level as further revealed in a letter by the Mayor RWAGASANA Henry written to BARINDA Stephen with a copy to the Coordinator of Electoral Commission in Rusumo District informing them that RUTINYWA Conrad had a Rwandan citizenship.

The Commission finds that RUTINYWA Conrad was denied his rights the moment his national identity card was confiscated by the Mayor of Rusumo. This has led to his inability to campaign for the District leadership.

The Commission also finds that whenever there is doubt in relation to one's nationality, the provisions of the law should be followed and that such a case should be dealt with at the Court of First Instance, which is empowered to deal with such matters.

2. Denial of the Right to MUKEZABERA Balthazar to campaign during elections

MUKEZABERA Balthazar is a primary school teacher in Kirehe, Rusumo District in Kibungo Province. He verbally informed the Commission that some people, including a former employee in charge of investigations in Rusumo District, one BYIRINGIRO François, had intimidated him and caused him to drop his decision to campaign at Sector level in Kirehe where he resides. Another person MUKEZABERA Balthazar mentions as having been involved in that intimidation is one TWIZERIMANA Eliesel who, resides in Kirehe (Cellule).

The result of the intimidation was that MUKEZABERA Balthazar wrote to the Electoral Commission in Rusumo District withdrawing his candidature for the Kirehe Sector leadership.

On February 4th, 2001, the Electoral Commission leader in Rusumo District, MUJAWAMALIYA Berthe, wrote to MUKEZABERA Balthazar asking him to appear and explain his case. In his letter dated February 5th, 2001, MUKEZABERA Balthazar explained that he had withdrawn his candidature so that his security would not be interfered with and sent a copy to the Electoral Commission Chairperson in Kibungo Province, BAGOROZI Côme.

During its investigation, the National Human Rights Commission met those concerned with the case, including the Prefet of Kibungo Province, BARIKANA Eugene, and the official of the Electoral Commission in Kibungo Province. However, the Commission did not meet the officer in charge of the Electoral Commission of Rusumo District, MUJAWAMALIYA Berthe, who was unavailable.

The Prefet BARIKANA informed the Commission that he came to know MUKEZABERA Balthazar's case later. But BAGOROZI Côme, who had asked MUKEZABERA Balthazar to explain why he was withdrawing his candidature, informed the Commission that MUKEZABERA had told him that he had withdrawn it due to intimidation.

The National Human Rights Commission is critical of the Electoral Commission in Kibungo Province which did not care to follow up the worry shown by MUKEZABERA Balthazar as required of it by the Electoral laws (the law governing elections at grassroots level, Article six (6) section one (1)).

3. Suspension of SEKANYAMBO Eusbert

On January 5th, 2001, SEKANYAMBO Eusbert wrote to the Commission informing it about the injustice inflicted on him by the Gikongoro Provincial Administration. SEKANYAMBO Eusbert, the Burgomaster of what was formerly Rwamiko Commune in Gikongoro Province was suspended from his duties by a Prefecture Security Sub-committee and informed by the Prefet in letter N° 116/07/00/8 dated November 6th, 2000.

SEKANYAMBO Eusbert was being accused of spreading rumours that the Prefet held meetings aimed at propagating divisionism and sabotaging elections. These developed from a report SEKANYAMBO Eusbert submitted on October 11th, 2000 to the National Police and the Gikongoro Electoral Commission authorities in the Prefecture stating that in September 2000 the Prefet and other people resident in Ruramba were spreading discriminatory and ethnic ideas. Among the activities he accused the Prefet of Gikongoro of were sensitisation meetings intended to discourage Hutus from electing Tutsis in the elections of District authorities that took place in March 2001.

On November 11th, 2000, SEKANYAMBO wrote to the Prefet indicating that he was not happy with the decision taken by the Security meeting and the way they handled the issue of ethnicity and requested that those behind that discrimination be exposed in writing. In that letter, copied to the authorities at the national level, he requested for an investigation into the issue, that those found guilty be punished and the innocent cleared and the recommendations and conclusions be made public.

During the investigations carried out by the Commission on the complaint lodged by SEKANYAMBO Eusbert, Prefet MUTIJIMA was informed of what he was being accused of on August 2nd, 2001. Because of the gravity of the allegation, the Commission asked him to forward his defence. As the Prefet of Gikongoro requested, the Commission wrote him a letter N° CNDH/320/01 dated October 9th, 2001 to which he attached the complaint as it had been presented and sent copies to the Minister of Local Government and Social Affairs. At the time of compiling this report, the Commission had not received a reply from the Prefet of Gikongoro.

4. Harassment of NSENGIYUMVA Lazaro

NSENGIYUMVA Lazaro, a resident of Rwaya Cell, Kigeyo Sector, Kayove District, Gisenyi Province presented his complaint to the Commission in the year 2000 requesting for protection. He informed the Commission that his identity card had been taken away by the Burgomaster of Kayove District BADAGA Jean who assaulted and threatened him to the point of staying in the bush for fear of his security. According to NSENGIYUMVA Lazaro, that harassment was caused by his testimony against people residing in the District who had a hand in the 1994 genocide, while some of the leaders do not want to reveal their identities.

NSENGIYUMVA Lazaro presented to the Commission several different letters in relation to his complaint, including one of the Prefet of Gisenyi dated September 18th, 1998 and one of the Minister of Local Government and Social Affairs dated May 1st, 2000, both ordering the former Burgomaster of Kayove to protect him. He told the Commission that the former Burgomaster of Kayove never replied to those letters.

After the Commission received NSENGIYUMVA Lazaro's complaint, wrote to the Burgomaster of Kayove on January 31st, 2001 asking him to solve problem so that that person could be given back his identity card and his freedom be granted.

On August 13th, 2001, NSENGIYUMVA Lazaro was issued another identity card (Duplicate) N° 35252, his original having been misplaced in the District.

The Commission criticises the methods of work of the former Burgomaster of Kayove Commune who is also the Mayor of Kayove District because he participated in taking away NSENGIYUMVA Lazaro's identity card and disrespected his superior authorities, as well as of the

National Human Rights Commission, by delaying to give back that citizen his identity card without reason.

Those poor methods of work by the Mayor of Kayove District deprived NSENGIYUMVA Lazaro of his right to vote in grass root elections, which took place in February 2001.

The Commission points out that security personnel should pay attention to NSENGIYUMVA Lazaro's security in particular. To complement Gacaca courts which are about to start, and the Gisenyi Court should follow up on those suspected of the genocide that took place in Kayove District in 1994 who were not investigated.

d. Cases involving Delays in Trials and Court Processes

1. The Case of GASANA Eustache

GASANA Eustache is a teacher at St. Joseph's School at Kicukiro and resides in Bibare I Cell, Remera Sector, Kacyiru District in Kigali City.

On September 4th, 2001, GASANA Eustache wrote to the Commission requesting to be assisted. He had won the case against the Director of the "La Colombère" School in which He taught, Mrs NYIRANTAGORAMA Françoise. The case (N°.0296/13.03/99) was tried by the Court of Appeal on July 21st, 2000, but the Director of that school refused to pay him eight hundred thousand Rwanda francs (800 000 Frw) which was the arrears of salaries, that GASANA Eustache was never paid.

The Commission investigated that case and further pursued the case until NYIRANTAGORAMA Françoise paid GASANA Eustache all his money on October 11th, 2001.

2. SINZI François' Case

There is another teacher called SINZI François working with "La Colombière" School. He also presented to the Commission a case similar to that of GASANA Eustache. He filed the case at Kigali Court of First Instance that has been adjourned 13 times because the Director of that school was either absent or her lawyer would argue that he had not prepared submissions. At the time of compiling this report, that case was still in the Kigali Court of Appeal. The Commission will continue to follow it up.

3. The Case of MUGENGA Joseph and Colleagues

On July 24th, 2001, RWANGAMPUHWE François and Company Advocates wrote to the Commission informing it that MUGENGA Joseph, NDEKEZI Telesphore and REBERO John were illegally detained, and requested the Commission to follow up those cases.

NDEKEZI Telesphore, a businessman who was detained in Remera Prison, also wrote to the Commission on September 7th, 2001 requesting to be defended. MUGENGA Joseph, who was the Managing Director of ELECTROGAZ Kigali, wrote to the Commission on October 14th, 2001 showing his innocence and requesting the Commission to follow up his case.

Arrests and Detentions:

Police arrested MUGENGA Joseph, REBERO John and NDEKEZI Telesphore on April 14th, 2001 for having embezzled State funds, forgery and awarding tenders poorly.

On April 16th, 2001 the Prosecution interrogated them. That prosecutor added 24 hours on what he called the statement of arrest of April 14th, 2001, which was not done previously.

On April 17th, 2001, a charge sheet for temporary detention was made. The decision to detain them temporarily was taken by the Chief Magistrate of the Kigali Court of First Instance on April 19th, 2000. They immediately appealed against the decision, although the copy of the decision reached them only on April 27th, 2001. The reasons given by the Kigali Court of First Instance for that decision are as follows:

- The crime they were being accused of is punishable by more than six months (for MUGENGA Joseph and REBERO John sections 220 and 223 of the Penal Code were invoked; for NDEKEZI Télesphore, sections 89, 90, 91, 220 and 225 of the Penal Code were invoked);
- There are strong reasons to convict them;
- They have to be detained so that their case file is well prepared;
- If they are not detained, there could be national instability.

On May 18th, 2001, NDEKEZI Télesphore and REBERO John appeared before the court and a decision was taken to detain them temporarily.

On May 25th, 2001, the Kigali Court of Appeal ruled that MUGENGA Joseph, REBERO John and NDEKEZI Télesphore were guilty, but the Court found out that in the case file it received from the prosecution, there was in fact no statement recorded on their arrest.

On June 15th, 2001, REBERO John appeared before the judge. He did not plead but instead he explained to the Court that he did not have a defence lawyer because he had been informed on morning of their trial. On that day, MUGENGA Joseph and NDEKEZI Télesphore did not appear. The Court decided that they did not appear despite being notified. Their lawyers said that there was no willingness on the side of the prosecution as far no reason failed to bring them to Court to attend the proceedings.

On July 13th, 2001, REBERO John and NDEKEZI Telesphore appeared before the Court but MUGENGA Joseph did not appear. The Court decided that he was summoned and did not appear without giving any reason; his lawyers, in their defence, said that even that time the prosecution did not bring them to Court.

On June 8th, 2001, the accused had appealed against the Appeal's Court decision of May 25th, 2001. On June 24th, 2001, they presented additional submissions supporting their appeal against that decision. On August 17th, 2001, the Cassation Court declared the appeal inadmissible.

The case in detail:

The case of MUGENGA Joseph and his colleagues was presented to the Court of First Instance of Kigali, brought for trial on October 19th, 2001, heard for three days and adjourned because the ELECTROGAZ 's lawyers and State prosecutors rejected the jury hearing the case.

After considering whether that request could be accepted, the Court of First Instance decided on November 7th, 2001 that the request to reject the jury should not be accepted because it was presented in a manner contravening Section 91 of the law establishing the Organisation and Competence of Courts. That provision requires that anyone wishing to reject a jury must present his complaint to the Court Clerk, who records it and issues a certification. It further provides that the Court President receives the complaint if the Court clerk is not available. In this case, the State Attorney in the Kigali Court of First Instance and the ELECTROGAZ representative wrote to the President of the Court even though the Court clerk was available.

That Court decision was communicated to the Public Prosecutor on November 7th, 2001. The Public Prosecutor's office wrote on November 13th, 2001 correcting the first error once again the Court found it inadmissible. A committee was set up to assess that complaint because it is contrary to the law: it contravened Section 92 Subsection 2 of the law establishing Organisation and Competence of Courts which states that "when guilt plea cannot be accepted, the case continues, except when the plaintiff / accused pleads on appeal."

On November 14th, 2001, the prosecution appealed against that Court decision. On December 7th, 2001, the Kigali Court of Appeal declared it inadmissible because it was presented in a way contravening Section 91 Subsection 1 of the Law establishing the Organisation and Competence of Courts which does not allow a complaint to be rejected in a case where the proceedings continue.

After that decision by the Court of Appeal, the prosecution appealed against it at Cassation Court on December 13th, 2001.

Procedural anomalies and unclear circumstances surrounding temporary detention and trial of this case

After investigating this case, the Commission finds that there were some un procedural practice. Some of them are as follows:

- No written statement of arrest was made by the Judicial Police during the arrest of the accused whereas it is catered for in section 4 of the Criminal Procedures Code;
- One of the reasons that led to the temporary detention of the accused is based on Article 220 of the Penal Code regarding embezzlement and corruption by civil servants. That Article does not concern NDEKEZI Telesphore at all because he is self-employed and not an employee of ELECTROGAZ. He was not even a government employee;
- In the decision by the President of the Court of First Instance of April 19th, 2001, one of the reasons for their temporary detention was to properly prepare their file. That reason is not provided for by the law as indicated in Article 37 of the Criminal Procedures Code.

- The court decision for temporary detention dated April 19th, 2001 was communicated to them on April 27th, 2001 whereas they were supposed to receive it at least the day after they appeared in court according to Article 40 Subsection 3 of Criminal Procedures Code.
- On appeal and rejecting the judge of jury, the Public Prosecutor did not follow the procedure governing the disqualification of juries as provided for the law and in their mentioned recommendations. These resulted in the delay of the case. The Public Prosecution, representing public interests, it is therefore supposed to be a model according to the laws, good practice and respect for human rights.

The Commission feels that the higher judicial authorities should address the issues mentioned above, as it is obvious that those accused were denied their rights. For instance, they were not given a chance to prepare for the case, to look for defence lawyers or even to defend themselves in court since they were not present. In particular, the Court took some decisions without informing the accused in time.

4. The cases of KARANGANWA Emmanuel

On February 15th, 2000, Advocate RWANGAMPUHWE François, representing KARANGANWA Emmanuel, wrote to the Commission requesting it to follow up an injustice caused to KARANGANWA Emmanuel by the Gitarama Court of First Instance for not trying his case n° R.C. 1396/2/98 against NTAGANIRA Wellars and the case n° R.C. 2036/4/99 against SARUHARA Stanislas.

4.1 The case of KARANGANWA Emmanuel versus NTAGANIRA Wellars

In Advocate RWANGAMPUHWE François' complaint, it is mentioned that NTAGANIRA Wellars, formerly the Burgomaster of Ntongwe District, allocated himself KARANGANWA Emmanuel's house and conducted training of Local Defence Forces in it and completely spoilt it. The complainant says that NTAGANIRA Wellars did this to deny him the opportunity to rent it to students because he also had a house to let. That was the reason why KARANGANWA Emmanuel presented his complaint to Gitarama Court of First Instance on August 14th, 1998 file n° R.C. 1396/2/98. From then up to the date the complaint reached the Commission, that case had not yet been tried.

The Commission followed up that case to Gitarama Court of First Instance and found that case n° R.C. 1396/2/98 of KARANGANWA Emmanuel versus the former Burgomaster of what used to be Ntongwe Commune, was adjourned several times due to his failure to attend. The following table shows how that case was scheduled and adjourned.

Case Schedule and Adjournment*

DATE	COURT OBSERVATION	REASON
14/10/1998	First trial did not take place	Burgomaster of Ntongwe Commune requested for Adjournment because he had been invited to a meeting in Kigali
09/11/1998	Case not heard	Reason not indicated in the file
18/01/1999	Case not heard	Burgomaster requested for adjournment because he had a security meeting in Runda
24/03/1999	Case not heard	Reason not indicated in the file
14/06/1999	Case not heard	Burgomaster requested for adjournment because he

		had a seminar on grassroots leadership
18/08/1999	Case not heard	Burgomaster requested for adjournment because he had a lot of work and wanted to look for a lawyer
03/11/1999	Case was tried in the absence of the Burgomaster	He had a meeting in Ruhango Sub-Prefecture
09/11/1999	Court decided to carry out investigations before mentioning the case	
16/11/2000 & 19/12/2000	Investigations suspended	The Prefect of Gitarama requested the Court President to stop all case proceedings to which Districts and the Province had been summoned
13/02/2001	Case adjourned	Reason not indicated in the file
30/03/2001	Case adjourned	Reason not indicated in the file
17/04/2001	Case adjourned	The concerned parties were summoned contrary to the laws
07/06/2001	Case adjourned	Reason not indicated in the file
27/07/2001	Case adjourned to an unknown date	Concerned parties did not appear
13/09/2001	Case adjourned	Judges went for a meeting in Nyabisindu
18/10/2001	Case adjourned	Reason not indicated in the file
15/11/2001	Case adjourned	Reason not indicated in the file

(*) *This schedule was prepared by the Commission basing on file n° R.C.1396/2/98.*

This schedule indicates that KARANGANWA Emmanuel was deprived of his rights in a case that had dragged on for too long time. It also found that the Burgomaster of Ntongwe Commune had played a leading role in impeding the advancement of the case because he never appeared in court in spite of repeated summons.

The reasons he gave were not even genuine: if he was too busy to attend the Court, he should have hired a lawyer, especially as at that time communes were autonomous just like the current districts. The court was also supposed to use its powers to try the case.

