

ANNUAL REPORT 2003

Kigali, July 2004

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FOREWORD

The National Human Rights Commission is pleased to submit to the National Assembly its annual report for the year 2003 as stipulated in article 177 of the Rwanda National Constitution of 4th June 2003 and to present copies of the report to his Excellency the President of the Republic, the Government and the Supreme Court.

This report shows the activities of the Commission in matters related to the protection and promotion of human rights. It also shows the picture of human rights in the year 2003 in the fields of political, economic, cultural and social development.

In human rights protection, this report shows various investigations conducted in response to cases brought to the Commission or other issues and recommendations made by the Commission to relevant authorities for action.

However, not all issues received by the Commission got resolved, the reason why the Commission calls upon all the concerned to do their level best in finding solutions and hence respect the national law and human rights.

This report shows human rights activities in cells and prisons, Gacaca Courts and various elections held in the year 2003.

In human rights protection, this report shows activities related to education and sensitization conducted for various groups.

This report also shows activities that characterized the co-operation between the Commission and other Institutions, the use of budget, recommendations made to various relevant authorities and perspectives for 2004.

The National Commission also takes this opportunity to thank the Government of Rwanda for its contribution to the Commission in the fulfillment of its mission. It also thanks all those who supported it in various projects for the accomplishment of the 2003 activities mentioned in this report.

KAYITESI ZAÏNABO Sylvie
President of the Commission.

I. INTRODUCTION.

The National Human Rights Commission 2003 annual report includes its activities from 1st January to 31st December 2003. Its main activities relate to human rights promotion and protection.

In the 2003 year, the Commission received 1027 various kinds of complaints. Among them are arbitrary arrests and illegal detentions, the Prosecutors who do not respect courts decisions, unfinished and ever pending cases, disappearances of people, killing and harassment of Genocide survivors and witnesses. There are also economic cases, children’s cases and rights to employment and labour.

Of all the cases received, 627 were dealt with, 225 were not handled because they were incomplete while 175 were referred to relevant and competent institutions. In this report, there are also cases carried forward from 2002 to 2003.

Regarding human rights promotion, this report shows 45 lectures and 23 seminars or sensitization sessions given to thirty seven thousand five hundred and three (37,503) people from various categories.

This report also includes the Commission’s activities in monitoring Gacaca Courts in 87 sectors of all provinces in the country and Kigali City. In all, 1,553 such courts were monitored.

The report also includes the monitoring of elections from the transitional period, implementation of international human rights conventions ratified by Rwanda and findings following visits to cells and prisons.

Furthermore, this report includes the expenditure of government funded budget, external funds, conclusions, perspectives for 2004, recommendations to National authorities in particular and the Rwandese population in general.

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1.1. EVENTS THAT CHARACTERIZED HUMAN RIGHTS IN RWANDA DURING THE YEAR 2003.

The year 2003 was characterized by many activities regarding political, economic, legal, health, social, gender and other human rights related issues.

All these activities show that Rwanda has made a big step in establishing a government geared on the rule of law, and the principles of democracy which are the basis of human rights respect. It is in this line that measures have been taken, policies, laws and bills have been worked out, all intended to promote respect for human rights. This chapter presents the Commission's major achievements and activities in promoting human rights during the year 2003.

- On 1st January 2003, the Office of the President of the Republic issued an official release temporarily releasing all those accused of Genocide who had pleaded guilty and sought forgiveness; those who do not belong to the first category and those having civil cases who may stay in prison beyond the legal period. This release also concerned all those children who committed Genocide at the age between 14 and 18 as well as those accused of infiltration, ...
- In Rwanda from 5 to 9 May 2003 was held the Second African Conference on Human Rights involving Ministers of Justice. The Conference aimed at evaluating implementation of decisions of the First Conference which took place at Grand Baie (Mauritius). At this Conference, Rwanda presented what had been achieved in human rights promotion and protection, and that it had already ratified several important African Human Rights Conventions including the following:
 - The law n° 08/2003 of 6 April 2003 confirming and reaffirming the convention to set up an African Union security committee;
 - The Presidential decree n° 12/01 of 27 March 2003 reaffirming the Protocol on the African Human and People's Rights Court of Justice.
- Between 2002 and 2003, the Government of Rwanda ratified the following 21 international human rights conventions:
 - Protocol on the African Human and People's Rights Court of Justice;
 - Optional Protocol to the Convention on the Rights of the Child on the involvement of children in armed conflict;
 - Optional Protocol to the Convention on Rights of the Child on the sale of children, child prostitution and child pornography;
 - Protocol for the suppression of unlawful acts of violence at airports serving International Civil Aviation, signed in Montreal on 24 February 1988 supplementary to the convention for the suppression of unlawful acts against the safety of Civil Aviation, done at Montreal on 23 September 1971;

- Convention of Organisation of African Unity on the Prevention and Combating of Terrorism, signed in Algiers on 13 July 1999;
- International Convention for the Suppression of Terrorist Bombings, adopted by the United Nations General Assembly on 15 December 1997;
- International Convention against the Taking of Hostages, adopted by the United Nations General Assembly on 17 December 1979;
- Protocol for the Suppression of Unlawful Acts Against the Safety of Fixed Platforms Located on the Continental Shelf, signed at Rome on 10 March 1988;
- International Convention on the Suppression of the Financing of terrorism, adopted by the United Nations General Assembly on 9 December 1999;
- Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1 March 1991;
- Convention on the physical protection on nuclear material, signed at Vienna on 26 October 1979;
- Convention against Transnational Organized Crime, signed in New York on 15 December 2000;
- Convention on consent to marriage, minimum age for marriage and registration of marriages, signed in New York, on 10 December 1962;
- Convention on the Political Rights of Women, adopted by the United Nations General Assembly in New York, on 31 March 1953;
- Final Protocol to the Convention for the suppression of the traffic in person and of the exploitation of the prostitution of others, adopted by the United Nations General Assembly in New York, on 21 March 1950;
- Convention for the suppression of the traffic in persons and the exploitation of the prostitution of others, adopted by the United Nations General Assembly in New York, on 21 March 1950;
- Protocol to prevent, suppress and punish trafficking in person, especially women and children, supplementing the United Nations against transnational organized crime, adopted by the United Nations General Assembly in New York, on 15 November 2000;
- Convention on the Nationality of Married Women, adopted by the United Nations General Assembly in New York, on 20 February 1957;
- Convention on persistent organic pollutants adopted in Stockholm on 22 May 2001;
- Convention on the Suppression of Unlawful Acts Against the Safety of Maritime Navigation, signed at Rome, on 10 March 1988;
- United Nations Convention against illicit traffic on narcotic drugs and psychotropic substances, adopted in 1988.

The Commission will continue to remind the Government to sign other conventions not yet signed as this is part of the Commission's duties.

- The seven-year plan declared by the Government on 7 November 2003, includes various objectives of the Rwanda Government relating to human rights. These include:
 - Stressing the principle that one's human rights begin where the other's end and that human rights go with obligations;

- Continue the fight against the genocide ideology and any sort of discrimination;
 - Sensitize Rwandans towards using their rights in giving constructive ideas;
 - Sensitize leaders at all levels to respect rights of those they lead just as the led should respect the rights of their leaders;
 - Teach leaders and the population about human rights;
 - Implement International Conventions ratified by Rwanda;
 - Commemorate annual days on justice and human rights;
 - Teach children about human rights and human dignity;
 - Fight against children and women rape.
- In the year 2003, the Legal Reform Commission continued its activities in drafting legal projects judiciary reforms. These include:
 - The draft bill relating to the code of criminal procedure;
 - The organic law bill determining the organization, functioning and jurisdiction of the Public Prosecution;
 - The draft bill relating to civil, commercial, labour and administrative procedure;
 - The organic law project determining the organization, functioning and jurisdiction of courts;
 - The draft bill relating to the code of ethics for the Judiciary;
 - The draft bill relating to evidence and its production;
 - The draft bill on the statutes for Judges and other Judicial Personnel;
 - The draft bill governing the High Court;
 - The draft bill determining the organisation, functioning and jurisdiction of the Supreme Court.
 - The draft bill on the statutes for Public Prosecutors and other Public Prosecution Personnel.

This reform aimed at better judicial performance and bringing justice closer to the people.

- Another important activity which characterised the year 2003 was elections. On 26 February 2003 a referendum on the National Constitution was held. This Constitution was adopted on 4th June 2003. It includes 42 articles reinforcing human rights and duties. On 25 August 2003, Elections for the President of the Republic were held. Elections for the National Assembly were held in three stages: On 29 September, elections took place for Youth representatives and representatives of those with disability, on 30 September 2003, elections for different political parties representatives and independent candidates, while elections for women representatives and senators were held on 2 October 2003. All these elections took place in total transparency, and this was the first time in the history of Rwanda that the post of the president of the Republic had more than one candidate. Every Rwandese got a right to elect and be elected freely.
- In the year 2003, efforts continued to exhort Rwandese refugees to come back to their country. After the agreements between Rwanda and the United Nations High Commission

for Refugees as well as different countries, 29,729¹ came back home and got reintegrated in their properties. In addition, a total of 1402² of the former infiltrators and some of their leaders returned home. These were taken to “*Ingando*” (civic camps) and reintegrated into normal life.

- Concerning voted or reviewed laws aimed at better protection of human rights and eradication of injustice, one may mention:
 - The Rwanda National Constitution of 4 June 2003;
 - The Law n° 10/2003 of 18 April 2003 governing voting of National Constitution;
 - The Law n° 16/2003 of 27 June 2003 governing political parties and political leaders;
 - The Organic Law n° 17/2003 of 7 July 2003 governing elections for the President of the Republic and Members of the National Assembly;
 - The Law n° 23/2003 of 7 August 2003 on preventing, combating and punishing corruption and related crimes;
 - The Law n° 25/2003 of 15 August 2003 determining the organization and functioning of the Office of the Ombudsman;
 - The Law n° 33 bis/2003 of 6 September 2003 against genocide and crimes against humanity and war crimes.

- Concerning the rights to education, article 40 of the National Constitution of 4 June 2003, states that everybody has the right to education, freedom to education is guaranteed by the law stating that primary education is compulsory and free in government schools. This article adds that the Government has the obligation to introduce special education for persons with disability.

- In its articles 27, 28 and 40, the National Constitution of the Republic of Rwanda of 4 June 2003, stresses particularly the right of a child in the family and to education.
 - Regarding implementation of this government principle of education for all as shown in the report of the Ministry of Finance and Economic Planning³, the number of schools and students at all levels increased in the year 2003. The number of primary school pupils raised from 1,534,510 in the year 2002 to 1,636,563 in the year 2003. For secondary schools, the number rose from 157,210 to 179,153. In universities, the number of students increased from 15,940 to 20,393. The number of primary schools moved from 2,172 in 2002 to 2,203 in 2003. The number of secondary schools moved from 393 to 405;
 - Private universities increased in number to allow all capable people access to knowledge;

¹ Report on activities of Refugees Repatriation Commission of the year 2003.

² Statistics of the Reintegration and Demobilisation Commission.

³ Rwanda development indices, p. 221 – 223.