4.2 The case of KARANGANWA Emmanuel versus SARUHARA Stanislas

RWANGAMPUHWE François' letter mentioned above, concerning a house at a place known as "Centre de Négoce", Kinazi, in what was formerly Ntongwe Commune, Gitarama Province which KARANGANWA Emmanuel says was forcefully taken by SARUHARA Stanislas who was residing in Nyamata formerly Kanzenze Commune, Kigali-Ngali Province.

SARUHARA Stanislas fled the country in 1973 and left an incomplete mud-block house. One NIKUBWAYO Kanoti later completed that house and sold it to NGENDAHIMANA, the father of KARANGANWA Emmanuel.

On February 10th 2000, the Burgomaster of Ntongwe wrote to KARANGANWA Emmanuel (letter n°. 042/07/04/06) and gave him one week to vacate the house or else he would be forcefully evicted. At that time, the case had been presented to the Gitarama court of First Instance.

The Commission was informed in writing that twice the Burgomaster, NTAGANIRA, had detained KARANGANWA Emmanuel at different times for 17 days forcing him to surrender the house.

On June 28th, 2001, the Gitarama Court of First Instance heard the case n° 2036/4/99 and confirmed that the house belongs to KARANGANWA Emmanuel.

This case shows that the question of property for those who had fled the country in 1959 and 1973 is still unresolved and the means of solving it should be well studied, as was pointed out in the general recommendations of the Commission's annual report of 2000.

What is clear is that the Burgomaster of Ntongwe used his position to oppress one of those he is supposed to lead.

C. Visits to Some Detention Cells and Prisons

Apart from investigating cases of human rights abuses for people mentioned on civil and political rights, the Commission visited various detention centres and some prisons in view of acquainting itself with the work of those institutions in regards to human rights.

The main concerns were cases of those detained while suspected or accused of ordinary offences, including the way they were arrested and detained, the length of detention and problems related to work, which at times make it difficult to perform well so that human rights can be respected.

a. Visits to Detention Cells

On June 21st and 24th, 2000, and August 13th, 14th and 15th, 2001, the Commission visited the following detention centres, National Police Posts and Stations.

- In Byumba Province, detention cells in what was formerly known as Commune Kibali, Byumba police station and Rutare police post were visited.
- In Kibungo Province, visits were made to detention cells in Kigarama, Rusumo, Sake, and Rwamagana police station.
- In Kigali Rural Province, visits were made to detention cells in Bicumbi, Rubungo, Rushashi and Kabuga.
- In Umutara Province, visits were made to detention cells of Rukara police post, Nyagatare and Murambi police stations.
- In Kibuye Province, the Gitesi police station, Kivumu and Gishyita police posts detention cells were visited.
- In Cyangugu Province, visits were made to detention cells in Kamembe police station , Gishoma and Cyimbogo police posts.
- In Gitarama Province, visits were made to detention cells of Tambwe police post and detention cells of Runda, Gitarama and Ruhango police stations as wells as what was formerly known as Taba Commune.

- In Gikongoro Province, visits were made to detention cells of what was formerly known as communes Mubuga and Rwamiko, Gikongoro and Munini police stations.
- In Butare Province, the Commission visited detention cells in Butare and Nyanza police stations, former Nyabisindu Commune, Rusatira, Kigembe, Muganza, Nyaruhengeri, Mbazi, Mugusa, Mugina and Muyaga police posts.
- In Ruhengeri Province, Nyarutovu and Ruhengeri police stations detention cells were visited.
- In Gisenyi Province, Gisenyi, Kabaya and Ngororero police station detention cells were visited. Also visited were MULPOC Center, formerly used as a branch of United Nations Economic Commission for Africa, which is currently being occupied by a Military Tribunal. At the time the Commission visited that Center some of the infiltrators captured in combat were being detained prior to their being taken to solidarity camps aimed at reintegrating them into civilian life.

After the visits to those detention cells, the Commission concluded that most problems noted were common to all of them. However, some problems are particular to certain detention cells.

Among the general problems found, the major one identified was lack of facilities in the investigation department. This was evident, in that in most cases investigators did not have vehicles or motorcycles to enable them to carry out investigations or deliver case files on time. Another aspect that showed the lack of facilities was that most offices did not have communication equipment, filing cabinets, typewriters or stationery.

Specific problems identified by the Commission while visiting detention cells include the following:

1. Imprisoned mothers living alongside their young children

In the detention cell of what was formerly known as Commune Mugina in Gitarama Province, there were 12 young children and their detained mothers. The majority of the children are above the age of two. In Nyaruhengeri cell, Butare Province, there were three women with children aged two years older.

The Commission is of the view that strategies should be set out at a national level so that those children can grow in freedom.

2. Unnecessary delays of court proceedings

As regards common offences, the Commission found out that there were people who presented themselves to judicial organs after committing offences and others confessed to the offences they were charged but had not been tried. Examples are as follows:

- NDABAKURANYE Emmanuel originating from Kiyonza cell fought with his cousin known as HABIMANA Herman, the beating resulting to his death. He presented himself to the court on June 13th, 1995 and was immediately detained. At that time he was 15 years old. When the Commission visited detention cells for what was formerly Commune Mugina,

NDABAKURANYE Emmanuel had not yet appeared in court. The year 2001 ended before any changes took place. At the time of compiling this report, he had been transferred to detention cell of Ruyumba, in the District of Musambira.

- RUCYAHANA Célestin of Nyarurama Sector, detained in what was formerly known as Commune Ntongwe from June 7th, 1995, he is accused of having fought with his father and injured him resulting his death. He was interrogated on February 28th, 2001. Since then he has never been presented to any court of law.
- NZEYIMANA Patrice, who was also in a detention cell in what used to be Ntongwe Commune, was detained on January 16th, 1996, allegedly for causing “public disorder”. He was interrogated for the first time in March 2001 and has not been taken to court since.
- NTAWUYIRUSHINTEGE François of Nyarurama sector was also detained on July 12th, 1997 for causing “public disorder” in a cell at what used to be Ntongwe Commune. He has not been taken to court since.
- Among those that the Commission found been in detention cells for a long time, in what used to be Mugina Commune without being taken to court, some were released. These include GAHIGI Emmanuel of Nteko Sector, NZEYIMANA Eraste of Nteko Sector, too, and UWITONZE François from Kiyonza. They were released on February 18th, 2002.

3. Detained for a long time for "feeding infiltrators"

During its visit to detention cells of what used to be Mugina Commune, the Commission found people who had been detained purportedly for having fed infiltrators. An example is MUKAMANA Constance originating from Mukuga sector, Mugina Commune in Gitarama Province who had been detained on November 17th, 1996 together with her two sons, MUNYANEZA Philippe, detained on February 15th, 1997 and NSENGIYUMVA Fabien who was detained on March 15th, 1997.

The Commission was surprised to find that the persons mentioned above had been detained for more than three years whereas at the political level there was a new policy of assisting the infiltrators to return to normal life after having passed through solidarity camps.

During the compilation of this report, the Commission came to learn that those persons had been released.

Generally, the Commission finds that many of those who had been kept in detention cells had their case files opened after the establishment of the National Police. There were also many others who were released, as there was no substantial evidence incriminating them.

b. Visits to Prisons

Apart from detention cells, the Commission visited prisons in Ntsinda in Kibungo, Central Prison and Remera (Kimironko) in Kigali on February 12th, 15th and 28th, 2001 respectively.

As it was the case with detention cells, the Commission found that there was a shortage in terms of equipment, such as motor vehicles, motorcycles or petrol and diesel in the prisons visited.

According to those the Commission talked to, lack of equipment was the cause of delays in their work. But apart from the general problems shared by those prisons, there are nevertheless some particular elements found in some of them.

Among the common problems are:

- Many prisoners of which few are released;
- There are prisoners who were arrested without arrest warrants, hence lack of a statement;
- There are some prisoners who have been on remand beyond the time recommended by the law, and have not appeared in courts of law;
- There are those who have reached the level of appearing in court but their cases have been postponed on many occasions;
- There are those whose cases have been completed but have not had their verdicts read, and
- There are those acquitted by the Courts of the First Instance who are denied their freedom by the High Court without new charges against them.

The Commission in particular visited Ntsinda prison on February 12th, 2001 after a non governmental Human Rights Association LIPRODHOR had condemned the deplorable state of that prison. The Commission wished to verify the true conditions of the prison. The Commission found the conditions at the prison better, contrary to what had been declared by LIPRODHOR, its condition is acceptable because of the cleanliness and availability of water, food and treatment of the prisoners. The Commission had to criticise LIPRODHOR's worker, who had misled the public and International Community.

On the cells and prisons, the Commission recommends the following:

- The Government should provide adequate offices for the judicial police officers to enhance their work;
- The government should facilitate detectives with computer / typewriters, telephones, cars and motorcycles, etc. so as to facilitate and modernise their condition of work.
- The prison warders and those in charge of cells should be given a seminar on arrest and human rights of a prisoner, as well as how to abide by the law.

2.2.1.2 Economic, Social, Cultural rights and Right to Development

Under Economic, Social, Cultural Rights and Right to Development, the Commission investigated the following cases:

A. Cases related to Personal Property

a. Cases concerning houses and land

The Commission followed cases, which had not been completed in 2000, and new case forwarded to the Commission in 2001.

1. The Denial of House and Land for BYABATESI Christine

In the year 2000, BYABATESI Christine, who lives at Taba, Ngoma, Butare, forwarded to the Commission a case concerning the non-execution of court's decision taken on October 20th, 1999 in case N° R.C 30089/89 by the Resident Magistrate of Kigali, which gave her the right to look after her brother's house at Kacyiru. While preparing this report, the Commission wrote to the concerned authorities of Kigali requesting them to undertake the necessary steps to abide by the court's decision. The Commission will keep on following this case.

2. RUGIGANA James and his neighbour: denial of land and housing rights

On April 10th, 2001 RUGIGANA James and his neighbours informed the Commission of their concern about their transfer from their houses and land without compensation for their property. Those families had been settled on land that had been reserved for the extension of the hospital of Rusumo. In particular, RUGIGANA James was asked to leave immediately because his house and land was the nearest to the place to be extended.

On May 4th, 2001, the Commission had consultation with the local leaders of the area and the decision was taken that RUGIGANA James would be compensated for his property before he is evicted.

The Commission is satisfied to have found solved RUGIGANA James' case through conciliation, as RUGIGANA was enabled to acquire another plot using the compensation money from his property.

The Commission revealed to the neighbours of RUGIGANA that it is ready to assist them should the decision to evict them is done in a manner against their rights .

3. Eviction of DUKUZEMARIYA Agatha and orphans she was looking after

In her letter of May 10th, 2001, DUKUZEMARIYA Agatha brought her case to the Commission. She was complaining of her eviction, and that of orphans she was looking after, from a house by the former Mayor of Rutongo, one SEMUKANYA Antoine. The house in question had been built by her elder sister before her death, one MUKARUGWIZA Christine, who had bequeathed the house to RUTIHUNZABE Yves, her son, who was born before wedding one NTEZIRYIMANA Augustin, Alias

Muliro with whom they had two children: CONCORDE and his sister, whose name the Commission could not ascertain. These facts were set out in a letter to the Mayor written on November 23rd, 1998.

Through its investigation, the Commission determined that DUKUZEMARIYA had appealed to different levels of administration, including the Ministry of Local Government and Social Welfare, but her problem has never addressed. It is for that reason that the Commission decided to follow up the matter.

The Commission came to know also that the house was built by MUKARUGWIZA Christine, on the plot that was donated to her by one KABEGA Antonia, as confirmed by the residents of the area. Due to misunderstanding between DUKUZEMARIYA Agatha and RUTIHUNZABE Yves, the leadership of the Commune RUTONGO gave the house to RUTIHUNZABE Yves, who had been bequeathed by his mother, which resulted in the eviction of DUKUZEMARIYA and the orphans she was looking after.

While this report was being compiled, the Commission wrote to the Ministry of Local Government and Social Affairs requesting him to find accommodation of DUKUZEMARIYA Agatha and the orphans while expecting a final resolution of that case.

The Commission will make a follow up of this case.

4. The sale of the land of NDENGEJEHO Diogene

NDENGEJEHO Diogène forwarded his case to the Commission in his letter of March 14th, 2001. His case is as follows:

During the time when Kanombe Commune was still part of Kigali Ngali Province, NDENGEJEHO Diogène had land on which he had built a house in 1994. When he took refuge, the leadership of Commune Kanombe sold part of his land for one hundred and fifty thousand Rwandan franc (150 000 RWF). On his return, he was given his house and a small part of his land that had remained unsold. Having the house built on that land by the buyer, he claimed to get it back. That is how the dispute developed.

The leadership of Kanombe assisted them by dividing the said land between them which did not satisfy NDENGEJEHO Diogène.

While compiling this report, the Commission wrote to the Mayor of the Kigali City requesting him to follow up the case in order to find an appropriate solution. Another point to be clarified is to know why the money accrued from the sale of that remained with Commune Kanombe instead of being given to the owner of the plot.

The other thing to be examined is the reason why the money accrued from the sale of that land remained with Commune Kanombe instead of being given to the owner of the plot.

5. The sale of NDAHIMANA Japan and his brothers' house

NDAHIMANA Japan presented verbally his complaint to the Commission. He complained about the illegal sale of the house that he and his brothers NDAYISENGA Francis and GASIMBA

Emmanuel had inherited from their late mother .The house was sold by their uncle, SINDARIHUGA Jean de Dieu (Karani) who had been looking after them.

On September 5th, 2001, the Commission visited the said house located at Kimisagara in Kigali City and met SINDARIHUGA Jean de Dieu who is now living at Kigarama, Kibungo where he migrated after the sale of the house. SINDARIHUGA Jean de Dieu confirms that the house in which he lives is the one he bought for the complainants but there is no evidence to prove it. In order to try to solve the problem ; the commission invited the complainants, and their uncle but the latter did not turn up.

Having realised that SINDARUHUNGA 's attitude was negative ,the Commission advised the children to take their case to court. The Commission point out that it is not allowed to sell fixed assets (property) bequeathed to orphans even if the caretaker has been given the right to administer the estate. That is the reason why if it is proven that the person in charge of orphan's property comes to sell it without their consent, he stand to repay it.

6. The setting ablaze of MUKARUNYANA Martha's house and her eviction

MUKARUNYANA Martha's complaint received by the Commission in her letter dated of September 2nd, 2001. She said that on May 15th, 2001 the residents of Musha in Kigali Ngali Province, who alleged that she was poisoner, burnt her house. This ignominious act affected the property rights of MUKARUNYANA Martha, her security and that of her children. Before forwarding her case to the Commission, MUKARUNYANA had first passed the case to the local authorities who had not solved it. MUKARUNYANA Martha was advised by the Commission to take the case to the Prosecutor's office in Kigali. Those who had been involved in persecution of MUKARUNYANA MARTHA were arrested and detained and were released later in unclear circumstance. While the Commission was investigating on that case, the complainants were accommodated in the Police Station of Musha.

The Commission requested the prosecutor of Kigali to follow up the case of MUKARUNYANA and to restore her rights.

While preparing this report the Commission realised that the case of MUKARUNYANA Martha had not been settled and then wrote to the Mayor of Kigali Ngali INYUMBA Aloysia, requesting yet the following :

- To look after the security of MUKARUNYANA Martha;
- To accommodate MUKARUNYANA Martha with a house and basic requirements while expecting the courts of law dispense with the case;
- To check whether the grassroots level leaders including security in that location are not partial;
- To take action on the grassroots leadership in case they are found to be partial and to have taken part in the harassment of MUKARUNYANA Martha over several months: and it has had a follow up because of the welfare of the family in general;
- The Commission is unhappy to see the leaders of the district not finding a quick solution to the case of MUKARUNYANA Martha who is still suffering. Justice delayed is justice denied.

7. Non- Payment for the Houses and Land of GATERA Antoine

GATERA presented his case to the Human Rights Commission in his letter of May 30th, 2001. His case is based on non-payment of the money that remained from what he was supposed to be paid by the Government for the property on his forfeited land. GATERA Antoine who had fled the country in 1959, returned in 1994 to find a part of his land taken by other people. Another part was taken by the District of Nyakinama and had built in it a training centre for the villagers/people (CCDFP) and a primary court.

GATERA Antoine found that his former house was a residential house for the Mayor of Nyakinama. He, immediately, asked for the return of his property but he consented to give up the part of land settled on by other people. He was thanked by the Prefet of Ruhengeri, RUCAGU Boniface in his letter N° 1075/04/06; of October 9th, 1999 to the Ministry of Lands, Settlement and Environment.

On August 7th, 1996, the former Deputy Prime Minister and Minister of Local Government and Social Welfare, Col KANYARENGWE Alexis wrote a letter to the Prefet of Ruhengeri N°790/05.05/3 requesting him to give GATERA Antoine the remaining part of his land which is not settled on plus all the property therein, such as the banana plantation, trees and houses.