- Technical sections were opened so that every pupil can study in the field of his ability. In the year 2003, in ordinary schools, 37 such sections were opened in 29 schools;
 - Information Technology was introduced in primary and secondary schools, in respect of the child's right to broad education.
- Concerning rights to health, apart from the usual Government programmes regarding health for all, the National Constitution of 4th June 2003, article 41, stipulates that "Citizens have the right and responsibility to good health". It also adds that the Government has an obligation to sensitize people towards activities aimed at better life and help them achieve the same. The first paragraph of article 49 states that "every citizen has the right to a better living and live in a better and clean place. The second paragraph of that article states that "everybody has an obligation do defend, protect and promote environment, ...".
 - In fighting epidemic diseases, in the year 2003, the programme of not isolating AIDS victims continued, through sensitization of the public in this. It is in this respect that from 4 to 6 June 2003 in Kigali, was held an African Conference for First Ladies. At this Conference, it was proposed to create a committee to follow up and see to it that the rights of AIDS victims are respected and that no discrimination is made against them. In the same Conference, participants discussed strategies to be adopted so as to avail AIDS drugs to various groups found to be HIV / AIDS positive; to help people go for tests, treat opportunistic diseases and combat segregation of these groups at working places. Furthermore, on 1 December 2003, the AIDS Day commemoration held at national level in Cyangugu, had the following theme: "Let's combat segregation of HIV / AIDS positive Youth".
 - Concerning fighting malaria, 25 April 2003 was a Commemoration Day to show the danger of malaria and how to fight it. This was done at Nyanza (in Butare). The main theme of that day was: "Let us fight malaria to protect both the child and the mother".
 - Regarding protection of child health, from 21 to 26 April 2003 while celebrating the clean water week, the Ministry of health sensitized Rwandese people, especially educators, on cleanness and providing clean water to children. In the year 2003 also throughout the country, all children between nine and fifteen got vaccinated against meningitis. At national level, the event took place at Nemba hospital (Ruhengeri) on 9 February 2003. On 13 December 2003, a national campaign was launched in Byumba province to give Vitamin A to children, thus enhancing normal growth and resistance against disease.
 - The 16 June 2003 was African Child Day and the theme of the day was "Let's protect the child through legal registration". The celebrations at national level took place in Rutsiro (Kibuye).
 - As for promoting equality among men and women, the National Constitution of the Republic of Rwanda of 4 June 2003 stresses that equality in its articles 7, 8, 9, 11, 16, 23, 26, 27, 28, 29, 37, 40, 51, 52, 54, 76, 77, 82, 126, 185, 187 and 2001. The Government of Rwanda also adopted the policy of gender equality and gender implementation in all political circles.

An example is paragraph 4 of article 9 of the National Constitution allocating “at least 30% of decision making positions to women”. Implementation of the provisions of this law has already started and women are currently represented at 48% in the National Assembly and 30% in the Government.

- Concerning commemoration of Women’s Day, the 8th March 2003 was the commemoration of International Women’s Day with the theme “Rwandan woman get educated, join the press, elections and play a role in sustainable peace in the country”. The celebrations took place in Gikongoro, at national level and in all provinces. 15th October 2003 was a commemoration day for rural women with the theme “Fight for your rights to information technology as a means to development”. The celebrations at national level were organised in Ruhengeri province and took place throughout the country.

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1.2. SOME EVENTS THAT CHARACTERISED CO-OPERATION BETWEEN THE COMMISSION AND OTHER INSTITUTIONS.

A. Institutions that received the Commission.

- On 16 December 2003, representatives of the Commission were received by His Excellency the President of the Republic and presented to him activities of the Commission; issues of human rights that the Commission deals with, strategies and recommendations on how these could be dealt with.
- On 30 January 2003, the Minister for Justice and Institutional Relations received representatives of the Commission and they exchanged views on the communiqué issued by the Office of the President of the Republic regarding release of some prisoners and how the Commission can play a role in sensitizing those who will be released in accordance with this communiqué.

B. Visits to the Commission.

- On 14 May 2003, the Commission received representatives of the European Union and they discussed about the voting of the National Constitution and how the Commission views the preparations of the coming elections, human rights issues in Rwanda and the role of the Commission in protecting and promoting these rights;
- On 23 May 2003, the Commission received delegates from the Francophony International Organisation who had come to monitor elections. They talked about preparations of elections of the National Constitution, the role of the Commission in monitoring elections and other activities and strategies of the Commission;
- On 24 May 2003, the Commission received delegates from the African Union who came to monitor elections and they exchanged views on the election of the National Constitution and the role of the Commission in this activity;
- On 10 September 2003, the Commission received delegates from the European Union, who wanted to know the views of the Commission on the presidential elections and the general picture of human rights in Rwanda;
- The Management of "Umuseso" Newspaper wrote to the Commission requesting to meet the Members of the Commission. They were received and discussions concerned activities of the Commission and the general situation of human rights in the country;
- As part of enhancing co-operation between the Commission and the International Criminal Tribunal for Rwanda, on 24 July 2003 Mr. Roland AMOUSSOUGA, Spokesman and legal advisor of the Tribunal in Arusha and his

delegation visited the Commission. They talked about the security of witnesses in that Tribunal. These delegates explained that the issue was being settled.

- On 17 October 2003, the Commission received representatives of Amnesty International conducted by one of its directors. They had come to visit Rwanda and they talked with the Commission about its activities, mission and objectives as well as the situation of Human Rights in the country;
- On 20 October 2003, Alison DES FORGES, a researcher in Human Rights Watch visited the Commission and talked to its members on human rights principles, the possibility of complementarity between different organisations and institutions dealing with human rights. They also discussed about the communiqué of the Commission of 13 May 2003 on Human Rights Watch report published in May 2003, by the same researcher;
- On 24 November 2003, the Commission received the Chief Ombudsman and his deputies and they talked about their respective responsibilities, as well as co-operation and complementarity existing between the two institutions;
- Just as is the custom every year, in 2003 the Commission received students from the Faculty of Human Rights at the University of Pretoria who had come to learn about the structure and function of the Commission in matters of protecting and promoting human rights.

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II. ACHIEVEMENTS OF THE COMMISSION FOR THE YEAR 2003

2.1. HUMAN RIGHTS PROTECTION

This section concerns cases the Commission dealt with in 2003, finished or pending, such as those of illegal arrests and arbitrary detention; prosecution offices which do not respect courts decisions; people who are still in jail yet having served their sentences; unfinished and delayed cases; cases settled through mediation and conciliation; disappearance of people, killings and harassment of Genocide survivors and witnesses; property; children's rights and rights to employment and labour.

A. Issues raised in the 2002 annual report.

1. Detention of former BACAR Employees.

The Commission recalls to mind that the case of former BACAR employees, MUPENDA Sylvestre, NIYITEGEKA Jean Chrisostome, MANIRAGUHA Jean de Dieu, MUNYANKINDI Innocent and KARANGWA Kizito was described in detail in the report for the year 2002⁴.

These employees, accused of stealing money from individuals, companies and Government deposited in BACAR, were detained on 1 August 2001.

In its report for the year 2002, the Commission expressed that the accused were rearrested and detained by the Kigali Office of Prosecutor contrary to the Supreme Court statement releasing them provisionally. The fact that the Office of the Prosecutor re-arrested them was a violation of the law, especially as there were no new charges against them.

After a thorough investigation in the matter, the Commission discovered that nothing was done in 2003 so that the accused appear in court, the truth be established and justice be done.

The Commission reminds that those accused have the right to appear to court in due time. The Commission denounces the attitude of the prosecution which disregards the Supreme Court ruling.

The Commission finds that this case is long overdue and that it needs to be settled without further delay.

2. The case of KARANGANWA Emmanuel versus Ntongwe district.

The case of KARANGANWA Emmanuel was mentioned in the 2002⁵ annual report where the Commission recalled that this case had been postponed 17 times as revealed in the 2001⁶ annual report. This was due to the Ntongwe district Mayor who never appeared in court. The year 2003 ended before the case was mentioned.

⁴ The 2002 annual report, p. 19 – 20.

⁵ The 2002 annual report, p. 15 – 16.

⁶ The 2001 annual report, p. 31 – 32.

In this case, KARANGANWA Emmanuel accuses Ntongwe district and its former Mayor NTAGANIRA Wellars who allegedly took KARANGANWA's house and used it for training local defense forces thus badly damaging it.

The Commission requests the Supreme Court to follow up this case and find a solution, because it has taken too long and this denies KARANGANWA Emmanuel his human rights of appearing to court within reasonable time.

3. The pending case of HABUMUGISHA Léopold.

The Human Rights Commission annual report for the year 2002⁷ mentioned the case of HABUMUGISHA Léopold who was an employee of BRALIRWA – Gisenyi, sacked on 21 February 2000 on charges of negligence at work which caused the disappearance of 130 crates of Mützig beer evaluated at 916,240 Frw.

The Commission showed that this case had been dealt with in the Gisenyi Provincial Court up to the Supreme Court but was still pending. In file n° RC 2286/R2/2000, BRALIRWA lost the case and was asked to pay HABUMUGISHA Léopold a fine of 53,226,917 Frw.

The Commission showed that there was no lawful reason why this case was still pending. The Commission requested the relevant authorities to finish the case with no further delay nor obstacles.

The year 2003 also ended before any action was taken on that case. Even the case file n° R.C.4705/R13/2001 BRALIRWA, submitted by the Commission to Gisenyi Provincial Court in November 2001 requesting to review the case n° R.C.2286/R2/2000 decided on by the same Court on 30 May 2000, saw the end of the year without trial.

At the time of writing this report, the case was still pending. The Commission requests the Ministry of Justice to use its legal powers to end this case once for all.

4. The case of SHYAKA Amiel.

The case of SHYAKA Amiel concerns the finishing of the case n° R.C.31.275/99 he won against B.C.D.I on 13 October 2000 in Kigali Provincial Court mentioned in the Commission annual report 2002⁸. SHYAKA Amiel had won the case against B.C.D.I, and the court had ordered BCDI to pay 40,000,000 Frw and 18% as interest. In the said report, the Commission had requested relevant authorities and higher national authorities to do everything possible to get a fast solution.

By the end of 2003, the case was still pending.

The Commission once again requests the Ministry of Justice to use the powers it has by law to finish this issue once for all.

⁷ The 2002 annual report, p. 29 – 30.

⁸ The 2002 annual report, p. 30 – 32.

B. Cases handled in the year 2003.

a. Arbitrary arrests and illegal detentions.

1. Arrest and detention of Major NGIRABATWARE Félicien

On 18 April 2003, the Commission learnt about the case of Major NGIRABATWARE Félicien, reported by his wife MUKAMURANGIRA Thacienne, of P.O.Box 3046, Kigali saying that her husband had been arrested on 2 April 2003 and she did not know where he was. She wanted to know his whereabouts so she could visit him.

On 12 June 2003, representatives of the Commission met the Military authorities and were told that Major NGIRABATWARE Félicien was imprisoned in Kami jail and that it is the Department of Military Investigation which was in charge of that jail.

On 11 July 2003, representatives of the Commission visited the Department of Military Investigation authorities who told the Commission that Major NGIRABATWARE Félicien had been accused of disturbing national security. Asked why he could not be visited, they were told that his family visited him and that any other interested person could do so.

On 31 July 2003, representatives of the Commission visited Major NGIRABATWARE Félicien who told them that he did not know why he was in detention and that since he was detained he had been interrogated only once, in connection with the fleeing of Brigadier General HABYALIMANA Emmanuel, former Minister of Defense. On his being visited, he said that his family visited him.

The Commission views that Major NGIRABATWARE Félicien was detained illegally and that he has never appeared in military court in reasonable time.

The Commission requests that soldiers accused of committing crimes should be arrested by competent authorities, namely the Military Prosecution and be detained in legally recognised places and that their cases should be handled in due time.

The Commission also requests that Major NGIRABATWARE Félicien be brought to military courts as soon as possible.

2. The detention of NYANDWI Godefroid.

NYANDWI Godefroid stays in Gasharu, Remera sector, Gitarama town. His case was brought to the Commission by NDAGIJIMANA Ephrem on 17 November 2003 claiming that NYANDWI was detained on 15 November 2003 because of his piece of land taken from him by the authorities.

On 18 November 2003, representatives of the Commission went to see NYANDWI where he was detained in Mushubati Police Station and he told them that he had been arrested by policemen sent by the sector coordinator, charging him with disrespect for authorities.

NYANDWI had given land to the former MUSHUBATI commune for constructing a sector office and the commune had promised to give him another piece in exchange.

Mushubati commune never used the land for construction but it did not give NYANDWI another place either. When NYANDWI wanted to take back his land, the sector coordinator refused arguing that the land already belonged to the sector.

The representatives of the Commission were told by the sector development officer that it is the administrative committee that delimited the land for an association of persons with disability and stated in writing that the committee was lending the land to the association. NYANDWI was not satisfied with that decision and he removed the markers. This action led to his detention for four days, with no file nor questioning.

On 18 November 2003, representatives of the Commission met the Commander of Nyamabuye Police Station and explained to him that the detention was illegal.

After the discussion, the Commission learnt that NYANDWI had been released and was to follow up his case from his home.

The Commission is of the view that the rights of NYANDWI were violated because he did not get back his land and never got compensation as promised to him.

The Commission reminds that everybody has a right to his/her property. Taking this property in public interest is governed by relevant laws.

It also finds that the detention of NYANDWI Godefroid for four days was contrary to the laws governing preventive arrests and detentions.

On the other hand, although NYANDWI's rights were violated he had no right to remove the markers because he would have followed up his case in a court of law.

3. Detention of YAMFASHIJE Béatrice.

The case of YAMFASHIJE Béatrice was brought to the Commission on 15 September 2003 by her husband BUSORO Phénias who stays in Kavumu, Bubazi sector, Kisaro district in Byumba province, saying that his wife had been detained on 8 September 2003 with the conspiracy of MUKASHERI Pélagie over a land issue. The two families appeared in court but never got satisfied. The pending of the case continued to bring conflicts between the two families, each trying to cultivate the land.

On 15 September 2003, representatives of the Commission consulted the Chief of Cyumbati Police Station about the detention of YAMFASHIJE Béatrice. The Chief explained that

YAMFASHIJE Béatrice was accused of causing insecurity on the basis of land dispute between her and MUKASHERI Pelagie's family. The Commission's delegation showed the Police that the arrest and detention of YAMFASHIJE was illegal. Later the Commission learnt that YAMFASHIJE was released.

The Commission considers that YAMFASHIJE Béatrice was unfairly imprisoned for eight days due to justice administrators' failure to do their duties properly.

The Commission requests that this case be settled urgently since it is the source of the dispute.

4. Arrest and detention of NDUNGUTSE Déodate.

NDUNGUTSE Déodate, a resident of Kanserege I, Gikondo sector in Kigali City is accused in case n° RMP 1063/S15/GS and n° RP 41184/Kig, for misappropriation of the property of TRANSCLEAR, one of the companies dealing with clearing and taxation of goods, where he was working from 6 September 2002 to 23 December 2002.

NDUNGUTSE Déodate wrote to the President of Kigali Provincial Court on 16 May 2003 and gave a copy to the Commission requesting to be temporarily released because he was illegally detained. NDUNGUTSE argued that he was temporarily detained for 30 days by the court decision of 27 December 2002. After the 30 days he never got released and he was still in jail.

In its investigation, the Commission found that NDUNGUTSE's case was in court since 13 March 2003 with file n° RP 41184/Kig. and that he was waiting to appear in court, though the case had already been postponed twice.

The Commission considers that not appearing in court is contrary to the laws governing arrests and detentions, hence NDUNGUTSE Déodate was for all this time illegally detained.

At the time of writing this report, the Commission learnt that NDUNGUTSE Déodate was still in detention. The Commission shall continue following up this case.

5. Arrest and detention of HABINEZA Alphonse.

On 9th April 2003, HABINEZA Alphonse, a resident of Rwagakara, Ngarama sector, Ngarama district, Byumba province brought to the office of the Commission in Byumba province a complaint that Ngarama district keeps on putting him in jail. His detention derives from the case n° R.C. 205/01/NGA versus NYIRAKUNGUKA in Ngarama Primary Court involving money. On 23 April 2000, the case was read; HABINEZA lost the case and appealed to Byumba Provincial Court on 29 May 2000 under case file n° RCA 380/XXVI/2000.

HABINEZA accuses the district of trying to terminate the case while he has appealed in Byumba Provincial Court. HABINEZA told the representatives of the Commission that the district often arrests him and tries to sell his property. He even showed them a letter n° 287/17.04.01 dated 5 June 2000 addressed to the district Mayor of Ngarama, informing him that he had

appealed and yet the Mayor ignored the letter and wanted to terminate the case basing on the ruling of the Primary Court.

On the 17 April 2003, the wife of HABINEZA complained to the Commission saying that her husband had been jailed again on 15 April 2003. The Commission talked on phone to the officer in charge of Administration and political affairs in Ngarama district who informed them that the ruling of the Primary Court took place on 21 February 2000 and not on 23 April 2000 as HABINEZA claimed. On 28 April 2003, Ngarama district sent a copy of the ruling n° RC 205/01/2000/NGA to the Commission which discovered that the case had been handled and read on 21 February 2000.

The Commission considers that HABINEZA was unfairly treated because he was jailed several times for not paying the fine and jailed by incompetent authorities. He also was detained for a non-existing crime. This is contrary to paragraph 2 of article 17 of the Rwanda National Constitution.

The Commission requests for urgent settlement of this case so as to render justice to the concerned.

6. The Detention of MUTUNZI Donat.

On 22 April 2003, MUTUNZI Donat, son of GASHIRABAKE Aloys and NYIRABAGENZI Thérèse from Bugarama sector, Humure district in Byumba province wrote to the Commission seeking justice. He was claiming to have been detained in Byumba prison from 28 February 2003, accused of holding night meetings aimed at sowing divisions among people in his sector, Bugarama.

On 23 April 2003, representatives of the Commission met MUTUNZI where he is imprisoned and he told them he was wrongly accused of sowing divisions.

On 29 April 2003, a Commission delegation went to see the Public Prosecutor who told them that MUTUNZI was accused of divisionism on ethnic grounds on 28 December 2002 at Rwarenga sector, while on 30 December 2003 at Bugarama he was accused of holding an illegal meeting. He added that the file of the accused was yet under preparation.

The Commission requested the Public Prosecutor that MUTUNZI file be completed urgently and be submitted to court for hearing.

The case was given a file n° RP 968/XXV/03/BY. The trial took place on 12 June 2003, the reading on 19 June 2003 declaring MUTUNZI not guilty. He was released on 20 June 2003.

Although from the time the Commission took the matter to competent authorities the case was urgently dealt with, it regrets the fact that MUTUNZI was kept in detention for four months without appearing to court.

The Commission reminds that urgency should not be placed on detaining people but should rather be on finding facts on crimes.

7. The Detention of UWAMAHORO Lucie.

UWAMAHORO Lucie is a 14 year old girl from Kanza, Muko sector, Mutobo district, Ruhengeri province. UWAMAHORO Lucie who was detained on 13 August 2002 was accused of fingering the sex of a child she was looking after and this was interpreted as raping the child.

On 11 August 2003, when representatives of the Commission working in Ruhengeri visited the Ruhengeri main prison, they were told of the young girl's case by other prisoners.

On 13 August 2003, the Commission team went to see the Prosecutor who was in charge of the case and wanted to know why UWAMAHORO Lucie was jailed for so long without appearing to court.

It was revealed that the girl had no file. The Commission continued following up the matter several times and every time the Prosecutor promised to solve the problem but to no avail.

On 28 November 2003, a delegation from the Commission met the Public Prosecutor of Ruhengeri and explained to him the importance of that case and requested him to settle the matter. UWAMAHORO Lucie was released by the Prosecutor on 11 December 2003 without any file presented to court.

The fact that there was no medical certificate ("Expertise") to prove the case shows that the prosecution and the police did not do their job properly.

The Commission considers that UWAMAHORO Lucie was treated unfairly because she was jailed with no file and never appeared in a court of law.

8. The Detention of NDAYISABA Eugène.

On 18 November 2003, KANGWIJE Donatilla, mother of NDAYISENGA Eugène from Nyarubuye, Gasanze sector, Ruhengeri town, brought her case to the Commission claiming that the Prosecutor's Office in Ruhengeri had detained her son illegally.

On 2nd December 1993, NDAYISENGA was arrested and brought to Ruhengeri prison accused of killing MUKANTABANA who was his step mother, revenging his elder brother SAFARI who died on 30 November 1993 suspected of being poisoned by MUKANTABANA.

Due to war, in July 1994, NDAYISABA left the prison and went home where he spent two months. On 13 December 1994, he was taken back to prison. Until the issue reached the Commission, the file of NDAYISABA had not yet reached the court not even the Council of Judges.

On 18 November 2003, a delegation from the Commission went to see the Prosecutor RUKANIKA Augustin and discussed with him about the file of NDAYISABA, n° RMP39707/S4/UWD and explained him that NDAYISABA was illegally detained.

The Commission later learnt that NDAYISABA Eugène was released by the Council of Judges without his file being presented to court.

The Commission considers that there was negligence on the part of the prosecution which did not take the case to court and yet they had the file. This caused uncertainty to the bereaved, and it was violation of NDAYISABA Eugène's rights of appearing in court in time, to be officially cleared or sentenced.

9. The detention of MUNYAZIKWIYE Jean Claude.

The case of MUNYAZIKWIYE Jean Claude of Kagesera, Rushara sector, Nyamugali district, Ruhengeri province, reached the Commission on 24 December 2002, brought in by his father-in-law NTIRARANZIRA. He was claiming that the prosecution detained MUNYAZIKWIYE Jean Claude illegally, accusing him of stealing one hundred and twenty thousand francs (120,000 Frw) from MUKAMABANO Chantal who was his business associate. The latter lives in Muhima sector, Nyarugenge district, Kigali City.

Ruhengeri Prosecutor's Office detained MUNYAZIKWIYE Jean Claude on 25 October 2002 and until the day the Commission received the complaint, he had not yet appeared in court.

His family paid for him eighty thousand francs (80,000 Frw) through MAZIMPAKA Marc, the Prosecutor who had his file and requested him to release MUNYAZIKWIYE Jean Claude temporarily so that he could pay the remaining forty thousand francs (40,000 Frw) after his release. However, MUNYAZIKWIYE did not want anybody to pay for him the money because he was claiming that he owed no money to MUKAMABANO.

On 30 April 2003, a delegation from the Commission met MAZIMPAKA Marc who told them the reason for MUNYAZIKWIYE's detention. MUKAMABANO used to give money to MUNYAZIKWIYE to bring her radio batteries. At a later stage MUNYAZIKWIYE retained her money.