Because part of that piece of GATERA's land was for the people's developmental activities, the leadership of the Province of Ruhengeri chose to value all the property after which GATERA would be paid the total value. It is on that level that the expropriation office of the Province of Ruhengeri quantified the property on the land to fifteen million two hundred twenty six thousand four hundred and ninety RWF (15,226,490RWF). Because the District of Nyakinama could not raise that money, the leadership of the Province of Ruhengeri wrote to the Minister of Lands, Settlement and Environment a letter N° 1075/07.04/06 of October 9th, 1999 requesting the ministry to bail out the District of Nyakinama, and pay the 15,226,490 RWF to GATERA Antoine.

GATERA was first given six million, nine hundred ninety eight thousand eight hundred forty RWF (6,998,840RWF) which was equivalent of the value of the house and the plantations on the land.

In its investigations, the Commission met the officer in charge of Land, Settlement and Environmental Protection on July 9th, 2001 and the Commission was assured that GATERA Antoine would be paid the remaining sum of money from the Ministry's budget of the year 2002. After the meeting with the officer in the Ministry of Lands, Settlement and Environment, the Ministry wrote the letter N° 763/16.02/01 of July 25th, 2001, to GATERA Antoine informing him that he would be paid the remaining sum of money amounting to eight million two hundred twenty seven thousand six hundred fifty eight francs (8,227,658 Frw).

During the compilation of this report, GATERA wrote to the Commission alerting it of his failure to secure the money he had been promised and that the General Secretary in the Ministry of Lands, Settlement and Environment had informed him that he would never be paid.

The Commission met HAJABAKIGA Patricia, the General Secretary in the Ministry of Lands, Settlement and Environment and her officer in charge of lands and both of them informed the Commission that the Ministry would not pay the remaining money promised to GATERA Antoine.

The Commission feels that GATERA Antoine should be paid the remaining money without further disturbance.

The Commission thanks the leaders who took the first decisions to solve problems of the returning refugees of 1994. Those leaders are the then Deputy Prime Minister and also the Minister of Local Government and Social Welfare, KANYARENGWE Alexis, and the Prefet of Ruhengeri, RUCAGU Boniface.

However, the Commission criticises the Ministry of Lands, Settlement and Environment for lack of good will to solve GATERA Antoine's problem, who is old and disabled and who showed willingness to receive only part of his property. The Commission will keep on following up this case.

8. The Delay in the hand over of school premises belonging to ADEPR.

On March 1st, 2001, the Association of Pentecostal Churches of Rwanda (ADEPR) presented its case to the Commission concerning the failure in returning their schools and houses, located at Gihundwe in the Province of Cyangugu, which had been taken over by the Ministry of Defence after 1994. ADEPR had tried to get a solution to its case through various levels of leadership of the Ministry of Defence that told the Association that the property would be transferred but never implemented the promise. After the end of each school calendar year, ADEPR reminded the Ministry the need to repair the school so that it could be put in rightful use, but in vain.

During the time of compiling this report, the leadership of ADEPR notified the Commission that they had received back their premises officially in July 2001, and the school is now in operation.

9. Breach of a contract for house rent of UWIMANA Jeanne Claire

On December 12th, 2001, UWIMANA Jeanne Claire presented her case to the Commission concerning the failure of Gisozi District to pay her the rental fee. The rental agreement said that the District of Gisozi would pay 50,000 FRW every month and would pay for six months before the District of Gisozi start working from the house.

The agreement was not fulfilled by the District, which started utilising the house without payment. UWIMANA Jeanne Claire consulted the leadership of the District many times but in vain. After three months, the leaders had paid only 100 000 RWF being the equivalent of two months rental fee. When UWIMANA Jeanne Claire realised that the leadership was not abiding to the agreement, she decided to refer the problem to the leaders of the Province of Kigali. On seeing that she was not receiving a quick solution, she consulted the Commission. The Commission went to Gisozi and discussed the matter with the leaders of the District and showed them how UWIMANA Jeanne Claire was being unfairly treated and advised them that she should be paid. On January 8th, 2002, two days after the Commission's departure from Gisozi, the leaders of the District of Gisozi paid all the money it owed.

The Commission recommends that leaders should be solving people's problems without making them move up and down and leaving them in suspens. The Commission also points out that it is the leadership that should be setting a good example by fulfilling their promises.

10. Refusal to return the house of UMUHIRE Claudine

In a letter dated October 10th, 2001, UMUHIRE Claudine presented her case to the Commission, in which she alleges failure to return to her a house left to her by her parents in Gatsata. NKUSI Emmanuel lived in that house after the war in 1994, when the owners were not there. MUHIRE Venant had given the house in question to the Banque populaire of Muhima as collateral security.

After the genocide of 1994, the debt owed to the bank by MUHIRE Venant, who is the father of UMUHIRE Claudine, was three hundred and sixty five thousand Rwandan francs (365 000 RWF).

During the time NKUSI Emmanuel was staying in the house, the Bank wanted to auction the house so as to recover what MUHIRE Venant owed to the bank.

NKUSI Emmanuel inquired from the People's Bank of Muhima, what he could do so that his family in not evicted and was advised to pay to the bank what was owed to it and then MUHIRE Venant would pay him..

On the return of the family of MUHIRE Venant, they wanted to get back their house but NKUSI Emmanuel asked to be paid first the money he had paid to the Banque populaire of Muhima to block the auctioning of the house.

The Commission called a meeting of all parties involved in the case together with leaders of the Province of Kigali, where NKUSI was given time to vacate the house, which he fulfilled. The house was returned to the rightful owners and NKUSI Emmanuel was advised to follow up with the courts of law so that the bank return the money he had paid for the house. At the time this report was being compiled the Commission asked the Manager of the People's Bank of Muhima about the advise given to NKUSI Emmanuel and was told that it was only MUHIRE Venant who could pay the debt owed and saw no reason why it should be paid by somebody who had not taken the loan.

The Commission is pleased with the leadership of the Province of Kigali for ensuring that UMUHIRE Claudine received her father's property. Without forgetting the hardship of getting places of abode at that time, NKUSI Emmanuel should have understood that there was no reason to pay the bank for a loan he never took. The Commission also finds that the People's Bank of Muhima did not follow the laws that govern loans and their payment. The Commission condemns the Bank's actions in this case.

b. Cases related to land in particular

1. The problems of sharing land

Cases received the Commission in the year 2001 mainly concern the subdivision and redistribution of land leading to disputes. The land subdivision and redistribution was carried out by district leaders with the hope of solving the land problem of the returning refugees of 1959. An example of those cases that can be cited is the land of one UWIRAGIYE of Kayumbu, Rubungo in the District of Gasabo, Kigali Ngali Province. That land was given to the person in the spirit of sharing. People of Rutongo, who had cases of that nature, invited the Commission to intervene on April 5th, 2001. That meeting reached a recommendation to live in unity, harmony and peace. Because UWIMANA was not

pleased by the recommendation, the leaders of the district assured the Commission that they would study the case with a view of solving it.

Another case presented to the Commission is that of GATARAYIHA Gratien, who hails from Karama, Muvumba district, Mutara Province. His case concerns his land, which was given to another person. During the period when this report was being compiled the Commission wrote to GATARAYIHA Gratien requesting him to first forward to the Commission the recommendation of the grassroots leaders because they are the ones who are supposed to handle such cases in the first instance.

In general, cases of land that concern sharing of land are handled in the spirit of resettling returning refugees. Because the Commission found no guiding law for land sharing, it finds it necessary that laws be enacted so as to solve land disputes in the country.

2. The giving away of the land of GAKWAVU Pierre Claver

GAKWAVU Pierre Claver presented his case to the Commission in 2000. The case concerns land that the former Commune of Gisuma had given to GAKWAYA Tharcisse after the family of GAKWAVU Pierre Claver had fled in 1959. On his return, GAKWAVU found one part of his land with a forest as he had left it, and GAKWAYA Tharcisse, with whom he had disputes, was using the other part.

This case was considered in a meeting held on May 23rd, 2000, which brought together the residents of Karambo and Nyagatare, sectors of Shagasha of former Gisuma Commune, which was now combined with the Commune of Gafunzo to become the District of Mpala. The land in question is now in the Town of Cyangugu. In the above mentioned meeting, which was convened by the vice Mayor in charge of economic affairs and the Mayor of Gisuma, it was recommended that Gakwaya Tharcisse should share the land with Gakwavu Pierre Claver.

On the December 15th, 2000, the Commission wrote to the Prefet of Cyangugu requesting him to solve the problem using the recommendations given by the people in the meeting of May 23rd, 2000, so that the complainant may not continue using courts of law.

During the compilation of this report, the Commission was pleased to learn that, with the cooperation of the leadership of Cyangugu and the Commission's Head of Antenna in Cyangugu, the dispute between Gakwaya Tharcisse and Gakwavu Pierre Claver was solved.

The Commission feels that the government should quickly do all it can to have a solution to problems such as the above because they involve old men who depend solely on land.

The Commission reminds the Government, in particular, 'that the aged and the disabled shall also have the right to special measures of protection in keeping with their physical or moral needs.' This guarantee is contained in the African Charter on Human and People's Rights of June 17th, 1981 in Article 18 (4), in which Rwanda is a party to.

B. Economic related issues

1. The Complaint involving Clients of the former Savings' Bank of Rwanda

One issue that has existed for a long time and for which no solution has been found involves people who used to save their money with the Savings' Bank of Rwanda. Some of the clients of the bank were paid back their savings when the bank became insolvent.

An example is the case of NGARUYE Ignace and his friends who presented their case to the Commission on April 27th, 2001 requesting the Commission to cause the Savings' Bank of Rwanda to return their money, which had been deposited with the bank before it became insolvent.

The Commission presented their case to the Ministry of Finance and Economic Planning, which referred the Commission to the offices in charge of such cases at Muhima, where there was a liquidation of that bank.

On January 12th, 2002, the Commission wrote to NGARUYE Ignace and friends directing them to that Committee in charge of their case so that they could obtain a solution. Based on such cases, the Commission is concerned that many people who used to save their money in the Savings' Bank of Rwanda have gone a long time without being repaid.

The Commission feels that such a case should be handled seriously and given more attention so that a solution is obtained. This is especially so since most savers were poor people. It would be good if the property of the Savings' Bank of Rwanda were known since it can be used in solving such cases.

2. Non-payment of NTAGANDA Jean Baptiste by the Ministry of Internal Security

On September 18th, 2001, NGARUYE Jean Batiste wrote to the National Human Rights Commission presenting his case against the Ministry of Internal Security concerning non-payment of forty nine million six hundred and fifty thousand RWF (49 650 000 Frw) which was equivalent to the firewood supplied to various prisons in the country as verified by documentary evidence of receipts, order notes, and delivery notes. NGARUYE Jean Batiste had won the tender to supply firewood as required by the National Tender Board. At the time of payment, the Ministry of Internal Security requested for the payment first of one million Rwandan francs (1,000,000 Frw), which caused him hardship. The tender was given to another person whose name the Commission could not trace, who did not have an authorisation by the National Tender Board. The National Human Rights Commission met twice with the General Secretary in the Ministry of Internal security, Dr NSENGA Zac and presented the case to him, but nothing was done.

During the compilation of this report, the Commission wrote to the Ministry of Internal Security requesting it to do what it could to pay NTAGANDA Jean Baptiste his money, which had been spent on firewood for over one year. It also pointed out that the longer they take to pay him, the larger the interest on his loan from the bank will be, contrary to his rights. The Commission feels that NTAGANDA was cheated and has been caused a great financial hardship.

The Commission reminds the government that it has an obligation to pay all the people who have won tenders and have supplied what was required of them. Forcing people to go to courts of law causes delays and both the government and the complainants lose in terms of money and time.

C. Children's Rights

1. Detention of SALAMA Janvier

On February 6th, 2001, a Rwandese non governmental Human Rights Association (ARDHO) presented the case of SALAMA Janvier, who was detained at Muhima Police Station and later transferred to Kimironko Prison accused of killing a child at the bus stand, to the Commission.

ARDHO had learnt that SALAMA Janvier was mentally disturbed. SALAMA Janvier was released and sent to Ndera Mental Hospital.

Basing on this case, the Commission is of the view that, all the responsible organs should cater for, people who are disabled mentally or physically.

2. Defilement of YAMBABARIYE Jacqueline

The defilement case of the orphan YAMBABARIYE Jacqueline, was brought to the Commission on May 3rd, 2001 by the girl herself when she was 17 years. YAMBABARIYE Jacqueline had been working for two years as a house girl for Mr. MUYANGO Deo who was a resident of "Quartier Commercial", Nyarugenge District in Kigali City. Her employer used to have sexual relationship with her until he made her pregnant. After realising that YAMBABARIYE Jacqueline was pregnant, MUYANGO Deo started harassing and beating her severely so that he could get rid of her and chase her from his home. The girl was chased away under threat MUYANGO Deo even got her detained with the assistance of some policemen from Muhima Police Station. It reached even a time when the girl had to stay at the home of the leader of "Quartier Commercial" area.

The Commission carried out investigations and found out that MUYANGO Deo committed the defilement.

At the time of compiling this report, the Commission wrote to the Commissioner General of National Police requesting him to investigate the Policemen who might have played a role in the detention of the girl.

The Commission also requested him to summon MUYANGO Déo, who refused to appear before the Commission, and ask him what he plans to do for YAMBABARIYE Jacqueline and their child.

The Commission is of the view that MUYANGO Deo should be followed up by judicial organs.

3. UWITEGUYE Espérance's denial of the right to look after her child

In her letter of February 12th, 2001, UWITEGUYE Espérance, a civil servant who lives at Nyamirambo, in Kigali City, forwarded a complaint to the Commission. She alleged that she is being denied the right to look after her young child, TUYISHIME Cyiza Feston (Fifi), who is being cared for by his paternal grandmother.

In that letter, UWITEGUYE Espérance says that she divorced her husband, HAGUMINTWARI Landoald, a businessman, by mutual consent in 1995. She also says that from 1995 to 1997 she lived with all her three children. HAGUMINTWARI Landoald asked for TUYISHIME Cyiza Feston to visit him and the mother took the child to him. After that, instead of returning the child to the mother, HAGUMINTWARI Landoald took the child to his paternal grandmother, who lives at Kavumu, Ndiza, Gitarama. UWITEGUYE Espérance was not happy to see her child being looked after by others while she and her husband were able to look after their child.

In its investigations, the Commission found out that there was no clear evidence to show that UWITEGUYE Espérance and HAGUMANTWARI Landoald had divorced through the Magistrate's Court of Kigali.

The Commission, in its letter of May 30th, 2001 requested her to forward her case to both sides of their families to decide on the welfare of the child and, if this was not possible, to forward her complaint to the Court of First Instance.

The Commission wishes to remind people the Convention on the Rights of the Child that Rwanda is party and has put it in domestic law, which says that every child has the right to be looked after by its parents and that the parents also have the right and responsibility to look after their children. Even if UWITEGUYE Espérance did not reply to the Commission's letter of May 30th, 2002, the Commission will continue to follow up this case because of its gravity.

4. The Guardianship of SHIMWA Grâce

On October 10th, 2001, NGILIMANA Pie Joseph, who lives in Belgium wrote to the Commission requesting the Commission to follow up the case of an orphan named SHIMWA Grâce, who is his niece.

Grâce's parents are HABINEZA Emmanuel and UWAYEZU Thérèse who were killed on the April 7th, 1994 as a result of genocide. They used to live in the former Rutongo commune of Kigali – Rural Province.

SHIMWA Grâce became an orphan at 9 months and is being brought up by her aunt, MUKAHODARI Emerita, who breastfed her. In 1999, in his letter of May 14th, 1999, NGILIMANA Pie asked the family of SHIMWA Grâce to allow him to look after the child and pay her school fees. MAKUZA Patrice, the grandfather of SHIMWA Grâce, on behalf of their family, replied to NGILIMANA Pie, in his letter of June 25th, 1999, informing him of his refusal to give him the child for the following reasons:

- The child was very young and still being breastfed.
- The family of the child's father was capable of paying for the child's education. However, MAKUZA Patrice promised NGILIMANA Pie that, after the child completed primary education, NGILIMANA Pie's wish of taking over the child's education would be considered.

NGILIMANA Pie Joseph was not satisfied by that decision. He sent his case to the Court of First Instance of Kigali before Safari Emmanuel who took a decision N° 165/2000 on September 28th which gave NGILIMANA Pie Joseph the right to look after SHIMWA Grâce. MAKUZA Patrice blocked the decision in his letter of October 8th, 2000 to the President of Kigali Court of First Instance. The following reasons were given:

- In a family meeting, which was convened on September 8th, 2000, the grandfather of the child did not agree to NGILIMANA Pie wish to be given the child;
- The decision N° 165/2000 of September 28th, 2000, which named a guardian father and his observer was based on decisions taken in a meeting called on September 27th, 2000 which no one from the child's father's side attended.
- The reason why the family of MAKUZA Patrice does not trust NGILIMANA Pie as guardian father to SHIMWA Grâce, is because NGILIMANA Pie had never been pleased with the marriage of his sister to that family. They had further concerns as to how they could observe the guardian in Belgium.
- Sections N°367 and 368 of the Law N°42/88 of October 27th, 1988 of the Family Code were not followed.