On 12 May 2003, a Commission delegation met MUNYAZIKWIYE in jail and he told them that he does not want anybody to pay for him because he did not owe anything to MUKAMABANO. He said they worked together for a long time and trusted each other in their business and that there was no written document on their transactions and that MUKAMABANO on her part had MUNYAZIKWIYE's money. He only requested to be taken to court and face the charge with MUKAMABANO.

By the time this report was under print, the Commission learnt that MUNYAZIKWIYE was released.

The Commission considers that MUNYAZIKWIYE was detained illegally because nobody should be detained for dishonouring his contractual obligations, as stipulated in article 11 of the International Convention on Civil and Political Rights and article 17 paragraph 2 of the Rwanda National Constitution.

Moreover, what is more worrying is that whereas MUNYAZIKWIYE himself says he is not guilty and wanted to appear to court, his family wanted to pay a debt he doesn't recognise. This indicates that some people do not have confidence in the judiciary because they seem to pay anything they are asked by the prosecution to buy their own rights.

10. The case of HAVUGIMANA Jean Pierre and NSAGUYE Emmanuel's detention.

On 24 September 2003, students HAVUGIMANA Jean Pierre aged 20, residing in Isha, Ramba sector, Gikondo district in Butare province and NSAGUYE Emmanuel aged twenty who lives in Cyimana, Shyombo sector, Mugombwa district, Butare province, wrote to the Commission saying that they were arrested on 25 August 2003 accused of causing insecurity during elections of the President of the Republic.

HAVUGIMANA Jean Pierre was a student at "Ecole des Sciences de Nyanza" in third year secondary school, ordinary level, while NSAGUYE Emmanuel was a fourth year student at "Ecole des Sciences de Nyabirasi" in Gisenyi, doing "Maths – Physics".

Ever since their detention, they had never had an opportunity to be heard and up to the time their complaint reached the Commission, the prosecution had not asked them to make any statement.

On 6 October 2003, a delegation of the Commission visited these students in Karubanda prison and they repeated their complaint as it was recorded.

On 9 October 2003, the representatives of the Commission met the Prosecutor's Office and explained the issue of these students. At the time of writing this report, the Commission learnt that the two students were released because the prosecution found no proof to justify their continued detention.

The Commission deplores the prosecution which hurried to keep these students in detention without doing any investigation; this had an adverse impact on their studies.

11. The detention of MURENGERANTWALI.

On 30 January 2003, MURENGERANTWALI of Muramira cell, Gikunzi sector, Nyakizu district in Butare province brought his complaint to the Commission claiming that he is repeatedly put to jail, wrongly accused of theft by the prosecution of Butare.

On 25 December 1997, RURANGWA, son of MAGEZA lost eighty thousand francs (80,000 Frw). In April 1998 KANZIGA Ansille, wife of MURENGERANTWALI picked up fifty thousand francs

(50,000 Frw). When RURANGWA heard that KANZIGA had found this money, he started claiming the money accusing her to have stolen it from him.

RURANGWA and his father MAGEZA later died. Then MUKAGITORE the wife of MAGEZA took the issue to the Judicial Police Officer, HABIMANA Stany who locked in MURENGERANTWALI. Later, OPJ HABIMANA Stany sent him to the Prosecutor's Office where he was detained in Karubanda prison for a year and two months with case file n° RMP 46765/S8/KA/TA accused of possessing stolen property.

On 28 August 2001, the Public Prosecutor of Butare released MURENGERANTWALI but the OPJ HABIMANA Stany who had detained him, arrested him and detained him again in Butare Police Station.

When MURENGERANTWALI got released, MUKAGITORE went to see the Public Prosecutor of Butare, NTETE Jules Marius. She explained to him the whole issue. When the Prosecutor got the story he asked MURENGERANTWALI to pay back the sum of eighty thousand francs or else he would take him back to Karubanda prison. MURENGERANTWALI accepted to pay but he failed due to poverty, and that is why he appealed to the Commission for help.

On 31 October 2003, the Commission met KAGWA André, Deputy Public Prosecutor so as to get the right side of the story. The prosecution accepted to forward the case to court and to release MURENGERANTWALI so that he can answer the charges a free man. At the time of preparing this report, MURENGERANTWALI's file was still in the prosecution's office.

The Commission considers MURENGERANTWALI to have been treated unfairly because he was imprisoned for a crime he never committed and, as article 17 of the Rwanda National Constitution, first paragraph states "A person is charged with a crime he himself committed". Moreover, MURENGERANTWALI should not have been imprisoned for failure to pay the money, in accordance with the article above, paragraph 2, which states "nobody should be imprisoned for civil cases issues".

The Commission condemns the behaviour of OPJ of Nyakizu, HABIMANA Stany and that of the Public Prosecutor NTETE Jules Marius who forced MURENGERANTWALI to pay a debt he never took to the extent of staying so long in jail, contrary to the law.

Regarding all these issues on arbitrary arrests and illegal detentions, the Commission is confident that they will be solved once the reorganization and the new prosecution structure comes into effect as it has been noted in the bill of laws prepared by the Judicial Reform Commission mentioned at the beginning of this report.

b. Non-implementation of court decisions by the prosecution.

1. Arrest and detention of NKONGOLI John, NKUSI Georges and BUKANGWA Aimable.

NKONGOLI John stays in Kicukiro, in Kigali City, and he is former Director General of “Rwanda Airport Authority” (RAR). NKUSI Georges stays in Kacyiru, in Kigali City, he is Director General of a private company known as “Great Lakes Technologies”, while BUKANGWA Aimable stays in Kacyiru, Remera sector, in Kigali City, and is Director General of a private company called “BUKANGWA Associates SARL”.

In its investigation, the Commission discovered that in case n° RP 42189/KIG the prosecution was charging NKONGOLI John of embezzlement of Government funds, taking for himself more than the law provides and getting into commercial activities contrary to his job description. The prosecution was charging NKUSI Georges of complicity in stealing Government funds and getting into commercial activities contrary to the law governing employees. BUKANGWA Aimable on his part, was charged of complicity in the disappearance of Government funds.

On 19 June 2002, NKONGOLI John and his younger brother NKUSI Georges were arrested and detained in the Kigali Central Prison while BUKANGWA Aimable was arrested on 25 October 2002 and detained in Kimironko prison after being told charges against him by the Office of the Prosecutor General.

The Commission followed up the case in the prosecution and the courts and visited the detainees.

In its investigation, the Commission found that the preventive detention of the three people took too long compared to the period prescribed by the law.

Another problem is that the decision of the court to release them temporarily was not respected by the Office of the Prosecutor General in the Supreme Court and yet there was no new charges against them.

The Commission also discovered that the police letter n° EF/JP/141/2002 freezing temporarily the accounts of the three men and their companies was contrary to the law because such a decision can only be taken by the court or the President of the relevant court handling the case in question.

Since the preventive detention did not respect the law and a longer time was spent on considering the arrest and not the actual case, this caused the accused to stay too long without trial, in accordance with their rights. It also made it difficult to establish the truth in time.

At the time of preparing this report, this case was being handled by the Kigali Provincial Court. NKONGOLI John and NKUSI Georges were found guilty of engaging in commercial business contrary to their job description. They were sentenced to one year and four months imprisonment while BUKANGWA was found not guilty.

The Commission observes that the concerned jurisdictions should respect the laws governing them, hence decisions to arrest and detain people should be taken after sufficient evidence has been collected. Only then shall human rights be respected.

2. Arrest and detention of MBANDIWIMFURA Emmanuel.

MBANDIWIMFURA Emmanuel is the son of BAHUNDE Raphaël and MUKANDEKEZI Judith, born in 1959 in former Rwamatamu commune in Kibuye and currently staying in Kacyiru district, Kigali City.

The complaint of MBANDIWIMFURA reached the Commission in April 2003 saying that he had been arrested on 10 April 1998 charged with complicity in killing TUMUSIME Essau. The Kigali Primary Court declared him guilty in the case decided on 19 May 2000, and he was sentenced to life imprisonment. The Kigali Court of Appeal also confirmed this decision on 27 May 2001.

In its decision of 17 March 2003, the Court of Cassation nullified these two decisions and ordered his temporary release because MBANDIWIMFURA had been detained illegally and according to evidence given by the prosecution, he could have been charged with beating and injuring instead of conspiracy in killing.

On 16 April 2003, after MBANDIWIMFURA had spent one month in detention, the General Prosecutor of the Supreme Court released him temporarily but ordered the Kigali Public Prosecutor to follow him up. The order of the General Prosecutor releasing him temporarily collided with the letter of 18 April 2003 from the Public Prosecutor ordering his preventive detention, so MBANDIWIMFURA remained in jail. On 22 April 2003, he appeared before the Council of Judges which approved his detention. He did not appeal.

On 22 April 2003, the Provincial Court of First Instance ordered his release but he was kept in prison.

On 9 July 2003, following the decision of the Kigali Court of Appeal, the Prosecutor's Office wrote a letter releasing him temporarily and sent a copy to the prison where he was detained. Still he was not released.

On 18 July 2003, the Kigali Provincial Court again ordered his provisional release but again the Prosecutor's Office continued to keep him in detention. Instead, on 21 July 2003, another order was given to detain him but this time changing the charges and calling it "attempt to armed robbery". When the delegation from the Commission visited him on 9th September 2003, he had not yet been informed of the new charges.

On 8th October 2003, the Kigali Court of Appeal again released him temporarily and this time the Prosecutor's Office in the Court of Appeal accepted to release him and he left the prison on 9 October 2003.

Representatives of the Commission went several times to the Prosecutor's Office and the General Prosecutor's Office in the Supreme Court to find out why they kept on detaining MBANDIWIMFURA but no answer was given; instead it was argued that he was a criminal waiting for a court ruling to determine his punishment.

MBANDIWIMFURA was detained for a long time contrary to the law and whenever orders were given to release him, the Prosecutor's Office at all levels refused to implement the decisions.

The Commission finds that the prosecution refused to implement the decision of the Supreme Court which ordered the release of MBANDIWIMFURA since the court's procedures had been disregarded, and the accusation labeled against him was false.

Normally, it is a judicial principle that a court decision can only be reversed by a higher court.

The Commission requests the judiciary authorities, including the courts, the prosecution and the Ministry of Justice to respect the law and court decisions.

At the time this report was being prepared, the Commission learnt that MBANDIWIMFURA was released following the decision by the Supreme Court, but the case itself was still to be concluded on.

3. The detention of NGIRENTE Juvenal.

On 1st April 2003, NIBISHAKA Aimable brought to the Commission the complaint of NGIRENTE Juvenal who stays in Mushindo, Kageri sector, Buhoma district, Ruhengeri province. NIBISHAKA Aimable said that NGIRENTE Juvenal had been detained by the Ruhengeri Prosecutor's Office on 14 March 2003 when he had been invited to give witness over a letter accusing those suspected to have on 15 May 1994, assassinated UWAMARIYA Veneranda, a cousin to NIBISHAKA Aimable.

Those accused included NTEZIRYAYO Anastase, NIYIBIZI Thaddée, NDAYAMBAJE Augustin and NSHIMYUMUREMYI Théogène, all from Kageri sector.

On 4 April 2003, representatives of the Commission met the Prosecutor of Ruhengeri who told them that NGIRENTE Juvenal was detained in connection with a letter signed by 12 men accusing the above mentioned people of murder. The accusation was that he signed for two of these men and this was interpreted as forgery. But this is different from malicious propaganda and telling lies by a witness as claimed in the letter ordering NGIRENTE Juvenal's detention.

On 17 April 2003, NGIRENTE was brought to the Council of Judges which decided to release him temporarily on 29 April 2003 but the prosecution refused to release him.

On 2 May 2003, representatives of the Commission met the Prosecutor RUKANIKA Augustin and talked with him again over the issue of NGIRENTE. He answered that the prosecution was not satisfied with the decision of the court. On whether the prosecution had made

an appeal, he said it was not too late. He told them that he will not sign an order of releasing him and he won't appeal. The Commission finds that such kind of decision by the Prosecutor is something strange and unusual in justice.

On 5 May 2003, the Commission delegation met again the same prosecutor on the same issue.

On 6 May 2003, representatives of the Commission again met the Prosecutor who said that he won't be available but fixed them an appointment on 8 May 2003. On that day, the delegates found NGIRENTE Juvenal released.

The Commission denounces the behaviour of the Prosecutor, RUKANIKA Augustin, on duty for it tarnishes the picture of the judiciary.

4. Keeping in detention prisoners who have been released by the Council of Judges.

On 16 July 2003, representatives of the Commission visited the Ruhengeri main prison and found some prisoners who according to the decision of the Council of Judges were to be released and yet they were still in prison as shown in the table below:

Names	RMP	Date of appearing to the Council of Judges	Accusation
1.NTIRENGANYA Antoine	34372/S5/H.A	6/6/2003	Rape
2.MUNYANDEKWE Epimaque	34275/S5/H.A	29/4/2003	Theft
3.TURIKUMANA J.d'Amour	34432/S5/H.A	14/8/2003	Theft
4.BAKUNZIBAKE Cyprien	34609/S5/H.A	10/7/2003	Intimidation robbery
5.KANYAMAHANE Jean	33227/S5/N.J.B	19/8/2003	Rape
6.MANIRAGUHA Grégoire	33227/S5/N.J.B	19/8/2003	Rape
7.HABIYAKARE J.Claude	34734/S5/H.A	14/8/2003	Rape

On 21 July 2003, representatives of the Commission went to see prosecutors who had the files of the people mentioned above, imprisoned in Ruhengeri main prison and discussed with them on why the release orders were turned down. The answer was that they will be released.

On 28 August 2003, representatives of the Commission returned to visit the prison and found these people still in prison and yet the Council of Judges had recommended their release so that they can appear to court from their homes. This indicates further that the prosecution disrespects courts decisions.

When this report was under preparation, the Commission learnt that they had been released.

5. The case of AHMED Abdoulatif versus ASSINI Omari.

On 15 October 2002, AHMED Abdoulatif wrote to the Commission. On 17 February 2003, ASSINI Omari also wrote to the Commission both requesting to regain their rights in relation with the closing of the case n° RC 630/R2/97 read by Cyangugu Provincial Court, on 3 April 1997 which declared ASSINI Omari to have the right over a house located on plot n° 15 in Kamembe and that he should get from AHMED Abdoulatif a sum of twelve million three hundred forty one thousand eight hundred eighty five francs (12,341,885 Frw).

The General Prosecutor wrote to the court bailiff of the Cyangugu Provincial Court on 20 August 2001 stopping him from closing the above mentioned case. On 17 January 2003, the General Prosecutor wrote to AHMED Abdoulatif a letter n° V/020/D.11/A/Progéral ordering him to go and get 12,314,855 Frw retained by CIMERWA / Cyangugu.

This decision taken by the General Prosecutor ignored the decision taken earlier by the Supreme Court, the Cassation branch, of 14 July 2000 in the file n° R.A. 0251/13.03/99 reversing the decision taken in case n° R.A. 0223/13.03/99 on 19 July 1999 that was nullifying the closing of the case n° R.C. 630/R2/97.

In the investigations made by the Commission, the President of the Cyangugu Provincial Court told the Commission that the issue of closing the case n° R.C. 630/R2/97 had gone beyond his powers.

The Commission disapproves the behavior of the General Prosecutor of Cyangugu for taking the powers to stop the closing of the case contrary to the decision of the court. This also shows interference of the prosecution in courts decisions in civil cases.

c. Complaints of people still in prison after serving their sentence.

1. The detention of NIYONTEZE Cyprien, KAYITARE Laurent and NYAMBWANA Ildephonse.

On 25 February 2003 when representatives of the Commission visited Kibungo prison, they were told the case of NIYONTEZE Cyprien originating from Cyarubare district in Kibungo province, the case of KAYITARE Laurent from Mirenge district in Kibungo province and the case of NYAMBWANA Ildephonse from Cyarubare district in Kibungo province.

NIYONTEZE was detained on 20 April 1991 charged with theft and he appeared in court on 15 June 1991 and was sentenced to five years imprisonment.

During the 1994 Genocide, NIYONTEZE got released on 4 June 1994 and was detained again on 17 October 1994.

On 17 March 1991, KAYITARE Laurent was detained charged with theft. He appeared in court on 10 June 1991 and was sentenced to five years imprisonment. During the 1994 Genocide he left the prison on 15 May 1994 and was detained again on 7 December 1995.

In June 1993, NYAMBWANA Ildfonse was detained accused of harassment. He appeared in court toward the end of the year 1993 and was sentenced to one year and a half imprisonment. During the Genocide, he left the prison on 25 April 1994, and was detained again in May 1996.

All these have finished serving their sentences but never got released.

On 27 February 2003, representatives of the Commission took the matter to the prosecution of Kibungo and NYAMBWANA Ildfonse was released on 27 March 2003 after serving eight and a half years beyond his sentence period. NIYONTEZE Cyprien was released on 10 April 2003 after seven years beyond his sentence, KAYITARE Laurent was released on 8th September 2003 after seven years beyond his sentence.

The Commission finds that the rights of these three people were violated for they were kept in prison long after completing their sentence period, all this due to the negligence of the prosecution and Kibungo prison administrators.

The Commission also recommends that the preparation of the law governing prisons should be speeded up so that such kinds of problems find a permanent solution.

d. Delayed and pending cases.

• Delayed cases.

1. The case of Caporal UBONEYIMFURA Déo.

On 31 January 2003 Caporal UBONEYIMFURA Déo was detained in Military Prison of Mulindi in Kanombe, Kigali City. He wrote to the Commission saying that he was detained by Military Prosecution and appeared in all military courts. He lost the case and was sentenced to Death Penalty in case n° RPA 0100/CM/KGL/99 which he asked to be nullified. Caporal UBONEYIMFURA Déo requested the Commission to help him so that he can be able to appear in court in a reasonable time.

Caporal UBONEYIMFURA Déo headed the group of soldiers in charge of the security of Nyange School in Budaha district, Kibuye province. He is accused that, on 17 March 1997, when infiltrators attacked the school, he abandoned the students he was supposed to protect and the infiltrators killed five of them injuring many more.

Caporal UBONEYIMFURA Déo argues that the soldiers fought with the enemy but the latter overpowered them. One ITANGAYENDA Frédéric popularly known as Major NINJA confirms that he was leading the enemy side and is now said to be an officer in the National Army.

Caporal UBONEYIMFURA Déo adds that his colleagues Private NSEKANABO Pierre and Private MUGENZI Théoneste had been released after appearing in court and yet all three were involved in one and the same case.

Caporal UBONEYIMFURA Déo requested the nullification of the case n° RPA 0100/C.M./KGL/99 of 3 November 2000 in the Cassation Court but up to now no date has been fixed for him to appear in court.

The Commission finds that Caporal UBONEYIMFURA Déo's rights have been violated for he has been given no chance to appear in court within reasonable time.

2. The case of MUKASHEFU Florence.

On 8 May 2003, MUKASHEFU Florence who lives in Mahwa, Gakoma sector, Ngarama district, Byumba province brought her complaint to the Commission saying that her legal husband MUTARA Cyprien had abandoned her and that he is currently shifting the family property to his concubine.

MUKASHEFU complained to Byumba Provincial Court of First Instance and both parties were called to court several times, in case n° RC 363/XXX/02/BY. The case was postponed several times because MUTARA Cyprien never appeared to court, until the summons stopped.

MUKASHEFU requested the Commission to help her to ask the court when she would appear in court because she has been coming several times and has to cover a long distance to come to court.

On 8 May 2003, representatives of the Commission went to Byumba Court of First Instance to see why the case is never heard. The Court fixed 11 June 2003 as the date for her appearing.

On that date, the case was heard and was read on 19 June 2003. The Court ruled that MUTARA Cyprien lost the case and should go back to his marital family. He was also to take back to his family the sum of one hundred ninety thousand francs (190,000 Frw) he had taken to his concubine's home.

The Commission disapproves the Byumba Court of First Instance which refused MUKASHEFU the right to appear in court within a reasonable time as prescribed by the law.

3. The case of UWERA Monique.

On 2 July 2003, UWERA Monique of Ruhango cell, Mugina sector, Rebero district, Byumba province, brought her complaint to the Commission and said that she had sued her husband NGIRABAGENGA André in a Byumba Court of First Instance on 21 January 2002 in case file n° 98/XXIV/02/BY, requesting to be given means to take care of children they had had together. She also wanted the husband to provide for children's inheritance properties. The case is

ever being postponed because the husband never responds to the summons. UWERA Monique requested the help of the Commission so that she may appear in court.

On 8 July 2003, representatives of the Commission reported the matter to the President of the concerned court. He invited UWERA to come in July when he would see together with other Judges how the case could be heard without delay.

At the time this report was being prepared, the Commission learnt that the case was heard, read and UWERA got four pieces of land.

Although the case was settled, the Commission finds that the rights of UWERA Monique were violated because she never appeared in court in due time.

4. The case of NTESITIYA Xaverine.

NTESITIYA stays in Nyanza cell, Nyanza sector, Rwamiko district, Byumba province.

NTESITIYA together with her two aged sisters sued their brother GASIMBI Léonald in the Primary Court of Giti. They accused him of taking in 1999 their two pieces of land they inherited from their father. The case was heard and read on 14 July 2000 and NTESITIYA won the case. GASIMBI appealed in Byumba Court of First Instance under the file n° RCA 071/XXVII/2000/BY, but until this case was brought to the attention of the Commission, no decision had been reached because GASIMBI kept on refusing to appear in court while the old ladies are ever en route.

The representatives of the Commission came to the court and discussed the issue with the Judges. On 26 March 2003, GASIMBI was summoned but even on that day the case was not heard because the quorum of Judges was incomplete. The two parties were again called on 5 November 2003 and again the quorum was incomplete because allegedly some of the Judges were away on duty.

At the time this report was under preparation, the case had not yet been heard. The Commission condemns the conduct of Byumba Court for not hearing the case because GASIMBI refused to come to court. Furthermore, the failure of the Council of Judges to seat twice whereas they summoned their clients is an indication of lack of interest on the part of the Council Members especially as they gave no explanation to the concerned parties.

5. The case of NIMUKUZE Pascasie.

On 25 April 2003, NIMUKUZE Pascasie who stays in Nyabushengetwa cell, Mukono sector, Rushaki district, Byumba province brought to the Commission her complaint against her brother BUZOYA Dismas who refused that NIMUKUZE inherits property from her mother who is a step mother to BUZOYA Dismas.