The President of Kigali Court of First Instance allowed the retrial of the case. The file of that case was given to the Deputy President of that Court, one NGOGA Honoré, who is the one who took the ruling N°15/01 of November 7th, 2001 which removed the guardian father and the observer of the orphan of the late HABINEZA Emmanuel and UWAYEZU Thérèse. However, what was on the ruling are different from the agreement because they upheld the previous ones.

That ruling was not accepted by the family of the child's father. MAKUZA Patrice wrote to the President of the Court of First Instance of Kigali on November 20th, 2001 alerting him of the wrongfulness of the ruling N°150/01. He felt that the decision was taken by people with questionable moral standards. He added that there was no freedom at the meeting convened on November 7th, 2001 to choose a guardian parent. It was the judge who chose those to attend the meeting disregarding the list of people chosen to attend by the side of the child's father.

What is clear is the exhibit N°150/01 of November 7th, 2001 which was not reconsidered because when the report was being compiled, the Commission learnt that SHIMWA Grâce had reached Belgium at the residence of NGILIMANA Pie Joseph.

MAKUZA Patrice expressed his concern to the Deputy President of the Supreme Court who is also the Chairman of the Courts administration, in his letter of June 7th, 2001. The Deputy President also wrote a letter N°DST/327/2001 of August 28th, 2001, to the President of Kigali Court of First Instance requesting him to examine the nature of the accusation and forward him a report indicating how the ruling had been arrived at.

By the time the Commission was compiling this report, the Supreme Court had not given a reply.

In a letter of December 3rd, 2001, which MAKUZA Patrice wrote to the National Human Rights Commission of Rwanda, alleging injustice and harassment to his family, attributed to NGILIMANA Pie Joseph's conspirators.

In that letter, MAKUZA shows that the courts did not do justice to them because the ruling was based on the threats meted out by the administrative structures that sided with NGILIMANA Pie Joseph which had imprisoned and harassed anybody who raised any objection about the case. Such as:

- KANZAYIRE Constance, an aunt to SHIMWA Grâce, was on November 29th, 2000 arrested at Nyagasambu hospital where she was attending to a sick child and was detained at Musha in Gasabo, where the child died. KANZAYIRE was released on December 25th, 2000 after 27 days.
- From September 29th, 2000 to November 7th, 2001, MUKAHODARI Emerita fled with her niece SHIMWA Grâce and spent 14 months away from home. Between those dates, KARAMBIZI Ignace, the Co-ordinator of Rutobwa Sector, Gasabo in Kigali Rural harassed her children.
- On October 9th, 2001 KARAMBIZI Ignace, the Co-ordinator of Rutobwa Sector took MUKABALISA Seraphina from her home at 11:00pm and detained her at the Rutobwa Offices.
- On September 28th, 2001 BARAJIGINWA Michel was detained at Nyamirambo Police Station for one day.
- On September 28th, 2001, one NKULIKIYINKA was arrested at his place in Bicumbi at 8:00 p.m. and was detained seven days at Musha Police Station.

The Commission is of the view that there was confusion between the Court's decree and the judgement itself. This confusion can be seen in a letter written on December 21st, 2001 by GASAMAGERA Wellars, Prefet of Kigali Ngali that referred to the implementation of the court's ruling. This is also the source of taking a child named SHIMWA Grâce to Belgium.

According to the Law, no one can prove that the act of taking the child abroad (to a foreign country) is in line with the implementation of the Court decision because the Court never made that decision. Again, the decision of the magistrate which made NGILIMANA Pie Joseph a guardian parent and NSANZABARASHI Célestin his observer never anticipated that the said child would be taken to a foreign country.

The Commission is concerned with the issue of monitoring the upbringing and care of this child, which is bound to be difficult as the guardian parent stays in Belgium and the observer stays in Rwanda.

The Commission decided to carry out a detailed investigation over the injustice and harassment which were committed against the family of MAKUZA Patrice.

5. Sub-standard education given to CEPJR students at Kanombe.

On September 5th, 2001, the Commission received a written complaint by orphaned children who had received their education in the Technical Institution for Rwanda's Youths. (C.F.P.J.R) at Kanombe. That complaint showed that the students had not been given certificates despite the fact that they had been taught for a long time.

The investigations carried out by the Commission revealed that the Institute (C.F.P.J.R) had serious problems. The problems originated from the school management that neglected their primary duty of giving instruction; they seem to have been motivated by personal gain. The students benefited from the government fund for the survivors of the 1994 Genocide (F.A.R.G), but they were not getting any relevant instruction. It reached a point where the same management acted against signed agreements. They started other illegal Institutes and even relocated some of these students to them. It is a result that the Institute they opened at Kicukiro was closed, after it became evident that it did not fulfil necessary requirements.

Investigation also proved that the students were not taught as planned. This is one of the reasons why IBUKA, which had helped these children get sponsorship, refused to support the idea of awarding them certificates knowing that the instruction the students had received were not sufficient to enable the children to cater for themselves after school. The management of the Institute continued to deteriorate. The Director of the Institute, ISRAEL Josué fled the country. After his flight, his deputy, KAMBANDA formed another committee to manage the Institute. Some people suspect that this committee was meant to hoodwink the Fund (F.A.R.G). This committee consisted of KAMBANDA, his family, and even the suppliers to whom the Institute owed money.

On November 9th, 2001, the department in charge of micro skills training in the Ministry of Youth, Sports and Culture (MIJESPOC) held a meeting with students of C.F.P.J.R/ Kanombe.

The students' complaints were examined and the meeting ended with the following conclusions:

- In general, the students had not been taught properly and for this reason they would be given an examination whose aim was to assess their level of knowledge. Those who passed the examination would be given 3 months' studies, so as to thoroughly go through what they had not studied well. After this, they were to be given their certificates.
- Those who would not pass the examination would join other technical centre of their own choice (C.F.J). They would then be taught afresh all the studies they were supposed to have had.

On November 21st, 2001, the examination was held, and 111 students took it. The Technical Teachers of Gacuriro Institute, who had set the examination, marked it. It was obvious that the students had performed very poorly because the highest score was 50%. In order to enable these children to continue with education, the 45 students who scored 20% marks in their examination were permitted to attend 3 months' studies, which had been planned for those who would have passed the examination.

The Director in charge of middle level technical subjects in the Ministry of Youth, Sports and Culture (MIJESPOC) informed the Commission that all the requirements in line with teachers and

equipment had been put in place. As per the decisions taken, forty five(45) students were to commence their studies on February 4th, 2002, at Gacuriro centre.

As we prepare this report, the Commission is aware that those 45 students are already in school. The remaining 66 students have been advised to seek admission into the Youth Technical Centre (C.F.J), which are located near their homes.

It is the view of the Commission that the Ministry for Youth, Sports and Culture should step up its supervision of the Youth Technical Centre since they fall under its jurisdiction. Equally, the relevant departments in the same Ministry should investigate and identify the culprits who should be made to account for their role in the unfortunate activities. The Commission will also continue to follow up that issue closely.

D. Right to Employment and Respect for Labour Code

1. Dismissal from employment of RUJUGIRO Emmanuel and RUTAGARAMA Anselme.

In 2000, the Commission received a written complaint from two employees who worked for the World Food Programme (WFP). The employees allege that they had been dismissed from their jobs without due regard to the labour laws. RUTAGARAMA further alleges that he had been dismissed without being paid for six months. The Commission investigated RUTAGARAMA's complaint and found that it was baseless because he had already been given all that was his dues.

As this report was being compiled, the Commission wrote to RUTAGARAMA Anselme, and informed him of its conclusion on his complaint. At the same time, the Commission wrote to RUJUGIRO, advising him to first channel his complaint through the inspection department in the Ministry of Public Service and Labour.

2. Dismissal From Employment of KABALISA François

The complainant, KALISA François had been dismissed by his employer, Rwanda Rural Rehabilitation Initiative (RWARRI), a non-governmental organisation, which he claimed had not followed labour laws. The person concerned brought his complaint to the attention of the Commission on December 10th 2000.

Upon investigation, the Commission established that the complaint had been forwarded to the Courts of Law. The case has now reached the level of appeal, and no decision has, as yet, been taken on it. Since the Commission cannot assume the role of Courts, and the Courts have not taken any decision, the Commission wrote to KABALISA, advising him to wait for the final verdict of the Courts.

3. The Dismissal from Employment of MUYENZI John

MUYENZI John, a former employee of ELETROGAZ at Kigali, wrote to the Commission on August 23rd, 2001 complaining of unlawful dismissal by the ELETROGAZ management. According to MUYENZI, his employer dismissed him due to his absence from duty. However, his absence had been caused by his arrest by the Directorate of Military Intelligence (DMI). He says that during that period he was locked up at a military prison in Mulindi, Kanombe.

The Commission investigated this complaint and discovered that it had not been forwarded to the relevant authorities in the Ministry of Public Service and Labour. As this report was being compiled, the Commission wrote to MUYENZI John advising him to forward his complaint to the relevant authorities.

The Commission has decided to conduct investigations concerning his arrest and imprisonment. It is trying to establish whether an authorised arresting authority had arrested him, or whether his arrest had had any connection with his subsequent dismissal.

4. The Dismissal from Employment NZABONIMANA Frédéric

NZABONIMANA Frederic was an employee of the National Unity and Reconciliation Commission in Kibungo Prefecture. He was temporarily suspended from employment by the security sub-committee meeting of Kibungo Prefecture, which took place on September 21st, 2000.

By his letter No.05/07.02, written on September 22nd, 2000, BARIKANA Eugene, the Prefet of Kibungo, as the Chairman of the security sub-committee meeting mentioned above, wrote to the Executive Secretary of the National Unity and Reconciliation Commission, INYUMBA Aloysia, informing her of the decision and also requesting her to cancel the employment the Commission had made with the said employee. After his employer had read the letter, the employee was suspended immediately through a letter N° URC/69/10/2000/E.S dated October 3rd, 2000.

In an attempt to help solve that problem, the National Human Rights Commission met the Prefet of Kibungo, BARIKANA Eugene and the National Commission for Unity and Reconciliation authorities. The National Human Rights Commission tried to explain to them the illegal dismissal of NZABONIMANA Frederic.

In a letter No. 69/URC/2001/CMC, dated September 4th, 2001, the National Commission for Unity and Reconciliation wrote to NZABONIMANA Frederic reinstating him. By that time, he had been away for a whole year, having been denied his rights as an employed person and the benefits that accrue to him from that status. The National Human Rights Commission is concerned by the behaviour of the Commission for National Unity and Reconciliation for having failed to avail the concerned employee an opportunity to defend himself before being dismissed.

The National Human Rights Commission is concerned by the type of punishment recommended by the security Sub-committee meeting which disregarded the labour laws of the country. The National Human Rights Commission would like to recommend that the activities of the Commission for National Unity and Reconciliation and prefecture authorities should be streamlined and co-ordinated to better performance. The personnel ought to have had time to explain his case; the Commission was less than prudent in this matter.

5. The Payment of Inadequate Pension to NYAMUCAHAKOMEYE Anselme and RUTAYISIRE Evariste

On August 13th, 2001, NYAMUCAHAKOMEYE Anselme brought a complaint to the Commission concerning the inadequate pension paid to him. RUTAYISIRE Evariste brought a similar complaint to the Commission on August 10th, 2001. These two old men served way back, during the Belgian colonial rule. They allege that the money they were paid is far too little if one takes into account how the Rwandan franc has been affected by inflation over the years.

After scrutinising the procedures that are normally followed in paying pensions to retirees, the Commission feels that no further payment can be given to the said retirees because the relevant labour laws were used during the initial payment of their pension. As this report was being prepared, the Commission wrote to the two old men, informing them of the conclusion on the matter. But, the Commission would like to note that the Law N° 32/1988 of October 12th, 1988, which reforms and reinforces the decree of August 22nd, 1974, under which the National Social Security of Rwanda falls, especially the sections, which deal with pension for retirees, has not moved hand in hand with the time. The Commission would like this law to be amended in its sections that offend the beneficiaries. The Commission would like to cite section 2 of the said law, which says: The amount paid in monthly contribution for the retirees pension, or disability, is equivalent to basic monthly salary after 180 months; there is an increment of only 1%. The Commission finds the 1% increment to be extremely low, considering the inflation rate of the Rwandan Franc.

There is also section 44 of the decree of August 22nd, 1974 that suspends the pensioners' retirement benefits in case he/she moves to settle in another country. The Commission finds this section offensive to the retirees because they were forced to leave the country by unforeseen circumstances. In the meantime, the Rwandan Franc has steadily lost value.

6. Non-payment of Retirement Benefits to former employees of the National Printing Company

The complaint of former employees of the National Printing Company has been with the Commission for a long time. It was also appeared in our latest annual report but, as yet, it has not been addressed. That is why the Commission finds it necessary to explain the case in detail again, pointing out the different relevant authorities through which the complaints were channelled. This may serve to highlight the gravity of this issue.

When the decision to sell the National Printing Company was made known in September 1997, the management of the National Printing Company immediately wrote to the Minister of Finance and Economic Planning and brought to his attention the concern they had over the issue of the employees whose services were about to be terminated. It is in this line that the management of the National Printing Company asked where the money to pay the benefits of the employees could come from.

During its own investigations, the Commission discovered that, in a letter written on June 23rd, 1998 to the Minister for Finance and Economic Planning, KABERUKA Donald, the employees of the National Printing Company had requested terminal benefits equivalent to their payments of 36 months. On August 5th, 1998, the same workers once again wrote to the Minister for Finance and Economic Planning reminding him of their request in their earlier letter, since they had not received a reply.

On August 27th, 1998, the employees of the National Printing Company wrote to the Prime Minister informing him of the Acting Director of the National Printing Company's decision to close the Company contrary to the Law of January 26th, 1967 which established the Company. They were requesting the Minister for Finance and Economic Planning to intervene and stop the closure of the Printing Company, which violated the said Law and instead follow the written Law.

On September 14th, 1998, the National Assembly wrote to the Prime Minister informing him of the invitation to the Minister for Finance to the National Assembly so that he could give a verbal response to the following questions:

- Whether the sale of the National Printing Company was lawful (the law provides for a procedure by which the government sells parastatals and their activities to private individuals and the investment of the national wealth especially in sections 2, 3, 6 and Section 8 of that law).
- Whether terminating the employees services of a government parastatal, before it is sold, will not cause a big loss to the government as a result of payments to redundant workers and civil damages to the same people.
- Whether divestiture of government parastatals to private entrepreneurs is being carried out in a lawful manner, and by those persons with the appropriate authority.

The Commission is also aware that on October 26th, 1998, a government delegation led by the Minister for Finance and Economic Planning had a joint meeting with the management of the National Printing Company in which the following decisions were taken:

- All the members present, unanimously, agreed that the workers' dismissal had been unlawful.
- The Minister for Finance and Economic Planning promised the employees that they would be paid for the months of September and October 1998.
- On terminal benefits, the employees were promised that they would get similar treatment to those who retire from the Civil Service.

On February 22nd, 1999, the National Assembly wrote to the Ministry of Finance and Economic Planning requesting him to reply, in writing, to letter, N° 1145/00/P/SP/AM/98 of September 14th, 1998, addressed the Prime Minister in which the complaints had been cited. The above mentioned letter was written after Parliament had indicated that it had not been satisfied with the answers given by the Minister for Finance and Economic Planning to the National Assembly Session of February 10th, 1999.

On March 19th 1999, the Government delegation once again met with the delegates of the National Printing Company. In that meeting it became evident that the law that governs workers does not provide for terminal benefits to employees of government parastatals, once these parastatals are sold to private entrepreneurs. That is the reason why both delegations were of the view that meetings between the two parties were necessary.

As a result of meetings which continued to bring together government delegates and the management of the National Printing Company on March 13th, 1999 and March 19th, 1999, the letter which the Minister for Finance and Economic Planning wrote to Parliament, when he was giving a written response to the questions that had been asked, and what the Minister for Public Service and Labour wrote to the Minister for Finance and Economic Planning on September 8th, 1998, the Commission suggested that a temporary government decision of giving the employees of the National Printing Company a payment equivalent to six months salary to be implemented.

At the time of compiling this report, and after discovering that no action had been taken on the complaints of these employees, the Commission wrote to the Minister for Finance and Economic Planning advising him to implement the decision of paying the employees an amount of money equivalent to six months salaries as he had promised them. The Minister for Finance and Economic

Planning replied to the Commission's letter to say that those employees had not been forgotten, just like all the other retrenched employees who suffered a similar fate when the government parastatals were being sold to private entrepreneurs. The Minister for Public Service and Labour said that currently a study was being conducted on how the above employees would be re-integrated into normal life, and what type of benefits they were to get.

Due to the length of time this complaint has taken, the Commission is of the view that there is an urgent need for the relevant government authorities to find a solution. The Commission is also concerned that when the divestiture programme eventually takes root, employees of other government parastatals might face a problem similar to that of former employees of the National Printing Company.