NIMUKUZE sued BUZOYA in the Court of First Instance under file n° RC 357/XXVII/2001/BY.

BUZOYA was summoned several times but refused to appear until he sent his wife to answer the charges in his place.

BUZOYA wanted the hearing to be conducted at the place where the piece of land was located and it was necessary for NIMUKUZE to provide transport for the Judges. As she is poor, even confirmed so by local authorities, she could not afford hiring a car.

On 29 April 2003, representatives of the Commission went to the court to find out why the court remains silent on BUZOYA's refusal to appear in court. The court said that the case would be heard on 30 April 2003.

That day the case was not heard either and on 27 October 2003, NIMUKUZE wrote to the Commission informing them that BUZOYA had been summoned some three more times without appearing.

At the time the Commission was writing this report, the case was not yet heard because the court finds it necessary to do investigations where the land is located, and yet NIMUKUZE has no money to hire a car to transport the Judges.

The Commission finds that the Byumba Court of First Instance should not take advantage of NIMUKUZE's poverty to violate her rights to appear in court in due time.

The Commission requests higher national authorities to do everything possible to provide the courts with means to fulfil their duties. This would bring to an end the tendency of asking conflicting parties to pay for judges to finish their cases.

6. The case of MUKANKWAYA Domitila.

On 2 December 2003, MUKANKWAYA Domitille who stays in Cyanyanza cell, Nyabisindu sector, Budaha district, Kibuye province, brought to the Commission a complaint related to her husband AYIRWANDA Cyrille and his father RUBERANZIZA Ferederiko detained in Gisovu prison since March 2001. She explained that they were detained charged with mistreatment and harassment they did against a widow neighbour KARUBOGO Béata. They allegedly broke into her house and injured her.

MUKANKWAYA decided to appeal to the Commission because the case of her husband and his father had been heard on 13 September 2001, but never read. The Judges argued that they wanted to visit the sight of the crime, so as to collect further evidence. But this never took place and MUKANKWAYA appealed to the Commission for help.

On 3rd and 4th December 2003, representatives of the Commission discussed the matter with a Judge from the Kibuye Court of First Instance, who was part of the hearing jury and requested him to follow up the case, as it had taken too long.

At the time of writing this report, the Commission learnt that the Judge went to the sight to collect further evidence and that later the case was read.

The Commission finds that for the court to have waited for two years before going to look for further evidence is an indication of its poor performance. This undermines the court and adversity violates the human rights of the clients who come to it for justice to be done.

7. The case of MUKAMUSONI Beltilde versus RUKERIBUGA Jean.

On 28 February 2003, MUKAMUSONI Beltilde who stays in Gakurwe cell, Remera sector, Mugombwa district, Butare province, brought to the Commission her case file n° RC 19352/53/02 against her husband RUKERIBUGA Jean in Butare Court of First Instance. The case has been postponed several times with no explanation.

MUKAMUSONI argues that in the year 2000, she took RUKERIBUGA to court for having chased her away from his house and getting another wife. She added that he does not look after the children. She wanted to divorce her husband but the case keeps on being postponed.

Representatives of the Commission went to Butare Court of First Instance to see the reason behind that postponement and discovered that it had actually been postponed several times and the reasons recorded in the file, as indicated in the table below:

Date of the hearing	What the Commission discovered
27/2/2002	Not heard;
23/5/2002	The concerned parties did not come;
20/6/2002	One of the Judges did not come;
27/6/2002	Not heard;
3/7/2002	OMP was not available;
24/7/2002	Judges did other urgent work;
3/10/2002	Some of those who started it were not available;
3/1/2003	The prosecution is not available, it is postponed to 27/2/2003;
27/2/2003	Not heard because one of the Judges is not available, it is postponed to 26/3/2003;
26/3/2003	Judges were in a different case of Genocide in Gikonko;
29/5/2003	Judges who started this case are not available, it is postponed to 26/6/2003;
26/6/2003	Some of the Judges are doing other court duties;
28/7/2003	Postponed to unknown date;
19/9/2003	Some of the Judges are not available;
10/10/2003	Some of the Judges who started it are not available, it is postponed to 17/10/2003;
17/10/2003	The quorum of Judges is not attained;
31/10/2003	Some of the Judges who started it are not available, it is postponed to 13/11/2003;
13/11/2003	Not heard.

After realising that this case was postponed several times, the representatives of the Commission went to see the President of the court over the issue. The hearing was set for 5 December 2003. It was heard and read on 12 December 2003 and MUKAMUSONI Bertilde was declared the winner.

The Commission finds that the rights of MUKAMUSONI Berthilde were violated for not being able to hear her case in due time.

As seen from the table, the hearing of the case was postponed mostly due to the non-availability of Judges.

The Commission considers this conduct to be very bad, and takes this opportunity to request higher judiciary authorities to closely follow up this working behaviour which tarnishes the image of the judiciary in general.

8. The case of MUKANYONGA Félicitée.

On 7 March 2003, MUKANYONGA Félicitée of Nyabitare cell, Nyamirambo sector, Nyamirambo district, Kigali City, brought her complaint to the Commission seeking help in her case which was in Kigali Court of First Instance and which has been postponed several times.

On 5 May 2003, representatives of the Commission met the President of the court who told them that the court wanted to make investigations in Rulindo but lacked the means and MUKANYONGA had no means either.

At the time the Commission was writing this report, this case was not yet heard.

The Commission thinks that the court should not seek means from the clients to carry out its investigations and people should not be denied their rights of appearing to court in due time.

9. The case of UWIMANA M.Grâce.

On 17 February 2003, UWIMANA M.Grâce who stays in Byimana sector, Kicukiro district, Kigali City, brought to the Commission her complaint claiming that her case started in the Kigali Court of First Instance in 1975. She argues that she had been knocked down by RUBANGURA Védaste and in the case n° RP 6057/KIG she had claimed compensation for being knocked down. From that time, her case had been postponed thirteen times.

The Commission advised her to seek for another date because the case seemed to have stopped. She did so, and was asked to appear again in court on 9 July 2003. However, even on that day the case was not heard because RUBANGURA did not come to court.

The Commission considers that the court violates the rights of UWIMANA M.Grâce to appear in court within reasonable time. It requests further that this case which has been pending for over twenty eight years be heard as soon as possible.

10. The case of BAKUNDINKWANO Martin.

On 22 July 2003, BAKUNDINKWANO Martin who is detained in Rilima prison wrote to the Commission requesting to get his rights in the case R.P. 011/97/CS/NMTA/GDE he appealed for. He argues that the Rilima prison did not forward his appeal to the Court of Appeal in due time prescribed by the law. In this case, the prosecution accuses him of Genocide and crimes against humanity.

On 16 September 2003, the Commission wrote to Nyamata Prosecutor and the Rilima prison Director seeking explanation on BAKUNDINKWANO Martin's appeal which the prison did not forward and yet the complainant had been sentenced to death penalty.

The prison Director never answered but the Nyamata Prosecutor wrote to the Commission on 3 October 2003 saying that the case of BAKUNDINKWANO was known to them and would be dealt with fairly. Although the appeal of BAKUNDINKWANO Martin was not forwarded as the Prosecutor claims, the Commission finds that even the prosecution should have appealed against the death penalty sentence.

At the time this report was under print, the case of BAKUNDINKWANO was still pending.

The Commission finds that appealing late should not be a reason for not accepting the appeal of BAKUNDINKWANO Martin, as he played no role in its delay.

The Commission recommends that the case of BAKUNDINKWANO Martin should be heard as soon as possible so as to get him out of suspense.

11. The Case of AYABAGABO Jean de Dieu.

On 14 May 2003, AYABAGABO Jean de Dieu who stays in Gashonga district in Cyangugu province wrote to the Commission requesting that his case R.C.A. 12 386/Kig. which is in Kigali Court of Appeal from 21 May 1999 be heard. He argues that this case has been heard more than ten times. Up to the time he was writing, it was claimed that the hearing of his case was suspended because there were field visits expected to be done from 24 September 2002.

AYABAGABO claims that he had a brother by the name of KANAMUGIRE Ildéphonse who was killed during the Genocide. Likewise, all their parents were killed in Genocide and only he and his sister survived.

KANAMUGIRE Ildéphonse left his property consisting of a plot and a house. After 1994, these were taken by a certain KARANGWA Jean Claude originally from Kibuye. AYABAGABO requested KARANGWA to give him the plot but KARANGWA refused claiming that he inherited it from his father.

AYABAGABO requested the Kigali Court of First Instance to help him get the property of his brother's son. In the certificate n° 858/I.J.B./97 of 19 December 1997 he was allowed to get this property comprising of a plot and a house situated in Rwezamenyo cell, Nyakabanda sector in

former Nyarugenge District (currently Nyamirambo district) left by the late KANAMUGIRE Ildéphonse.

AYABAGABO presented the certificate to the district administration and on 24 December 1998, KARANGWA Jean Claude was summoned and he accepted to return the property within 30 days.

After the 30 days, KARANGWA did not return the property. Instead he took the matter to Kigali Court of First Instance requesting the authorization to inherit the property of the late, arguing that he was his cousin. The court accepted and in the case n° R.C. 27 216/97 of 28 December 1997 gave him the authority over the property consisting of a plot in Nyakabanda – Rwezamenyo-Nyarugenge-Kigali City, and some other unknown property.

AYABAGABO later discovered that the case had been read and he challenged the case ruling on 12 February 1998. His case was given file n° R.C. 27 799/98. This case was heard by the Kigali Court of First Instance on 11 May 1998. The court nullified the claim of AYABAGABO and confirmed that he lost the case. It ordered that the case R.C. 27 216/97 heard on 28 December 1997 remains valid and that the certificate issued to him to take care of the property, as in file n° 858/I.J.B./97 of 19 December 1997, is revoked.

AYABAGABO was not satisfied with the ruling and he took the matter to Kigali Court of Appeal on 21 May 1998 under the case n° R.C.A. 12 386/Kig. The court temporarily heard the case on 2 December 2002. The court found that before passing a ruling on the case, there was need to carry out investigations in the former Mwendo commune (in Kibuye) and Gashoma (in Cyangugu).

AYABAGABO argues that this case has been heard over ten times and it is now pending because some planned field visits are yet to be done beginning 24 September 2002. The first one was supposed to be done in Cyangugu on 14 November 2002 to find out the blood relationship between AYABAGABO and KANAMUGIRE. On that date, he waited for investigators but nobody came. He later learnt that he was supposed to pay one hundred and four thousand francs (104,000 Frw) for the per diem of those supposed to go with him plus transport and fuel. AYABAGABO feels that someone was complicating the matter so that he gives up both the case and the property.

On 20 October 2003, AYABAGABO informed the Commission that ever since he was asked to pay that money, nothing had been done. At one time, he offered to give 200 litres of fuel but they claimed per diem as well, which was to come from the Ministry of Justice and Institutional Relations.

The Commission, basing on article 396 paragraph 2, 3 and 4 of Civil cases, states that the Minister of Justice decides on payment of money to witnesses, doctors, interpreters and other professionals, as well as per diem to Judges, court clerks and bailiffs. These allowances and per diem come from the public treasury or district fund and are refunded by the losing party in the case.