E. Social Rights

1. Family separation: MUYENZI Peter and MUSONI Ibrahim

On January 30th, 2001, two old men RUYENZI Peter and MUSONI Ibrahim brought to the Commission a written complaint concerning reunification of their families. The two old men returned home from exile. These two men are among 1959 refugees who fled to Kenya. When war broke out in Rwanda in 1990, these old men together with their families were harassed and evicted by Kenyan security men. They then fled to Southern Ethiopia. Life in Southern Ethiopia proved to be too difficult, and the two old men resolved to return to Nairobi in search of work. They had hoped to acquire some means by which they could go back to Ethiopia to bring back their families.

After the 1994 Genocide, RUYENZI Peter and MUSONERA Ibrahim returned to Rwanda. They requested the High Commission for Refugees (HCR) and the Prime Minister's Office to help them in this matter, without any success. After the Commission had received their complaint, it wrote to the Ministry for Foreign Affairs and Regional Co-operation on June 21st, 2001, asking them to do every thing possible to help solve the two old men's problem. Through the Rwandan Embassies in Kenya and Ethiopia, the Commission later learnt that the families of two old men are no longer in Southern Ethiopia and had moved to Northern Kenya.

The Commission is of the view that the relevant government authorities that handled their case have neglected these two old men. Apart from news of the whereabouts of their families, no other meaningful help was availed to them. The Commission would, hereby, like to remind the government of its duties and responsibilities towards citizens, wherever they may be. The High Commission for Refugees also failed in its duties to protect and defend refugees because it never came to their aid when they were being evicted from Kenya.

By the time of compiling this report, the Commission once again, reminded the Ministry of Foreign Affairs and Regional Co-operation of the above-mentioned complaint of those two old men. The Commission will continue to follow up that issue.

2.2.2 Human Rights Promotion

Within the framework of promoting human rights, the main accomplishments by the Commission are in three categories:

- Sensitisation of Rwandan citizens on human rights.
- Provision of Human Rights Education to special categories of people
- Co-ordinating and promoting awareness of laws, related to human rights.

2.2.2.1 Human Rights Sensitisation

A Human Rights Presentations Given to Various Groups

a. Teachers and students of secondary schools and higher learning institutions

Within the framework of sensitising the youth on human rights, the Commission visits secondary schools and other Higher Learning Institutions, where it educates them.

- On March 31st 2001, in Butare Province, at Save, the students of Save Teacher Training College (E.N.P/TTC) were sensitised.
- On March 31st, 2001, 42 students who represent 'CLUB URUNANA, a network of human rights Clubs, met at Kigali, and were sensitised. These students came from multidisciplinary schools of Save named after St. Bernadette, Training College of Save, in Butare Province, and two schools from Kisaro (Gaseke and Buyoga), in Byumba Province.
- On May 27th, 2001, in Kigali Rural, at Bicumbi, 400 students of a Teacher Training College in Bicumbi were sensitised and also started "Club Urunana" a human rights club. This was done in collaboration with OXFAM QUEBEC and those who had started "Club Urunana" in Save Schools.
- On July 10th, 2001, in Butare Province at Save, in a multi-disciplinary school named after St. Bernadette, 80 students representing "Club Urunana" from different Higher Learning Institutions were sensitised.
- On August 24th, 2001, in Butare Province in Kabutare School of Agriculture, 300 students who are also members of a Union of students who survived the 1994 Genocide in Secondary Schools and Higher Learning Institutions (A.E.R.G) (Butare branch) were also sensitised.
- On October 26th, 2001, in Byumba Province, 600 from "Groupe Scolaire de la Salle", "Notre Dame du Bon Conseil" and APAPEB Secondary Schools were sensitised on human rights.

b. Solidarity Camps for students about to join Universities and other Higher Learning Institutions.

In these camps, under the management of the National Commission for Unity and Reconciliation, the National Human Rights Commission contributes in sensitising students on human rights issues.

During the year 2001, the Commission sensitised 500 students who were attending the 1st Solidarity camp at Busogo on February 20th, 2001. Then again at Busogo, in Ruhengeri Province, on April 23rd, 2001, 659 students were sensitised on human rights.

On July 21st, 2001, the Commission sensitised other 400 students who were attending "Ingando" Solidarity Camp at Gishari in Kibungo Province.

c. Solidarity Camps for Youth

During the year 2001, provincial authorities and church leaders held various solidarity camps meant for the non-school going youth those attending middle level technical institutes, and youth representatives - during which the Commission sensitised those present on human rights issues.

- On March 29th, 2001, Kigali Rural Province, 300 youths were sensitised at Gikomero in Kigali-Rural district.
- On May 17th, 2001, at Rukomo, in the Catholic Diocese of Byumba, which consists of Christians of Byumba and Mutara, 300 Youths (boys and girls) were sensitised.
- On June 1st, 2001, in Butare Province at Butare, approximately 210 youths, (girls and boys) were sensitised.
- On December 12th, 2001, in the Diocese of the Episcopal church of Gahini, in Mutara Province, 85 youth (boys and girls) who represented Parishes and elected youth leaders, were sensitised on human rights.
- On June 31st, 2001, Byumba Province in Schools: 'De la Salle's Schools at Byumba approximately 300 leaders of youth, girls and women were sensitised.

d. Solidarity Camps for Local Defence Forces.

In 2001, the Commission sensitised the Local Defence Forces on human rights issues. The idea of the Local Defence Forces was put in place by the government of Rwanda. This was in line with the current political philosophy of encouraging citizens to participate in their own defence.

- On May 25th, 2001, Butare Province, at Gishamvu 400 local Defence Forces were sensitised.
- On November 23rd, 2001 and December 15th, 2001, at Cyangugu, in Cyangugu Province, approximately 800 and 2500 "Local Defence Forces" respectively were sensitised.

- On December 6th, 2001, at Ngarama, Byumba Province, 1,000 “Local Defence Forces” were sensitised.
- On December 6th, 2001, at Ntongwe in Gitarama, 766 Local Defence personnel and on December 10th, 2001 and December 12th, 2001, at Kabagari and Ndiza, Gitarama Province, another 1,112 “Local Defence Forces” were sensitised.

e. Different Sectors of Society

On another level, by invitation, the Commission held seminars to sensitise associations and other people of different categories on human rights.

- On February 29th, 2001, at Kigali, 25 senior employees of different levels who are charged with investigations were sensitised. On May 24th, 2001, again a similar group of 20 employees was sensitised.
- On March 14th, 2001, in Kigali at Centre Isano of Gikondo, approximately 60 people, representatives of the associations of Twa ethnic group from the Democratic Republic of Congo, Burundi and Rwanda were sensitised.
- On April 17th and 18th, 2001, at Kigali, 42 people representing churches, religious youth leaders and cadres in charge of welfare of the citizens were sensitised. These seminars had been organised by the Association “Christ’s Message in Unity in Settling Disputes” in conjunction with “Khmer Institute for Democracy” (Institut Pour la Démocratie au Cambodge).
- On May 28th, 2001, at Gabiro in Mutara Province, 25 soldiers, who were undergoing military exercises after their University Education, were sensitised.
- On June 28th, 2001, at Kigali, in “Club MAMANS Sportives”, approximately 80 prison employees (officers and ordinary workers) of all the prisons of Rwanda, who were attending a seminar organised by the Ministry of Defence, were sensitised.
- On September 1st, 2001 in Kigali Ngali at Gicaca, Gasabo District, 50 grassroots leaders were sensitised on human rights. The exercise was organised by OXFAM QUEBEC.
- On September 21st, 2001, approximately 60 leaders of registered religious denominations in Rwanda, all residents of Cyangugu, were sensitised at “Inshuti Pastoral Centre” in Cyangugu Province.
- On September 30th, 2001, in Kigali at St. Paul Institute, 35 members of a Non-governmental Human Rights Association, ARDHO, who were commemorating its 11 anniversary were sensitised.
- On October 17th and 18th, 2001 in Kigali, in “Centre MOUCECORE”, 38 people were sensitised on human rights; these included orphans who stay alone, some of the parents who have adopted orphans, grass roots leaders who had been elected and some of the

religious leaders for whom the “Foundation BARAKABAHO” had prepared the sensitisation exercise.

- On November 3rd, 2001, in Kibungo Province, at St. Joseph’s Institute, 30 people who make up the committee of the Catholic Diocese of Kibungo, in charge of spreading the Gospel to the community, were sensitised.
- On November 6th, 2001, in Gitarama Province, approximately 80 soldiers of the 305 Brigade in charge of political education were sensitised on human rights.
- Again, on December 20th, 2001, approximately 70 people including leaders and some of the employees of Gitarama Province were sensitised.

These categories of people which have been cited above were sensitised on the nature, and responsibilities of the National Human Rights Commission in Rwanda, its general human rights principles in the country, and its role in protecting and promoting human rights.

B. Radio and Television Programmes

a. Radio Programmes

In order to perform the activities of sensitising the citizens of Rwanda on human rights and to spread the information to a wider audience, the Commission found it necessary to use the mass media. That is the reason why since April 2001, the Commission started giving talks “Uburenganzira Iwacu” on Radio every Friday from 6.45 PM to 7.00 PM in the evening (18h 45 – 19h00).

The following schedule indicates discussed topics:

DATE	TOPICS FOR DISCUSSION
13/04/2001	Historical background of the National Human Rights Commission. Its duties and responsibilities, and its structure.
20/04/2001	Explanations and examples of Human Rights.
27/04/2001	The origins of Human Rights and the Departments charged with overseeing them. This discussion was again revisited on 9/11/2001.
4/05/2001	The role of government authorities in the consolidation of human rights. This discussion was aired again on 20/7/2001.
11/05/2001	The conclusions of the 57 th meeting of the United Nations Human Rights Commission in general, and what takes place in Rwanda in particular.
18/05/2001	Right to life
25/05/2001	Right to property
8/06/2001	Rights of the child
15/06/2001	Rights of Refugees
22/06/2001	Street kids (mayibobo) and Human Rights
29/06/2001	The issue of orphans heading households
06/07/2001	Non-governmental bodies which are concerned with the issues of children and orphans.
13/07/2001	Government authorities and issues which affect orphans

27/07/2001	Activities and plans of the Commission in promoting Human Rights.
3/8/2001	Activities which promote the Commission
10/08/2001	The basis of the Independence of the National Human Rights Commission in its activities. This discussion was aired again on 17/8/2001 and on 16/11/2001.
24/08/2001	Freedom and the Laws that govern the arrest and detention of individuals.
31/08/2001	The International meeting at Durban whose intentions were to fight ethnic bias, racial discrimination, Xenophobia, and Intolerance: what should the citizens of Rwanda hope to learn from it.
14/09/2001	The International meeting at Durban whose intentions was to fight ethnic- bias, racial discrimination, and Intolerance: recommendations.
21/09/2001	Delays in court cases and their consequences on Human Rights.
28/09/2001	Proper trial, the right to self-defence and the right to be defended by a lawyer.
12/10/2001	The role of the citizens in Gacaca courts and Human Rights
19/10/2001	The role of education in eliminating ethnic bias and racial discrimination.
26/10/2001	Answers to question from our audience about discussions the Commission gave on the Rights of children whose parents were not legally married.
2/11/2001	The views of participants of seminars given by the Commission.
23/11/2001	Tolerance and Human Rights
30/11/2001	AIDS and Human Rights
14/12/2001	The International day of Human Rights of December 10 th 2001. What it reminds people and its importance.
21/12/2001	Achievements of the Human Rights Commission in promoting Human Rights in 2001.
28/12/2001	The achievementsof the Commission in 2001 in capacity building.

During the time of compiling this report, the Commission increased the time meant for its discussions which were aired on Radio Rwanda, every Friday, from 6.30 p.m. to 7.00 p.m. in the evening.

b. Discussions on Television.

In 2001, Rwanda Television in conjunction with other institutions including the Ministry of Justice and Institutional Relations, and the Ministry of Youth, Sports and Culture, the Commission played a role in discussions on Human Rights that were aired on Television. They included the following:

- Justice and Human Rights
- The Rights of women
- Civil and political rights
- Activities and working procedures of the National Human Rights Commission.
- The issue of ethnic bias, segregation, and the role of education in putting an end to discrimination was held in Durban.

- Recommendations of the International meeting whose aims were to fight racial bias and discrimination was held in Durban.
- The International Day for Human Rights and how celebrating and upholding it benefits Rwandese people;
- Respect for Human Rights as a weapon against Genocide.

C. Activities to Commemorate Human Rights Days

Both at the international and national levels, there are special days to commemorate human rights.

In the year 2001, the Commission carried out the following activities whose aims were to mark those days:

a. On March 8th: Women's day

On the 27th Commemoration of the Women's Day whose National theme was "*Munyarwandakazi, gira uruhare mu nzego zifata ibyemezo*" (Rwandan woman, have a say at decision making levels). The Commission prepared a press release containing a message relevant to the day. The press release was aired on Radio Rwanda and also published in the Newspaper IMVAHO NSHYA. There was also a debate on Rwanda Television about women's rights.

b. On June 6th and 16th: The International Day of the Child and the Day of the African Child respectively.

As stated above, in line with the Commission discussion aired on Radio Rwanda, on June 16th, 2001, the Commission held a discussion on the rights of the child. There was also a press release containing the Commission's message on the rights of the child, and was printed in four newspapers: Imvaho Nshya, Kinyamateka, Umuseso and Ishakwe.

In the days that followed, the Commission held other discussions on specific issues that affect children in Rwanda.

c. On June 20th: The International Day of Refugees:

On June 15th, 2001, in preparation for the international day for refugees, the Commission held a talk on Radio Rwanda on the Rights of Refugees, the Commission and the nature of the problems that refugees face both in Rwanda and Africa. The Commission also issued a press release to media people concerning the day, which was being celebrated for the first time at an International level. That press release, which sought to ensure that citizens of Rwanda know and respect the Rights of Refugees, was aired on Radio Rwanda.

There was also a public lecture at Kigali Institute of Education (KIE) that was based on Human Rights in general, and on the rights of refugees, in particular.

d. On December 10th: International Day for Human Rights

On December 9th and 10th 2001, the Commission released a message commemorating the day. The message was read by its President, GASANA Ndoba, and was aired on national radio and television and was also printed in some of the nation's newspapers. The aim of the message was to sensitise people to the right to life, the struggle for freedom, conducting oneself in a brotherly manner, and acting in harmony to fight injustice.

On December 10th, 2001, the Commission published a booklet on International and African Regional Human Rights Agreements that Rwanda ratified or signed and those it is yet to sign or ratify. A leaflet which publicises the right to life and the rights of women, was also issued.

In conjunction with Rwanda Television, the Commission gave a discussion on Television on December 9th, 2001. It was also aired on Radio Rwanda on December 14th, 2001. Its theme was: "The International day for the Human Rights, what celebrating and marking it means to Rwandan citizens". The Commission also organised public lecturers to go hand in hand with that Commemoration at Gisenyi, Gitarama and Butare.

On December 10th, 2001, at St. Paul Centre in Kigali City Province, a public lecture was held on: "Human Rights, good governance and development". This lecture was given by representatives of the following organs: The National Commission for Human Rights, which had organised it, the National Assembly Committee in charge of National Unity and Human Rights, the Ministry of Justice, and the Co-ordination organs of the umbrella body of the survivors of Genocide, IBUKA.

In an effort to strengthen partnership with independent associations working to promote human rights, the Commission sent a representative to activities to mark the International Day for Human Rights, which was organised by the Co-ordinating Association, CLADHO, at the Interdisciplinary College of SHYOGWE, in Gitarama Province.

2.2.2.2. Training for Special Groups of People on Human Rights

Towards the end of the year 2001, the Commission conducted sensitisation exercises on human rights to the following in Cyangugu Province:

- the National Police;
- Prison warders; and
- some employees of a Non-Governmental organisation - HELPAGE RWANDA,

These sensitisation exercises, which were conducted between November 12th and November 14th, 2001, were carried out in conjunction with the Commission, Cyangugu Province and a non Non-Governmental Organisation - HELPAGE RWANDA. The important topics discussed were:-

- The Nature and scope of Human Rights
- The United Nations code of conduct meant for security organs, the respect of law and those concerned with the use of force at the place of employment.
- The role of the Police in respecting Human Rights in Rwanda.

Towards the end of the year 2001, the Commission in conjunction with a United Nations International Children's Emergency Fund (UNICEF), developed a programme consisting of Trainings for the Rwanda National Army on how to protect child's rights during wartime. It was also noted that in the north of Rwanda, some children, fighting along-side infiltrators, were arrested whereas they are supposed to be aided to return to normal life.

On December 19th, 2001, the above mentioned exercise was launched for trainers from relevant bodies. These included the Rwanda Defence Force (RDF), the National Commission for Unity and Reconciliation, the Ministry of Local Government and Social Affairs, and the following Non-governmental Organisations: HAGURUKA and SAVE THE CHILDREN – UK.

While compiling this report, the first phase of this programme had already been implemented.

2.2.2.3. Legislation

The main activity at this level was the preparation of a proposal of **Rwandan Bill of Rights**, which would be submitted to the Commission charged with preparing the National Constitution and Legal Reform.

At the time of compiling this report, that proposal was being finalised. The Commission released a document on instrument and those on the African Charter on Human and People's Rights, which the government of Rwanda signed or ratified and those it has not signed or ratified. The Commission expressed its satisfaction with the steps the Government of Rwanda has already taken in signing and ratifying a good number of International Agreements that protect Human Rights.