Basing on this article, the Commission does not see anywhere a party to a case in court is asked by the law to pay per diem for Judges.

At the time of this report, the Commission wrote to the Vice-President (acting President) of Kigali Court of Appeal requesting him to do everything possible to remove all obstacles that hinder the hearing of this case, due particularly to the complainant's inability to pay 104,000 francs.

The Commission denounces the attitude of Kigali Court of Appeal in the handling of this case, taking advantage of the poor financial situation of one party to delay the hearing of this case.

- **Pending cases.**

- 1. The case of NSANZURWIMO Jean Bosco.**

On 28 April 2003, NSANZURWIMO who stays in Rugari cell, Mimuri sector, Ngarama district, Byumba province brought to the Commission his complaint against CODERVAM, a cooperative selling rice, accusing it of not paying him one hundred thousand francs (100,000 Frw) in exchange for his rice sold to the co-operative.

He had taken his case to Byumba Court of First Instance on 22 March 2001 under file n° RC 441/XXVII/2001/BY.

NSANZURWIMO told the representatives of the Commission that he had been called to court three times: on 17 July 2001, 30 April 2002, and 13 June 2002 when the case was heard in the absence of CODERVAM. CODERVAM lost the case but the court decision was not implemented.

Representatives of the Commission went to see the court and met the bailiff who promised them to solve the matter but at the time this report was being prepared, the case was still unsettled.

The Commission requests the relevant authorities to do everything possible to give NSANZURWIMO his rights.

- 2. The case of NDAKEMWA Jean Bosco.**

On 10 October 2003, NDAKEMWA Jean Bosco, originally from Gihindamuyaga sector in Maraba district, Butare province, who was a Judge in Canton Court of Gabiro, Umutara province, brought to the Commission a complaint relating to non payment of getting his money amounting to five hundred ninety eight thousand two hundred thirty one francs (598,231 Frw). He had won this money on 22 June 1984, in case n° 350/14.06/84 versus the Rwanda Government represented by the Ministry of Justice for having fired him illegally. His case had reached the Ministry of Finance and Economic Planning in the year 1999. Until 10 October 2003 he had got no response.

The Minister of Justice wrote to the Minister of Finance and Economic Planning on 12 November 1999 a letter n° 2278/17.03 requesting him to pay NDAKEMWA Jean Bosco the above mentioned amount of money but in vain.

On 15 January 2001, NDAKEMWA Jean Bosco himself wrote to the Minister of Finance and Economic Planning requesting that the case n° 350/14 06/84 be closed but he got no answer.

On 14 November 2003, the Commission requested the Ministry of Finance and Economic Planning to look into the issue and give a solution.

On 2 December 2003, a lawyer in the said Ministry told representatives of the Commission that NDAKEMWA Jean Bosco had not given them a copy of the ruling thus causing the delay.

He also told them that NDAKEMWA should send his bank account number to get his money. Representatives of the Commission found that he had already passed away but the Mayor of Maraba district where NDAKEMWA had gone back to stay because of illness, promised to inform his next of kin. The Commission will follow up the matter.

The Commission feels that the Ministry of Finance and Economic Planning delayed the implementation of the court ruling to the extent that the money which could have helped NDAKEMWA in his time of illness never reached him until he died.

3. The case of AHISHAKIYE Vérédiane.

On 16 May 2003, AHISHAKIYE Vérédiane who stays in Gisozi district, Gatsata sector, Rubonobono cell in Kigali City wrote to the Commission requesting to get assistance in the case n° R.C.A. 12 125/Kig.-R.C. 26 528/97 which she won against NTEZIRYAYO Venant but the ruling has never been implemented.

In this case, AHISHAKIYE Vérédiane was to get from NTEZIRYAYO Venant a sum of 52,000 Frw and 20,000 Frw for the care of the child, UMUHOZA Françoise they have had together. She was supposed to get that money from June 1997 until the daughter gets seven years old. Failure to do that, NTEZIRYAYO was to be removed from his property by Government powers.

NTEZIRYAYO paid three hundred thousand francs only and stopped. This made the Kigali Court of First Instance in its certificate n° 352/2002 of 3 December 2002 take the decision of auctioning the house of NTEZIRYAYO on 19 March 2003.

NTEZIRYAYO informed the President of the Kigali Court of First Instance that on 21 September 1998 there had been another auction in relation with the child care in the case n° R.C. 26528/97-R.C. 12 125/Kig and on 14 March 2003, the President of the Court signed another Order n° 79/MF/2003 revoking the order n° 352/2002.

On 11 June 2003, representatives of the Commission met AHISHAKIYEVérédiane who told them that since the Order n° 79/MF/2003 the implementation of the court stopped and she gets nothing from NTEZIRYAYO as childcare fee.

On 21 July 2003, representatives of the Commission met NTEZIRYAYO who told them that no single house of his was auctioned. Even the investigations made later confirmed this.

On 11 December 2003, the Commission wrote to the President of the Kigali Court of First Instance requesting him to change his decision of 79/MF/2003 of 14 March 2003. Up to now, no answer to the letter has been received.

The Commission considers that those who should implement courts decisions did not do their duty. The court also was involved, and this made AHISHAKIYE Vérédiane and her child lose their rights.

Concerning all these issues of delayed and pending cases, the Commission believes that they will get a solution in the new restructuring of the judiciary and relevant legal reforms.

e. People's disappearance.

1. The disappearance of BIMENYIMANA Boniface.

On 10 April 2003, HABYARIMANA Juvenal from Muhewe sector, Gashonga district, Cyangugu province wrote to the Commission saying that his son called BIMENYIMANA Boniface had been arrested by investigation services and detained in Kigali Military Camp and that since his arrest he had never been seen.

On 21 April 2003, representatives of the Commission met the military prosecution and were told that BIMENYIMANA Boniface was never detained in Kigali camp. The Kigali camp administration confirmed that they never saw him. They even allowed the Commission and HABYARIMANA Juvenal to visit their custodies and see for themselves. It was confirmed that BIMENYIMANA had never been there.

The representatives of the Commission continued to search in military prisons but did not get BIMENYIMANA Boniface.

After some time BIMENYIMANA Boniface came to the Commission because he had learnt that it was searching for him. He told the Commission that he had been tortured when he was in prison and that even other people who were with him were tortured. He also claimed that some of his property had been taken away and he was still worried about his security.

While further investigation still continues, the Commission requests that the security of BIMENYIMANA Boniface be ensured.

2. The disappearance of Lt Colonel CYIZA Augustin and RUNYARUKA Eliezer.

On 24 April 2003, NTAMWERA Denyse, wife of Lt Col CYIZA Augustin wrote to the Minister of Internal Security with a copy to the Commission requesting him to help her find her husband who disappeared on 23 April 2003 while he was coming from lecturing at UNILAK private university.

On 15 July 2003, a Member of the Commission met NTAMWERA Denyse who told him that she suspected that her husband LT Col CYIZA Augustin never went beyond the borders of

Rwanda and that some people told her that he was in Kami prison. She also said that she searched in many prisons but to no avail.

On 21 July 2003, NYAMAGAJU Furaha, wife of RUNYARUKA Eliezer also wrote to the Commission requesting help to trace her husband who disappeared with CYIZA Augustin.

In its investigations, the Commission discovered on 28 and 29 July 2003 that the day he disappeared, Lt Col CYIZA Augustin was with RUNYARUKA Eliezer from UNILAK University. The Commission reached the place where the car they were driving was last seen after two days from the day they disappeared. This was in Kagogo sector, Bukamba district, Ruhengeri province, 5 kms from Rwanda – Uganda border.

The Commission met the Police and the National Security and the latter informed them that the car they were travelling in was actually seen in that area and they added that some of the people who flee the country like taking that direction.

The Commission discovered that the relevant authorities had done their investigations and were continuing the search for further evidence.

At the time this report was being prepared, the Commission learnt from the Police that RUNYARUKA Eliezer had spent some days in Bukavu of D.R.Congo and he had told his friends that he and Lt Col CYIZA Augustin on the night of 23 April 2003 fled to Uganda through Bukamba district near Kagogo sector, where they left the car they were travelling in.

This information says that after two days in Uganda, they left for Congo through Rutshuru – Masisi. When they arrived in Bunyaruka, they met Interahamwe who welcomed Lt Col CYIZA Augustin because they knew him when he was still in Ex-F.A.R. RUNYARUKA Eliezer was not known to them and they became suspicious. So afraid to stay on, RUNYARUKA took off and went to where the Congolese army was operating from. He continued to Bukavu and reached there on 20 September 2003. In October 2003, a journalist of "*Canal Afrique*" may have had an interview with RUNYARUKA Eliezer.

The Commission continues to remind the relevant authorities who have started doing their investigations to find out the whereabouts of these people so as to establish the truth and inform their families.

3. The disappearance of MUYENZI Charles and Second Lt NKURUNZIZA Aimable.

In June 2003, Cpt MUYENZI Charles and 2nd Lt NKURUNZIZA Aimable who were soldiers in the Rwandese National Army fled to Uganda. They left Uganda and went to Burundi where they were arrested by the security services of that country and were detained at Rumonge brigade in Bururi province.

From 9 November 2003, Amnesty International wrote many letters to Rwandese authorities copied to the Commission.

On 8 December 2003, NDUWAMUNGU Sofia, mother of 2nd Lt NKURUNZIZA Aimable, reached the Commission and expressed her concern that she looked for her son in all prisons to no avail. Once she had gone to Rumonge and had seen them, but when she went to see them again she was told that both of them had been sent back to Rwanda.

In its investigations, the Commission met the military prosecution on 9 December 2003, and later met security services on 30 December 2003. They also met the First Secretary of the Burundi Embassy in Kigali, on 31 December 2003 and went back to investigation department. The Commission also talked to the Minister in charge of security and the Commissioner General of National Police trying to find out what the real situation was over this matter.

At the time of preparing this report, the Commission learnt that Cpt MUYENZI Charles and 2nd Lt NKURUNZIZA Aimable were in detention at Mulindi Military Prison and informed their families so they could visit them.

When the Commission visited them, it asked them if they had had any problems related to prisoner's rights and they said no.

The Commission requests that Cpt MUYENZI Charles and 2nd Lt NKURUNZIZA Aimable be taken to court of law to answer their charges as soon as possible.

f. Killing and harassment of genocide survivors and genocide witnesses.

1. Killings in Gikongoro Province.

The Commission reminds that the issue of killing and harassment of Genocide survivors and witnesses was mentioned in the 2002⁹ annual report, starting from cases brought to it and investigated upon. It was requesting the Gikongoro Provincial Police and provincial authorities to look into the security of Genocide survivors and witnesses and to co-operate in solving that problem.

What is more regrettable is that in the year 2003, this problem became more complicated and took a wider scope to the point of torturing and dehumanizing killings. It was necessary for the Commission to do something about it and write a special report¹⁰ and submit it to higher national authorities.

Those the Commission discovered were killed because they were survivors or potential Genocide witnesses in Gacaca Courts include the following:

- KARASIRA (known as KABONGO),
- NDAHIMANA Emile,
- RUTINDUKA Charles.

⁹ Annual Report for the year 2002, p. 42 – 45.

¹⁰ The Commission report on the security of genocide survivors and witnesses in Gacaca Courts, in Gikongoro province, of 18 December 2003.