The Commission is once again making it clear that Rwanda has not yet fully implemented the requirements of Article 15 of the Arusha Peace Agreement, in connection with different issues and concluding articles. That article governs the signing of International Agreements on Human Rights and the elimination of obstacles Rwanda showed in some of the agreements. The Commission prepared a list of agreements that are supposed to be signed or ratified as a matter of urgency.

Examples:

- The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment which was adopted by the United Nations Organisation in 1984, and which came into force on June 26th, 1987;
- The agreements which are added to the African Charter on People's Rights and Human Rights concerning the establishment of an African Court for Human Rights, which were ratified by the Organisation for African Unity in 1988.

This document again points out that the steps that have been taken to signing and ratifying the agreements are not satisfactory, and that it would be better if what is contained in these agreements were included in the national laws and be respected by other State organs.

2.2.3 Institutional Development of the Commission

In a bid to strengthen the Commission, the activities that have been carried out are in the following three categories:

- recruit and post new personnel;
- train them; and
- promote partnership with sponsors.

2.2.3.1 Recruitment and Staffing

In January 2001, the Commission managed to carry out placements as follows: 5 heads of departments; 8 heads of sections and 51 ordinary employees, all based at the Commission's headquarters, were employed and posted in different positions.

In July 2001, the Commission set up offices in 10 separate provinces of the country. By the end of the year, the Commission's offices had thirty-one people (31). The newcomers joined (13) people who were already working with the Commission.

2.2.3.2 Training Employees

A. In-country

In the year 2001, the Commission trained its employees on the methods of carrying out investigations on Human Rights. Its Commission was supported in this venture by the Embassy of the United States of American, in a project named "Accord d'Activité N° DHR – 00 - 696 – 02"

The training was held in three phases, where Commission employees, some Government employees and non governmental organisations staff attended.

From March 7th to 9th, 2001 at Centre IWACU Kabusunzu in Kigali, the newly Commission employees like departmental heads and heads of sections were trained.

From August 20th to 23rd, 2001 at Murambi in Gitarama Province, employees, who work in the province, were trained. In addition to those, 4 employees from the National Assembly, the Ministry of Justice and Institutional Relations, and the umbrella body of the WOMEN associations "PRO-FEMMES TWESE HAMWE," participated.

From December 29th to 30th, 2001, at the Centre IWACU Kabusunzu in Kigali, other Commission employees recruited in January 2001 at the head office were trained.

The training given focused on the following areas:

- What are Human Rights are;
- Professional techniques for carrying out human rights investigations;

- Introduction to historical criticism;
- International Humanitarian Laws during wartime;
- Evidence in prosecution cases;
- The rights of the child and of the women.

The training was facilitated by some of the Commission members, representatives of the Ministry of Justice and Institutional Relations, Ministry of Local Government and Social Affairs, representatives of umbrella bodies "PRO-FEMMES TWESE HAMWE AND CLADHO", National University, National Police, the International Committee of the 'Red-Cross' (CICR), International Criminal Court for Rwanda, experts from 'IODA' (Individual and Organisational Development and Assessment) from Britain and 'HUMAN RIGHTS WATCH' of the United States of America.

B. In Foreign Countries

In July 2001, the Commission sent its Permanent Secretary, RUTAZIBWA Bernardin, to undergo one month's training on Human Rights at the International Institute for Human Rights (Institut International des Droits de l'Homme) at Strasbourg, France.

From December 3rd to 14th, 2001, the Commission sent two employees to COTONOU, in Bénin: GATERA Emmanuel who heads a department charged with educating and sensitising the Rwandan citizens on Human Rights, and UMUTONI Alida who heads the legal section. They attended training in Human Rights that had been organised by the National University of Bénin, in conjunction with the United Nations Agency, UNESCO.

From December 18th to 19th, 2001, the Commission sent the Director in charge of Research and Development in the Commission, MALONGA Pacifique, to Yaoundé, Cameroon in a meeting meant to study the methods to prepare a programme of activities to Promote Human Rights. That meeting had been prepared by the office of the United Nation Centre for Human Rights and Democracy in Central Africa, and it brought together representatives from the following countries: Rwanda, Burundi, Cameroon, Central African Republic, Sao Tome and Principe, Gabon, Chad, the Democratic Republic of Congo and Equatorial Guinea.

2.2.3.2 Cooperation with Donors in Various Projects

The Commission initiated a project RWA/00/B2, which started in January and ended in December 2001. The project was sponsored by the office for the Co-operation of the Swiss Government, through the United Nations Agency for Development (PNUD). In implementing this project, three experts were sent by UNDP and they worked with the Commission to prepare a programme of action for three years (2001-2003). The plan consists of four key areas as follows:

A. Protection of Human Rights.

The aim of this programme is to assess whether the requirement of human rights, as they are in national law and International agreements, are respected. The other one is to investigate and also

make a follow up on the activities that contravene human rights, with the aim of ending the culture of impunity.

B. Promotion of Human Rights

In this programme, the Commission will work hand in hand with other stakeholders in matters related to human rights, including national organisations in Rwanda or international organisations, in promoting the culture of human rights in the country. What will emerge from this will enable citizens of Rwanda to know and struggle for their rights and those of others. In addition, government departments, and private entrepreneurs will increase their understanding in order to accomplish their duties and responsibilities of respecting human rights.

C. Monitoring of Human Rights

In this programme, the Commission intends to assess the steps that have been taken in implementing Human Rights, and to show where improvement is required. The Commission, working in conjunction with other organisations for Human Rights operating within the country and even those that operate outside the country, will implement this.

D. Strengthening the Commission

This programme aims at strengthening the Commission in as far as promoting, advancing results, and assessing whether its programmes of action are being achieved. The goal is to ensure that the National Commission for Human Rights becomes more and more an institution with the expertise, the ability and the necessary tools to enable it to accomplish its duties and responsibilities.

The Commission also managed to implement a project RWA/00/B14 whose aim was to develop an education programme for the employees of the Commission, to set out a programme for the establishment and operation of a Documentation Centre, and to develop a needs assessment as to office automation. That project was accomplished in year 2001, with the Commission having acquired computer equipment and installed a Local Area Network (LAN).

The Swiss co-operation assisted the Commission with a vehicle used by Kibuye regional office. It also financed training seminars for regional officers, other projects will ensue in 2002.

The Commission also redesigned a major project, in connection with the activities of GACACA jurisdictions and presented it to the European Union (U.E/E.U), who agreed to sponsor it. That project will start in May 2002, and will end in the year 2004.

The Commission, in conjunction with the non-governmental organisation HELPAGE RWANDA implemented a sensitisation project which involved policemen and prison warders of Cyangugu Province, from November 12th to 14th, 2001. This sensitisation focused on the foundation of Human Rights, lawful arrest and imprisonment, protecting the security organs and basic code of conduct of security organs and the respect of laws.

From November 2001, the Commission in conjunction with United Nations Organ in charge of children, UNICEF, organised training aimed at sensitising the National Army on the rights of child in general, and in particular during the time of war. The implementation of that programme started in the year 2002.

2.2.4 Partnership and Liaison with Other Institutions

Apart from co-operation in sensitising exercises and in the projects mentioned above, the Commission co-operated with other bodies in different activities. Those bodies include the Rwanda government, international organisations, and non-governmental organisations.

2.2.4.1 Co-operation with States Organs

A. Partnership and co-operation with ministries

The Commission held talks with the Ministry of Local Government and Social Affairs, Ministry of Family and Gender Affairs, Ministry of Public Service and Labour, so that in their training programmes, education on Human Rights should always be given priority. It was agreed that these programmes would start in the year 2002.

In conjunction with the Ministry of Defence, the Commission gave training on Human Rights in sensitisation exercise meant for the National army, which was organised by its management. The Commission, in conjunction with the National Army, organised and implemented a project, which is sponsored by United Nations international Children's Emergency Fund (UNICEF), on the rights of children.

When an international meeting on the fight against racial discrimination, which was held in Durban in South Africa, was being organised, the Commission worked hand in hand with the Ministry of Justice and Institutional Relations to call a preparatory meeting at the National level which was held at Kigali in the Parliamentary buildings, on August 16th and 17th, 2001. The recommendations drawn from that meeting are the ones a delegation from Rwanda presented to the participants at the Durban conference.

The Commission also attended several meetings, organised by that Ministry, including those of establishing GACACA jurisdictions, and those, which were studying and researching on issues of the justice system. The co-operation of the Commission and the Ministry of Defence concentrated mainly on sensitisation on Human Rights, which the Commission organised for some policemen, and the role of the National Police in the sensitisation exercises of the Commission.

B. Partnership and Co-operation with Commissions, that are provided for in the Constitution

In the year 2001, the co-operation with the Commission for National Unity and Reconciliation, as usual, was characterised by the training exercise the National Commission for Human Rights continued to provide, which were directed at the sensitisation of different types of people.

As was done for various levels of government, the National Human Rights Commission was asked to submit its ideas on the preparation of the Constitution. In particular, the National Human Rights Commission agreed to provide advice on the sections that dealt with the Universal Human Rights and the individual rights of man.

2.2.4.2 Co-operation with Human Rights Organisations and Associations

A. Human Rights Organisations and Associations operating in Rwanda

In the year 2001, the Commission maintained co-operation with the umbrella organisation for non-governmental Human Rights organisations in Rwanda, CLADHO, and the National Association of Women, PRO-FEMMES TWESE HAMWE. The co-operation with those associations mainly involved organising seminars together with the aim of sensitising their workers.

In particular, the Commission exchanged information with CLADHO, ARDHO and AVEGA AGAHOZO, as regards cases of human rights violations. CLADHO, played a role in the National Consultative meeting, mentioned above, which was prepared by the Commission in conjunction with the Ministry of Justice and Institutional Relations. That meeting resulted in a National paper (Rwanda to combat against Xenophobia and its consequences). In seminars conducted by the Commission, PRO-FEMMES TWESE HAMWE was on many occasions represented by "HAGURUKA", an association that champions the rights of children and women.

The Commission maintained the co-operation started in 2000 with the Association FACT, an organisation that combats torture. The Commission participated in various programmes run by that association and also played a part in the preparation of International Anniversary meeting of those who have been tortured, held on June 26th, 2001.

In the year 2001, the Commission's co-operation with the association of genocide survivors – IBUKA was to share views in the National Consultative meeting, mentioned above, which was preparing a national paper for the World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

The Commission also gave material support and views in the international meeting concerned with those who have survived genocide throughout the world. The meeting had organised by IBUKA with the support of the Government of Rwanda on the theme "Life after Death".

The Commission continued its co-operation with "*Ihuriro Inshuti za Komisiyo*". The gathering consists of some individuals who represent their countries in Rwanda, some international bodies which are aligned to the United Nations and have special co-operation with the National Commission for Human Rights, the National Commission for Unity and Reconciliation and the National Constitutional Commission. In general, that "Ihuriro" had a meeting with representatives of the Commission on the following dates:

- On February 21st, 2001: At the residence of the US Ambassador to Rwanda.
- On April 5th, 2001: At the residence of the Belgian Ambassador to Rwanda.
- ON July 18th, 2001: At the residence of the European Union Representative in Rwanda.
- On September 26th, 2001: At the residence of the Dutch Ambassador to Rwanda.

Those who attended those meetings exchanged views on the activities of those Commissions mentioned above and together they looked for ways and means to help them achieve their objectives.

The Commission had personal consultations with many supporting agencies on publicising the three- year action plan (2001 - 2003).

In 2001, the Commission continued consultations with many supporting agencies on and shared information with other organisations, working on human rights issues in Rwanda.

B. International Committees and Associations

In April 2001, the President of the Commission, GASANA Ndobwa, attended the 57th meeting of the UN Human Rights Commission, convened in Geneva, Switzerland. In item N° 9 of its agenda that meeting was to assess the Human Rights violations across the globe.

The meeting adopted a resolution removing Rwanda from the list of those countries that are under surveillance due to human rights violations. This was done following steps taken by the Government of Rwanda to respect human rights after the genocide of April 1994 and in light of its willingness to work against the re-occurrence of genocide. The meeting had also considered the work of the National Human Rights Commission and its co-operation with the United Nation's Office of the High Commissioner for Human Rights.

In the same year, while the global meeting to fight racism was being organised, the Organisation of African Unity in collaboration with the UN Office of the High Commissioner for Human Rights, organised a meeting for the African Continent in Dakar, Senegal from January 23rd to 24th, 2001. The President of the Commission, GASANA NDOBA, represented the Commission.

From August 25th to September 9th, 2001, Commission representatives, namely its President and Commissioner NDAHIRO Tom, attended a meeting in Johannesburg, South Africa, which brought together organs responsible for human rights at an international forum. The forum was to organise national meetings at an international level whose aim was to fight against racial discrimination mentioned above. The United Nations' Office of the High Commissioner for Human Rights contributed to activities of the meeting in Johannesburg organised by the Commission for Human Rights of South Africa, as well as to activities of the Durban meeting, which was organised by the South African government, in conjunction with the United Nations Secretary General.

The two meetings resulted in governmental declarations and a programme of action to fight racial bias and racial discrimination, xenophobia and intolerance, plus a special declaration that points out the role of the National Human Rights Commission in achieving that objective.

In 2001, the Commission sent representatives to two meetings organised by the African Human Rights Commission and People's Rights. Commissioner UWIMANA Denys represented the Commission in a meeting held in Libya from April 23rd to May 27th, 2001. During that meeting, country reports were given on activities concerned with respect to African Agreements on Human and People's Rights. In addition, the meeting organised the role of the African Commission in an international meeting to combat against racial segregation previously mentioned above.

That meeting also made an assessment of specific issues concerning human rights in Africa and how agreements made under the African Charter on Human and People's rights were being implemented. Representatives of Rwanda, who included a member of the Commission, outlined the steps that Rwanda is taking on the path of justice and respect for human rights. In the 30th meeting,

the African Charter on Human and People's rights, held in Banjul in Gambia, from October 13th to 27th, 2001, the Commission was represented by Commissioners KANYANGE Anne Marie and KAYUMBA Déogratias. Some of the results from that meeting were:

- The African Commission elected the members of its new office;
- The Commission decided to prepare a plan of action to be taken to the meeting of Heads of State and of governments which are members of the organisation for African Unity whose aim is to implement the recommendations of the international meeting at Durban, mentioned above;
- The African Commission also decided to call a special meeting on the complaint brought before it by the Democratic Republic of Congo against Rwanda, Uganda and Burundi;
- The Africa Commission permitted National Commissions in charge of Human Rights to hold meetings ahead of every Africa Commission meeting to gather ideas to be forwarded to it.

From April 9th to 13th 2001, four representatives of the Burundi Governmental Commission of Human Rights, led by its President, KABUYENGE Gaudence Aimé, visited the National Human Rights Commission of Rwanda. The visit aimed at sharing ideas about the working procedures of Commissions for Human Rights in general, to share ideas on what the Rwandan Commission has already accomplished, and to improve co-operation between the two Commissions.

In 2001, the Commission's head office hosted many guests, including Adama DIENG, Registrar of the International Criminal Tribunal for Rwanda, the Ambassadors of Britain, Graeme LOTEN and Sue HOGWOOD, and of Germany, Johanna KONIG, and others. The Commission also got an opportunity to strengthen co-operation with the government organs these visitors represented.

On invitation by HELPAGE INTERNATIONAL's Nairobi office in Kenya, the Commission was represented by the head of the department in charge of Economic, Social and Cultural Rights, and Right to Development, RUMAZIMINSI Séraphin. The aim of the meeting was to carry out a joint examination of issues of rights encountered by the elderly, and to assess how Associations that fight for the rights of the aged can work together in finding solutions to these problems.

III. FINANCIAL REPORT

3.1 Introduction

The Commission planned to spend five hundred and ninety three million, nine hundred and eight thousand and six hundred and four Rwandese francs (593.908,604 Frw) in 2001. The 2001 Rwanda Government ordinary budget allocation to the Commission was equivalent to four hundred and fifty seven million, four hundred sixty two thousand, two hundred and fifty Rwandese francs (457.462.250 Frw). The amount given to the Commission was four hundred and forty two million, five hundred and forty two thousand, eight hundred four Rwandese francs (442.542.804 Frw).

The balance carried from 1999 and 2000 is equivalent to two hundred and ninety five million seven hundred and thirty five thousand and five hundred and fifty five Rwandese francs (295.735.555 Frw).

The Commission received aid in monetary terms equivalent to forty million nine hundred and thirty two thousand two hundred Rwandese francs (40.932.200 Frw). In 2001, the Commission spent five hundred twenty three million, nine hundred eighty four thousand, six hundred thirty seven Rwandese francs (523.984.637 Frw). However, as of January 31st 2001, the Commission still owed seventy nine million, four hundred eight thousand Rwandese francs (79,408,000) as payment for the purchase of equipment that had not been paid to date.

On December 31st, 2001, the Commission had a balance of two hundred seventeen million eight hundred three thousand and eight hundred and nineteen Rwandese francs (217.803.819 Frw).

3.2 The Commission's Expenditure of Government Fund for the year 2001

Funds used by the Commission were disbursed by Rwanda Government on its ordinary annual budget in 2001. The expenditure and explanations are shown in the table below:

	SERVICE	TOTAL SUM APPROVED BY PARLIAMENT (FRW)	AMOUNT RECEIVED (FRW)	AMOUNT SPENT (FRW)	BALANCE (FRW)
1	Employees Expenditures	278.425.490	278.425.490	154.993.783	123.431.707
2	DURABLE EQUIPMENT				
2.1	Technical equipment	6.805.000	6.237.916	37.417.766	-31.179.850
2.2	Office equipment	3.600.000	3.300.000	6.456.973	-3.156.973
2.3	Vehicles	0	0	53.777.792	-53.777.792

	S/total	10.405.000	9.537.916	121.117.584	-111.579.668
3	DAILY OFFICE SUPPLIES				
3.1	Office stationery	5.200.000	4.766.666	11.320.921	-6.554.255
3.2	Printing	3.685.500	3.378.375	7.633.145	-4.254.770
3.3	Water & Electricity	2.800.000	2.566.666	864.232	1.702.434
3.4	petrol	12.500.000	11.458.334	19.142.262	-7.683.928
3.5	Miscellaneous	1.000.000	916.666	5.054.534	-4.137.868
3.6	Vehicle maintenance	5.000.000	4.583.334	11.947.304	-7.363.970
3.7	Technical equipment maintenance	2.250.000	2.062.500	3.058.943	-996.443
3.8	Travel Abroad	3.000.000	2.750.000	5.947.045	-3.197.045
3.9	Missions in the country	3.250.000	2.979.166	5.041.250	-2.062.084
3.10	Missions overseas	10.500.000	9.625.000	16.332.178	-6.707.178
3.11	Office Rent	78.269.570	71.747.104	70.509.576	1.237.528
3.12	Mails	1.415.000	1.297.084	183.958	1.113.126
3.13	Advertisements	2.900.000	2.658.334	3.649.245	-990.911
3.14	Promotion of Human Rights	5.500.000	5.041.666	3.793.862	1.247.804
3.15	Training of Commissioners & staff	3.000.000	2.750.000	3.779.152	-1.029.152
3.16	Telephone & Fax	6.462.000	5.923.500	15.330.823	-9.407.323
3.17	Newspapers	3.500.000	3.208.334	289.000	2.919.334
3.18	Vehicle Insurance	4.600.000	4.216.666	5.415.343	-1.198.677
3.19	Hospitality (visitors & staff)	2.000.000	1.833.334	1.514.750	318.584
3.20	Entertainment	2.000.000	1.833.334	1.514.750	318.584

3.20	Security	11.800.000	10.816.666	1.122.800	9.693.866
	S/Total	168.632.070	154.579.395	201.189.598	-46.610.203
	(Grand Total)	457.462.560	442.542.804	444.576.637	-2.033.833
	Funds the Commission had not returned by 31/12/2001.			79.408.000	-79.408.000
	Balance from 1999 & 2000		295.735.555		295.735.555
	Funds owed to the Commission by 31/12/2001		3.510.100		3.510.100
	GRAND TOAL	457.462.560	741.788.459	523.984.637	217.803.819

Source : Auditor's Financial Report of the National Human Rights Commission for the year 2001.

Justification of funds allocated to the Commission from the State budget:

The Commission spent four hundred and forty four million, five hundred and seventy six thousand, six hundred and thirty seven Rwandese francs (444.576.637 Frw) in 2001. The Commission received four hundred and forty two million five hundred and forty two thousand, eight hundred and four Rwandese francs. (442.542.804 Frw). That is to say the Commission spent more money than it received in year 2001. The over expenditure is equivalent of two million, thirty three thousand, eight hundred thirty three Rwandese francs. (2.033.833 frw). That gap was covered by the amount carried forward from 1999 and 2000 budgets.

As the general table shows, staff remuneration was less than expected. The balance was one hundred twenty three million, four hundred thirty one thousand and seven Rwandese francs. (123.431.707 frw). This resulted because not all new staff members were recruited in January 2001. Some were recruited at different intervals during the year up to the end of December 2001. Moreover, that balance includes an amount that was supposed to have been given to the Commissioners as part of their salaries from February 2000 to August 2001.

Another aspect revealed in the table is that in almost all other categories the Commission used more money than it had been allocated by the Government for the year 2001. This had an impact on the increase of essential supplies, technical equipment, vehicles and their maintenance, communication and other things.

3.3 Commission's Expenditure of Donor Fund in year 2001

In the year 2001, the Commission received forty million, nine hundred and thirty two thousand, two hundred Rwandese francs (40.932.200 Frw) from donors. It is from that amount the Commission spent thirty seven million three hundred twenty eight thousand Rwandan francs. (37.328.000 Frw).

At the end of the year 2001, the Commission had a balance of two million, nine hundred and ninety one thousand, eight hundred seventy two Rwandese francs (2.991.872 Frw).

Below is the table showing the expenditure followed by explanation:

DONOR	INCOMING FUNDS (FRW)	EXPENDITURE (FRW)	BALANCE (FRW)
UNHCR*	23.465.053	23.465.053	0
USA Embassy	10.943.852	7.951.980	2.991.872
HELPAGE RWANDA	856.295	856.295	0
SWISS COOPERATION	5.667.000	5.667.000	0
GRAND TOTAL	40.932.200	37.940.328	2.991.872
Balance from the amount disbursed by Belgium in 2000**	13.825.755		13.825.755

Source: Financial report of the Commission 2001.

*UNHCR – United Nations High Commissioner for Human Rights

** The thirteen million eight hundred twenty five thousand and seven hundred fifty five Rwandese francs.(13.825.755) was the balance from the Belgian donation to the 26th Conference of Africa Commission for Africa's People's Rights, which was held in Kigali in 1999 was. The donation was channelled through the National Commission for Human Rights. At the time of preparing this report the National Commission for Human Rights had already put the money in the national treasury as a refund of what had been used at that Conference.

Explanation on the Table above on how the Commission used money received from donors

The Commission received a donation from the United Nation High Commissioner for Human Rights the amount of twenty three million four hundred sixty five thousand and fifty three Rwandese francs (23.465.053 Frw). This amount was spent on needs assessment and the development of a Local Area Network. The USA Embassy through USAID, donated ten million nine hundred forty three thousand eight hundred and fifty two Rwandese francs (10.943.852 Frw). This amount was intended to train the Staff of the Commission in areas of research and investigation of violation of human rights. From that amount only seven million nine hundred fifty one thousand nine hundred eighty Rwandese francs (7.951.980 Frw) was spent on the programme. The balance was used to purchase books and other relevant written materials to reinforce the capacity of those who had received the training. The Non-Governmental organisation HELPAGE Rwanda donated eight hundred fifty six thousand two hundred ninety five Rwandese francs (856.295 Frw) to the Commission. This amount was spent on training police, prisons wardens and HELPAGE Staff in Cyangugu Province.

The Swiss Co-operation in Rwanda donated a vehicle to the Commission's office in Kibuye Province. It also gave five million six hundred seven thousand Rwandan francs (5.667.000 Frw). This amount was spent on training Staff members of the Commission in all provinces, on training thirty police personnel in areas of human rights. The training was also extended to the local leaders at sector level in Kibuye Province.

IV. GENERAL CONCLUSIONS, PLANS FOR 2002 AND RECOMMENDATIONS

4.1 General Conclusion

4.1.1 Human Rights Protection

As is the practice, the commission's work in human rights protection involved two areas: civil and political rights and social, economic, cultural rights and the right to development.

With regard to civil and political rights, in 2001, as previously described, the Commission continued to pursue some of the issues which were brought to its attention in 1999 and 2000 as mentioned in the 2000 year. The Commission also pursued new issues brought forward during the year. These issues dealt with are summarised in the following categories:

- illegal arrests and detentions;
- Disappearances of people;
- violations of human rights by Civil Authorities;
- denial of election rights;
- denial of a fair and timely trial;
- delays in reaching a final verdict in trials;
- general problems within detention cells and prisons as observed by the Commission in various parts of the country during the years 2000 and 2001.

The work of the Commission on all fully investigated cases was mainly characterised by visits to the areas where the reported violations took place and meeting the people concerned from various sides. This included face-to-face meetings, written communications with various levels with authority to solve the problems, such as Prosecutor General's office, Courts, National Police, various ministries, including, the Ministry of Justice and Institutional Relations, the Ministry of Interior and the Ministry of Defence.

The results of such work included the acquittal or the release on bail of those the Commission had found in jail, those who were being investigated contrary to the law and those who had waited far too long for a final verdict.

With regard to economic, social, cultural rights and the right to development, in 2001 the Commission continued to follow up issues which had been brought to its attention earlier and also received and pursued new cases. These were grouped into the following categories: problems related to personal property, mainly concerning houses and land; various problems linked to wealth, children's rights including their right to education; issues concerning employment and adherence to labour laws, as well as issues concerning social welfare.

When dealing with problems with full investigations, the Commission's activities included visits to sites where complaints about property originated and face-to-face discussions with, or written communications to, various relevant authorities empowered to find lasting or temporary solutions to them. These include: the Ministry of Land, Settlement and Environment, the Ministry of Finance and Economic Planning, the Ministry of Defence, the Ministry of Youth, Culture and Sports, the Prosecutor's office and Courts, Provincial authorities, the Kigali City administration, various district and grassroots authorities throughout the country.

Wherever possible, the Commission endeavoured to make the contending parties meet so as to find an amicable solution to the problem. However, it turned that the Commission had to defend the interests of those found to have faced injustices. As indicated previously, many of those who had the right of ownership were given back their property in accordance with the law. There also are those who came to the Commission without first consulting the relevant authorities. The Commission guided them and gave advice on how to present their cases through proper channels; they were also advised that, should those channels fail, the Commission would do everything possible to enable them regain their rights.

Although the Commission recognises the progress made in finding solutions to problems it raised in its report for 2000, especially those related to the illegal arrests and detentions, incomplete court cases, the property issues of returnees and children's rights, the Commission finds that there is still a great need to look for lasting solutions to those problems. These issues still present an obstacle to Human Rights to most Rwandans. For example, in case of illegal detention the Commission believes that the Prosecutor and the General Prosecutor's Offices at the Supreme Court should use all in their power to respect laws and court procedures (refer to Jean MBANDA's case). As another example, Courts and even Prosecutor's Offices share responsibility for unjustifiable and unreasonable delays in cases (refer to Emmanuel KARANGWA's, Wellars NTAGANIRA's cases and Joseph MUGENGA's case and his friends). With regard to the working procedures of the Prosecutor's office and Courts, this report shows that there is still interference with the judiciary, which can lead to the violation of people's rights or delay the process of their protection (refer to the arrest and detention of Anonciata MUTAGWERA and the above mentioned cases of Emmanuel KARANGWA and Wellars NTAGANIRA).

The Commission is happy to note that most of the problems experienced by the judiciary were problems that the Court of Appeal and judges of Courts of the First Instance and their Deputies knew about and had analysed during their closed-door meeting held in Kigali from September 17th to 28th, 2001. The recommendations of that meeting help the Commission to prepare the final recommendations of this report, and were distributed by the Commission to various institutions and people concerned.

The Commission, however, continues to be concerned by the disappearance of people and the failure of the relevant organs to provide explanations for this (refer to the disappearance of Jacques HATEGEKIMANA and Anastase BUTUNGANE). As mentioned above, the Commission suggests that the National Police and Ministry of Defence should pursue this question. Lack of timely action on this issue people's confidence in the government institutions in Rwanda, including in other countries.

Another crucial issue that concerns the Commission is the lack of general regulations governing the issues of property of those who returned to Rwanda after several years in exile due to the bad political leadership that characterised Rwanda. This question was mentioned in the Commission's report of 2000, but to date it has not been resolved. The consequence of not having general regulations resulted in some authorities looking for local solutions in some parts of the country, and these developed into conflicts between 'old case' refugees and those they found in the country on their return. This issue is even more complicated by the fact that new land law is not yet in place, though the bill is well under way.

4.1.2 Human Rights Promotion

Following further efforts to improve staff capacity and acquire equipment, the Commission multiplied its actions in sensitisation and training Rwandans on human rights issues. To realise those goals, the Commission held conferences and seminars at various levels, involving teachers and students of secondary schools and institutions of higher learning, students in youth solidarity camps, preparing to go university and other institutions of higher learning, non-school going youth; youth in vocational training and youth representatives assembled in youth solidarity camps organised by provincial and church authorities. Also trained were the Local Defence Forces and other people from various organisations and associations who, on different occasions, sought the services of the Commission to receive instruction on human rights issues.

In 2001, the Commission broadcast thirty (30) radio programmes on Radio Rwanda through its weekly programme "*Uburenganzira Iwacu*", which started on the 13th of April 2001 and runs on Fridays from six forty-five to seven o'clock (6.45 - 7.00 p.m.) in the evening. The Commission held seven (7) other lengthy programmes on Rwanda Television at different times. All these radio and television programmes, together with specific actions mentioned in the report concerning the celebration of human rights and the Commission's publications, had the aim of giving Rwandans a basic knowledge of the rights accorded to them by Rwandan laws and under International Conventions ratified and signed by Rwanda. The Commission's duties, commitment and ability to defend the rights of Rwandans when they are violated, and to inculcate the notion that each individual has an obligation to uphold the rights of others.

Another aspect that characterised the Commission's work in the promotion of human rights was the training, of at least two (2) days that it organised for different categories of people. The training was prepared and delivered by the Commission itself, although it sought help from various experts in the field to assist it fulfil its objectives. Such training was given to the police, to prison officers working in Cyangugu Province and to soldiers working in northern Rwanda. The Commission expects, in future, that all these particular categories of people, among whom are civil servants, will have acquired a culture of respect for human rights so as to integrate them in their daily activities.

It is in this respect, as mentioned above, that the Commission supported the set up of the "Urunana" Clubs of human rights secondary schools which started in Butare Province in the year 2001 and which ended by spreading to Byumba and Kigali Rural Provinces. To give training to those associations and facilitate their work, the Commission aims to sow a culture of respect for human rights among the youth in higher institutions of learning.

4.1.3 Institutional Development

Members of the Commission find that the Commission realised the goals it set for itself in its 2000 report. It has recruited a sufficient number of staff and as such was able to open branches in the ten (10) Provinces countrywide. Most members of staff have had in-country training, and a few others went abroad. The training, in most cases, was based on basic human rights principles and the expertise in investigating the violation of human rights.

The confidence the donors had begun placing in the Commission in the year 2000 continued to grow in the year 2001. That confidence was reflected by the support the Commission received for its programmes. The support came from various levels of co-operation from six donor and friendly countries to Rwanda. The total amount was forty million nine hundred thirty two thousand and two

hundred Rwandese francs (40.932.200 Frw). This amount was received by the commission and was managed by it (*see section III of the financial report*). There are other donations, which were spent in the interest of the Commission, but the control of their expenditure was in the hands of the donors themselves.

4.1.4 Partnership and Liaison with Other Organisations

In the year 2001, relations between the Commission and other institutions improved, be they Rwanda Government institutions, international organisations, in Africa or in other countries, and other independent associations who are involved in the promotion of human rights. These relationships gave the Commission the possibility to show its activities in Rwanda in the protection and promotion of human rights generally and to share with friends what the Commission has already done specifically.

4.2. COMMISSION'S ACTIVITY PLAN FOR THE YEAR 2002

The most important activities the Commission intends to carry out in the year 2002 are as follows:

4.2.1 Human Rights Protection

As it is laid down in the law establishing the Commission, the Commission will continue to receive complaints and problems on the violations of human rights from the people, whether it is done, or had been done by different organs, associations or any other person in Rwanda.

Since the number of complaints received by the Commission continue to increase as it gets closer to the people, the Commission shall do everything possible to increase its capacity in accordance with the guidelines that govern its intervention in solving problems related to human rights as stipulated in appendix one of this report by using modern technology.

In its new plan of action, the Commission will quickly implement Article 24 of the law n° 27/2001 of April 28th, 2001 related to the child's rights and his/her protection from violation. That Article stipulates that "the National Human Rights Commission must prepare specific means of following upon how the child's rights are respected". That means among the problems the Commission has to deal particularly in year 2002 are those concerned with violation of children's rights, so that those who rape children are punished by law, and those who misappropriate property of orphans, mentioned in 2000 report; including other laws which hinder children's chances as stipulated in International Conventions which Rwanda signed and ratified, and domestic law that Rwanda has enacted.

Another activity for the Commission, which fall under its mandate of defending the rights of Rwandans and to verifying whether they are respected, following up the activities of Gacaca Courts. Since the right to justice is a basic human right, and other rights related to it. The Commission has decided to provide in terms of advice and ideas at higher levels of Gacaca Courts, especially by the staff working in Provinces, whose work is related to the work of those courts.

The Commission expects to resume some of its programmes mentioned in the report for the year 2000 which delayed due to different reasons: among those programmes are detailed investigations on the situation of human rights in Rwanda, in general and to particular groups of people such as women and children.

The Commission will bring to justice those who, undoubtedly, violated human rights as it is stipulated in article four (4) of the law establishing it, when it is shown with no doubt that it has done so.

The Commission will bring to justice all those who violate human rights, as it is stipulated in Article (4) of the law establishing it.

The Commission will draw up a programme intended to closely follow up complaints on segregation of whatever nature as elaborated in the Third World Conference against Racism, Racial Discrimination, Xenophobia and Related Intolerance.

4.2.2 Human Rights Promotion

The Commission will pursue and expand its programmes whose aims are to sensitise Rwandans of all walks of life on their rights, and those of others. These will be done through public lectures, or through its radio programmes "*Uburenganzira Iwacu*" that is broadcasts on Radio Rwanda and other programmes of Rwanda Television and sensitisation materials.

With regard to the training of the youth, the Commission will work hand in hand with the Ministry of Education, together with other institutions and associations which have in their objectives the duty to prepare teaching aids whose aim is to instil principles of human rights in their training programmes in secondary schools in Rwanda.

At the time of compiling this report, that action programme had been analysed by all parties concerned, among them, the International Committee of the Red Cross. The Commission will continue with other programmes linked with teaching of human rights to people mentioned in this report, among them security officials, local government leaders, youth and women leaders.

Among other important activities, which the Commission has in its plan for the year 2002, is to put in place a *Rwandan Bill of Rights*. This year will be a year of exchange of ideas between the National Human Rights Commission and the Legal and Constitutional Commission to realise a Bill of Rights as one of the new Rwandan Constitution.

The Commission will continue to encourage the Government of Rwanda to ratify International and African regional Conventions intended to protect and promote human rights where this has not been done. The Commission draws attention to the 1984 United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Commission in its recommendations in its 2000 annual report has mentioned these Conventions. This is one means through which Rwanda can request the extradition of criminals who are hiding in some countries that have ratified and accepted those Conventions.

4.2.3 Institutional Development of the Commission

Although the year 2001 saw the Commission make substantial progress related to institutional strengthening and capacity building, the Commission accepts that there is further efforts to be made in the year 2002, in the areas of reinforcement of its capacity in relation to its main objectives as enshrined in the law that set it up. Among the steps to be taken are: to increase the number of staff members of the Commission in provinces which would enable the Commission to bring its services

closer to people; to continue to provide relevant training to all its staff in various fields, which would go hand in hand with the increasing of their capacity in new information technology.

The good relationship existing between the Commission, the Government of Rwanda, friendly countries, International organisations, especially the United Nations' High Commissioner for Human Rights and the United Nations Development Programme gives the Commission hopes that the means and other items it might need, to be able to realise its objectives in 2002 will be met, as they should.

4.3. Recommendations

In the 2001 annual report, the Commission put forward fourteen (14) recommendations based on cases it handled. The Commission is happy to note that some of them have been realised and others are under discussion at various institutional levels.

Members of the Commission, however, find it necessary to revisit some of its recommendations and introduce new ones based on the work done in the year 2001. They are:

4.3.1 The President of the Republic, the Government, the National transitional Assembly and the Supreme Court:

- To support the review of the law that set up the National Human Rights Commission, so that its authority and responsibilities are made clearer and easy to understand;
- To support the quick review of the land law to ensure that it provides answers to the many and serious questions which Rwandans have at present;
- To give prosecutors, courts, the National Police and their respective members of staff, offices, equipment and relevant training suitable to their duties and responsibilities as enshrined in the law so as to enhance their respectability in the eyes of the Rwandan society at large;
- To reinforce the respect of the rights of children, to protect them against violence, to punish those responsible for crimes against minors and to protect and promote all actions that can give them a better education and provide for their well-being;
- To call a consultative meeting to help the Government find ways and means to fulfil its obligations based on the declaration of Arusha Peace Accords concerning the Civil Rights of those who returned to their motherland after several years in exile, and to help the Government formulate resolutions on those issues based on the recommendations of that meeting;
- To find ways and means to compensate retrenched workers as a result of privatising public enterprises, in accordance with the law;
- To hasten the review of the decree of August 22nd 1974 governing Rwanda's Social Security Fund, taking into consideration that it is out-dated because it does not provide for what happening in Rwanda since its promulgation, such as citizens

who were covered under it, but who were forced into exile for long periods for reasons beyond their control;

- To encourage all government institutions to be good examples in respecting laws and conventions officially ratified, be it those concerned with the awarding of tenders or in other areas such as prompt payments for goods and services rendered to the Government, or payment of property used by the Government for public interest;
- To find a solution to the legacy of the Rwanda Savings Bank, which became insolvent, leaving people destitute;
- To support in all ways judicial autonomy and freedom, and to sensitise all Rwandan citizens, especially Government executive, on this guarantee;
- To look for a lasting solution to the serious problems of illegal arrests and detentions.
- To quickly find a solution to the serious problem of delayed court cases so that court rulings hold value;
- To take strong measures against authorities that are responsible for violating the rights of those they are supposed to lead and defend.

4.3.2 Recommendations to all Rwandans

- To continue visiting the Commission at its headquarters in Kigali, or its offices in the provinces, to bring forward complaints and ideas related to human rights;
- To be ready to defend their own rights and those of others;
- To denounce injustice and the culture of impunity;
- To learn more about one's rights and duties.

APPENDICES

APPENDIX I

REGULATIONS OF THE NATIONAL HUMAN RIGHTS COMMISSION GOVERNING THE CONDUCT OF CASES OF HUMAN RIGHTS.

Given law n°04/3 of March 12th 1999, which sets up the National Human Rights Commission, especially in its sections 3,4,5,7 and 12;

Given the Internal Regulations of the National Human Rights Commission of September 13th, 2000, especially in its sections 7,8,9 and 20 (c)

The National Human Rights Commission, hereinafter referred to as 'the Commission', adopted in its meeting of March 28th, 2002 the following regulations to govern the conduct of human rights complaints.

SECTION I: Terminologies

Article 1: Human Rights

Human Rights are a complex of complimentary rights and freedoms that are due to every individual and that have the objective of providing human value to an individual in order to allow him or her to live in harmony with others; to live well and protect him or her from interference.

Human Rights are defined by law at the national level, as well as by international conventions and declarations accepted and defended by countries governed by the rule of law.

Article 2: Violation of Human Rights

A violation of human rights is any act or practice which disturb, contravene or deprive a person of the rights and freedoms due every individual, as stipulated by the law of the land, and by International Conventions and Declarations related to human rights.

Article 3: Follow up of Human Rights issues

The Commission analyses and pursues acts and other aspects, which violated or may violate human rights in Rwanda. In order to let the truth prevails in accordance with the law, there must be punishment administered to those who have violated or may violate those rights.

The Commission pursues complaints presented to it, those it has come to know about or those it has discovered on its own initiative.

SECTION II: Complaints and their evaluation

Article 4: People who can bring their complaints to the Commission.

The Commission receives complaints from:

- (a) Any person who feels his or her human rights have been violated.
- (b) Any other person who feels that he or she is acting for the public interest or who is acting on behalf of another person whose human rights have been violated and is unable to present the complaint himself or herself or who is legal counsel as permitted by the law.

- (c) A non-governmental organisation that demonstrates that the person is unable to present his or her complaint.
- (d) A person or a non-governmental organisation when there is a violation of rights of a cross section of people based on segregation;
- (e) A person and on behalf of others who have suffered the same violation of rights;
- (f) An organisation or an association, in its respective names or by one of their representatives.

Article 5: Admissibility of Complaints

The Commission accepts all complaints of violations of human rights as stipulated in Section 2 of these regulations.

Complaints are handled according to Sections 3,4,5,6 of these regulations.

The Commission does not impose any fee for the receipt of complaints.
The following Complaints are admissible:

- (a) Complaints presented to other institutions, which were supposed to solve them yet did not do it in time.
- (b) Complaints for which there are courts rulings, but where human rights principles were not followed.
- (c) Complaints based on problems which were resolved by appropriate institutions, but where those decisions were not implemented.

In accordance with the above articles, the Commission neither replaces Government legal institutions nor revises court rulings. Where it is clear that there has been a violation of human rights or where the procedures used are inconsistent with the principles of human rights, the Commission may receive and pursue such cases.

Article 6: Complaints that are not accepted by the Commission

Complaints that are not accepted by the Commission are:

- (a) Complaints which do not comply with Article 5 of these regulations;
- (b) Complaints based on insults, hearsay, rumours, sensational items, or complaints that do not bear the identity of those who deposited them and complaints with no substance.

When the Commission has received a complaint lacking the required information, it has the duty to advise and guide the complainant to use the appropriate channels so as to find a solution to the problem.

Article 7: Cases of utmost concern

All complaints related to the following rights are given special attention:

- (a) Right to life;
- (b) Freedom from torture and other acts of inhuman treatment;
- (c) Freedom from slavery and hard labour;
- (d) Protection against being punished for an act that was not a crime according to the national or international law at the time it was committed,
- (e) Right to recognition everywhere as a person before law,
- (f) Freedom of expression, conscience and religion;
- (g) Right not to be detained solely due to not having fulfilled a contractual obligation.

Section III: Acceptance of Complaints**Article 8: Office for receiving complaints**

The Commission has offices that receive complaints both at the headquarters and the provincial levels. The complaint may be presented verbally, in writing, by telephone, by fax or by e-mail. In whichever way this is done, there is a form to fill to that effect. It is explained in addition to these regulations.

Article 9: A Complaint presented verbally

An illiterate person may file a verbal complaint. The officer in charge receives that complaint. After receiving and listening to the complainant, the officer in charge complete the form mentioned in Article 8. After completing it, the officer reads the complaint to the complainant. After having confirmed that what has been recorded is what the complainant has said, the complainant places a thumbprint on the form. The Commission official signs on the same form.

Article 10: Complaint by telephone

Any Commissioner or any staff member of the Commission can receive a complaint by telephone. Whoever accepts it, forwards it in written form with clear content and the identity of the complainant, as stipulated in Article 2, without delay to the official in charge of receiving complaints.

Article 11: Complaint in writing

Complaint in writing are addressed to the President of the Commission, and are handed to the official in charge of complaints at the headquarters or to the officer in charge representing the Commission at a provincial office. Complainants must give their complete address so that they can be reached easily by post office box, telephone, fax or e-mail.

Whenever possible, the complaint should be completed using the appropriate form in the presence of the complainant at the head office or the provincial office. When a complaint is presented in writing, it should clearly indicate the nature of the complaint, the address and particulars of the complainant.

Article 12: Complaints presented by disabled

When it is quite clear that the complainant is disabled and the handicap does not allow him/her to present the complaint and follow up on the outcome, he/she is helped by the officer in charge who is recording the complaint, who may also interpret the unknown language or use sign language. When it is necessary, the Commission does all in its power to assist him/her in case he/she does not have anyone who he/she can trust.

The address of the disabled and that of the accompanying person must be recorded on the form.

Article 13: The content of the case file

Every complaint received has a file with the following content:

- (a) File number
- (b) A letter or the written story of the complaint
- (c) A filled form by the official of the Commission
- (d) Written communications or reports between the Commission, the complainant, the accused or any other Institutions which are interested in the case
- (e) Investigations findings
- (f) Testimonies concerning the case
- (g) Report of the committee which follows the case
- (h) Recommendations of the Commission on that case. Nothing stops any other exhibits or written material related to the case to be included in the file.

Article 14: Several Complainants – one accused- one case

When one person is accused by several complainants of one alleged violation, the Commission can put them in one file and pursue them jointly.

Article 15: Several accused –one complainant - one allegation

When one person accuses several people on one alleged violation, the Commission can put them in one file and follow them up together.

Article 16: The Committee which verifies allegations

The Commission sets up a committee in charge of determining whether the allegation is acceptable, of verifying the relevant items so that the allegation can be pursued. That committee prepares the recommendations on the pursued case so that the Commission can take a decision. It carries out interviews for those called by the Commission, as it is stipulated in article 21.

The Committee is composed of at least three Commissioners, the heads of sections in charge of investigations on issues of human rights together with the officials of the Commission who carried out investigations.

This committee can be permanent or it can change, depending on the nature of the allegation.

Before answering or giving testimony, the invited person by the Commission before the hearing, must swear first by pronouncing the following words:

"I swear before the National Human Rights Commission and before the assembly that what I am going to say is true".

Article 17: The committee meeting to scrutinise the allegation

The Committee in charge of complaints meets once a fortnight and at any other time it is deemed necessary. The chairman and the secretary are the Commissioner and the head of the section concerned with relevant complaint.

Section IV: The follow up of allegations

Article 18 : Channels through which allegations generally go

The official of the Commission, after receiving the complaint, and filling it in the complaint form, sends the file, accompanied by essential documents, to the head of the section related to that allegation. The section analyses the allegation to determine whether it is receivable or not, and seeks to know whether there is additional information that is required. It is then brought to the attention of the Commissioner in charge, so that the decision to start investigations or not to accept the case can be taken. The report on the decision is sent to the committee in charge of complaints.

Article 19: Complaints received at the provincial offices go through the following channels:

One of the officials of the Commission at the provincial office receives the complaint and fills the form to that effect. He looks for other related documents.

The provincial Commission officer analyses the complaint and determines its urgency, he also analyses it to see whether it can be accepted or not, in accordance with articles 5 and 6 of these regulations. He sees whether there are other explanations required. The decision taken by the Provincial Commission's offices on complaints must be channelled in writing to the committee receiving complaints within seven (7) days.

Article 20: Investigations

An investigation is done on received and accepted complaints.

- (a) Invitations, letters of testimonies, documents giving basic information, letters acknowledging the receipt of those showing the non acceptance of the complaints must

bear a signature of the officer in charge in the province. Samples of those forms are in the annex of these regulations.

- (b) When the respondent accepts the allegations, investigations stops. The Commission tries then to bring the two parties together with a view to ending the dispute in a peaceful way. This does not concern to complaint related to the rights mentioned in Article six (6) of these regulations.
- (c) When the respondent after learning the contents of the allegation and does not accept them, he/she is requested to give an explanation. The explanation is made available to the complainant and if he/she does not accept that explanation, the officer in charge at the head office or in the province transfers the file to the committee in charge of complaints and shows the way investigations will be carried out.
- (d) The Commission can invite or go to see the complainant and the respondent and listens to both parties.
- (e) The Commissioner can invite witnesses of both parties.
- (f) When the respondent does not appear before the Commission after a second invitation and does not provide reasons acceptable to the Commission, the Commission follows regulations as stipulated in the law setting up the Commission.

Article 21: Procedures for interviewing the summoned persons.

The summoned persons may be interviewed in public or in privacy. Before the interview, the summoned person swears before the President of the committee in charge of complaints as shown in article 16 of these regulations.

The complainant, the respondent and people who want to testify can ask to be interviewed in camera. That has to be confirmed by the committee. The committee chairperson in charge of complaints can also order for the hearing in camera.

Article 22: Solving of cases

Solving of cases can be in two ways:

- (a) By mutual understanding
- (b) By applying the law

The Commission follows up every complaint to the end.

Article 23: Completion of investigations and conclusion on complaints

When investigations are completed, the final conclusion is communicated to those concerned . A special report is made and addressed to the concerned authorities of the Commission according to the law that established it.

Section V. Miscellaneous and final provisions.

Article 24: General investigations in the country

Depending on the nature of complaints, whether brought to the commission or initiated by it, the Commission may carry out general investigation in the country, so that the truth may prevail, and solutions to those complaints are found.

How the general investigation is done and where it will be done in the country, is made public in the country using all available means.

According to the nature of the complaint, the Commission can seek help from different experts.

Article 25: Refund of transport fare

When a person is summoned by the Commission to testify, and he/she is obliged to take public transport (minibus or bus), the transport fare is refunded. When it becomes necessary, the Commission pays for accommodation.

Article 26: Amendment of these regulations

These regulations can be amended at the request of one of the members of the Commission; and the decision to amend then must be endorsed by at least three (3) members of the Commission.

Article 27: Implementation of the regulations.

These regulations come into force after being signed by all Commissioners in the National Human Rights Commission.

Done at Kigali, on 28th March 2002.

Members of the Commission who signed the above regulations are:

Commissioner GASANA NDOBA, President of the Commission

Commissioner KANYANGE Anne Marie

Commissioner KAYUMBA Déogratias

Commissioner NDAHIRO Tom

Commissioner NKONGOLI Laurent

Commissioner SIMBURUNDALI Théodore

Commissioner UWIMANA Denys

APPENDIX TWO

Members of the Commission and their responsibilities

Commissioner GASANA NDOBA,
President of the Commission.

Commissioner KANYANGE Anne Marie,
In charge of Economic, Social, and Cultural Rights, and Right to Development Department.

Commissioner KAYUMBA Déogratias,
In charge of Partnership and Liaison Department.

Commissioner NDAHIRO Tom,
In charge of Civil and Political Rights Department.

Commissioner NKONGOLI Laurent,
In charge of Legal and Litigation Department.

Commissioner SIMBURUNDALI Théodore,
In charge of Research and Institutional Development Department.

Commissioner UWIMANA Denys
In charge of Education and Sensitisation Department.