The Commission discovered especially that:

- All those victims were survivors of the 1994 Genocide and potential witnesses of Genocide in Gacaca Courts,
- The killings were well prepared, neighbours of the victims did not intervene when the victims were calling for help, and some did not even come for burials,
- After killing them, there were rumours on false causes of their deaths aimed at confusing the investigations,
- Killings aim at hiding facts and undermining the objectives of Gacaca Courts,
- All those victims were killed with all sorts of brutality, atrocities degrading and inhuman treatments similar to those that took place in that province in 1963, 1973 and 1994: tying people on trees, some time when they are still alive, and throw them into rivers and macheting them with all sorts of cruelty,
- The civil administration of Gikongoro seems to have ignored this problem, be it at grass root levels, district levels and even provincial levels. They did nothing to discourage and condemn the killings,
- The judiciary in Gikongoro is challenged in some cases related to these killings,
- The ORINFOR representatives in Gikongoro played a role in hiding and keeping quiet on these killings and not exposing them.

After writing the said report, various authorities got involved into the matter and even the judiciary took interest and got involved in trying to solve it.

At the time of preparing this report, the Commission wishes to inform the public that all cases related to those killings have been taken to court and heard. They are now in Nyanza Court of Appeal and the Commission shall follow up their rulings.

The Commission requests all national authorities especially those close to the people to sensitize the population against Genocide ideology and other activities which perpetrate it and ensure the security and peace among Rwandans as this is their responsibility.

2. Harassment of BAZARAMA Marie.

As presented in the year 2002¹¹ annual report, BAZARAMA Marie was harassed and refused her rights of staying in a place of her choice because she witnessed in Genocide cases. She was also refused her rights to property and all this took place in Buriza district. In that report, the Commission was requesting district administrators to particularly take care of her security and

¹¹ The 2002 annual report, p. 42 – 43.

her property. The Commission had also shown that serious measures should be taken against RUGWIZA Froudouard as a leader who got involved in anti security activities against the people he leads and is supposed to protect.

As until 25 May 2003 these authorities had never taken the matter seriously, the Commission continued to follow up the harassment of BAZARAMA Marie.

On 17 April 2003, the Mayor of Buriza district held a meeting at sector level over the issue of BAZARAMA Marie. Many various authorities were invited in that meeting including the sector coordinator, RUGWIZA Froudouard. The meeting decided the following:

- BAZARAMA Marie should come back to her Ntarabana sector as she wishes;
- The district should rent a house for her until she gets her own;
- People should help her build a house and the district should roof it;
- The authorities should help her recover her other lost properties.

On 26 May 2003, the Commission wrote to Buliza district Mayor requesting him to give BAZARAMA Marie her rights and reminded him to implement resolutions taken in the April 17, 2003 meeting and take action against those who violated BAZARAMA's rights.

As this report was being compiled, the Commission learnt that the sector leadership, on the district's request had rent a house for BAZARAMA at a rate of 2,000 Frw a month, but after two months she could no longer pay because the sector coordinator said they were unable to continue paying her rent.

The sector administration has started building a house for BAZARAMA in a plot they gave her near the road, although it still needs so many things to be complete. BAZARAMA has not yet got her pieces of land.

Although BAZARAMA returned home and is no longer in exile, and there is a will from the district to finish this case once for all, the Commission is aware that RUGWIZA Froudouard continues to harass BAZARAMA and it continues to request that a leader like this one with a clear role in violating rights of people he is supposed to protect should be dealt with accordingly.

The Commission considers that the decisions taken should be temporary and that those who played a role in violating the rights of BAZARAMA Marie, including RUGWIZA Froudouard, should pay the rent and pay for the properties they stole or destroyed and the money taken from the district should be returned.

g. Property-related cases.

On personal and individual property complaints, the Commission received complaints related to houses, land and cattle.

1. The Case of NYIRABUKARA Daphrose.

On 13 November 2002, NYIRABUKARA Daphrose, an old lady aged 87 staying in Kanunga cell, Muhima sector, Kigali City, wrote to the Commission requesting to get back her house left to her by GAKWAYA Etienne, her son. She said a woman known as KAMANZI Agnès is now claiming to have had a child with GAKWAYA Etienne, called NZARAMYIMANA Joselyne and wants to take the house.

The investigation conducted by the Commission revealed that:

- On 30 January 1997, the Kigali Court of First Instance confirmed in the case n° RC n° 26124/96 that NZARAMYIMANA Joselyne is a daughter of GAKWAYA Etienne.
- On 2 October 1997, KAMANZI Agnès who had asked on 7 May 1997 that NZARAMYIMANA Joselyne inherits the house of her late father GAKWAYA Etienne from the property she won in case file n° R.C. 26.687/97, to look after the property of the child left by her father GAKWAYA Etienne.
- On 18 April 1997, NYIRABUKARA Daphrose was given by the Kigali Court of First Instance a certificate n° 267/I.J.B./97 of looking after the property left by her son GAKWAYA Etienne.
- On 22 July 1998, a certain KAMONDO Simon who wanted to help NYIRABUKARA, and is an uncle to GAKWAYA Etienne, made an injunction n° R.C. 26.124/96 and n° R.C. 26.687/97 case registered under n° R.C. 28.345/98. KAMONDO Simon lost the case and the cases decided by the Kigali Court of First Instance remained as they were ruled.
- On 20 September 2002, on the appeal made by KAMONDO Simon, the Court of Appeal residing in Kigali confirmed that KAMONDO lost the case and confirmed that NYIRABUKARA Daphrose or younger brother to GAKWAYA Etienne be the bona fide claimers of the property.

After realizing that someone else made the injunction, the Commission advised NYIRABUKARA to be the one presenting her complaints because she is the one known in these cases.

The Commission regrets the decision by the Kigali Court of First Instance and the authorities who gave two different certificates which created unnecessary conflicts between NYIRABUKARA Daphrose and KAMANZI Agnès, which is still a pending matter.

2. The case of NYIRATUZA Florence.

On 16 January 2003, NYIRATUZA Florence who stays in Ruhingo cell, Kibingo sector, Rutsiro district in Kibuye province, brought her complaint to the Commission claiming that since her husband HITIMANA Emmanuel died, his brothers YAMURAGIYE Nathani, UWIMANA Athanasie

and SHIMIYIMANA Kayizeri chased her away from her property. The property consists of one house, five pieces of land and two cows.

The investigation carried out by the Commission revealed that NYIRATUZA had actually lost her property to her husband's brothers. Even the child she had had with HITIMANA had been taken by the brothers as a means to claim the property.

In attempt to find out what the authorities did to save the situation, representatives of the Commission went to the Rutsiro district authorities so that together they could find a solution and help NYIRATUZA get back her property and her child.

Finally, NYIRATUZA returned to her land and got the property the husband left. The district authorities took the opportunity to ask her brothers-in-law to follow up and see that NYIRATUZA carefully looked after the property for the betterment of her child.

The Commission considers that the decision made by Rutsiro authorities of giving NYIRATUZA's brothers-in-law the right to control the use of that property is a violation of her rights as a legal wife who has all the rights to look after her child and her property left by her husband. The Commission considers that Rutsiro authorities should have respected what is enshrined in the law governing the property of married couples, inheritance and gifts.

3. The case of MPEZAMIHIGO NKURUNZIZA Jean Népo.

On 13 August 2003, MPEZAMIHIGO NKURUNZIZA Jean Népo, son of NSHIMYABAGABO Paulin and NYIRANDEGEYA Verediyana, wrote to the Commission claiming that the Bicumbi district authorities took a decision to divide the property of his mother, won in case n° R.C.A. 10 297 of September 1993 at Kigali Court of Appeal against NSHIMYABAGABO Paulin and NYIRABAGUFI and distributed it, giving part to some people not involved in the case.

On 16 October 2003, the Commission requested the Bicumbi district authorities to explain the situation of that case.

On 29 October 2003, Bicumbi district authorities responded to the Commission giving an explanation that they divided the land in accordance with the policy of sharing and social welfare, for the benefit of the four children of MPEZAMIHIGO NKURUNZIZA Jean Népo who have nowhere to live.

On 5 January 2004, after these explanations, the Commission informed the Bicumbi Mayor that he should respect the court decision in relation to that land.

On 2 February 2004, the Commission followed up the negotiations led by the Bicumbi district authorities in attempt to solve the case of MPEZAMIHIGO NKURUNZIZA Jean Népo and MUKESHIMANA Immaculée, the mother of the four children left by MPEZAMIHIGO's brother.

MPEZAMIHIGO Jean Népo and MUKESHIMANA Immaculée accepted the decision taken by those who had come to solve the problem. So, MUKESHIMANA Immaculée and her four

children remained with the part of land they were occupying pending the decision on inheritance issues.

At the time of preparing this report, the Commission learnt that MPEZAMIHIGO NKURUNZIZA Jean Népo accepted to add some few meters on what had been allocated to him by the district committee on 9 July 2003.

The Commission commends this kind of settling differences through mediation and conciliation and recommends that this should serve as a good example to be emulated throughout the country, in setting ordinary cases among the population.

4. The land issue of NIYONSENGA Augustin.

On 23 June 2003, KAKIBIBI Esta, wife of NIYONSENGA Augustin of Gatagara cell, Nyagatovu sector, Muhazi district, Kibungo province, brought a complaint to the Commission in connection with a piece of land under the care of her husband who is currently in detention.

In 1996, GASIGWA Théoneste claiming to go on studies in Kigali, left to NIYONSENGA Augustin a property consisting of 40 by 40 meters of banana plantation, located in Gitagara of Nyarutovu in Muhazi district. Then, GASIGWA was never seen again. MUTETERI Médiatrice took NIYONSENGA to court claiming the right of looking after GASIGWA's property since he was her cousin brother.

The case was submitted to the Kibungo Court of First Instance in case n° RC 1124/2001/KGO and MUTETERI Médiatrice lost the case. It was decided that NIYONSENGA won the case and that he should continue to look after the property left by GASIGWA.

MUTETERI was not satisfied, for in the meeting held by the Provincial Prefet, KIMONYO James in February 2003, she raised the issue of that land and wanted it to be given to her or if not, to be given to somebody else who has no banana plantation. The plantation was immediately given to a woman called MUSABYEYEZU. The meeting ended before NIYONSENGA got a chance to explain his case.

When NIYONSENGA came to harvest one bunch of banana, MUTETERI took him to court and the Police detained him in Kayonza where he spent three days on charge of theft, undermining the authority and harassment.

When the Commission learnt that he was in detention, on 24 June 2003, it went to Kayonza Police to find out the truth, and found that NIYONSABA was actually detained there.

The Police Commander of Kayonza, SHADARAKE, argued that NIYONSENGA was detained on charges against him namely, theft, undermining the authority and harassment.

In the opinion of this Police Commander of Kayonza, NIYONSENGA was legally detained and his file was in fact almost reaching the prosecution.

After these explanations, the representatives of the Commission showed him a copy of the case NIYONSENGA won in court to look after GASIGWA's property. The Kayonza Police Commander said that they had never seen it before and they were implementing the order of the Prefet. Later, NIYONSENGA was released.

The coordinator of Nyagatovu sector, BUTARE, who also was aware of that case, told the Commission that NIYONSENGA was looking after this land but when other instructions were given, he implemented them immediately.

The case did not end there because on 24 June 2003, the very day NIYONSENGA Augustin was released, he was re-arrested by the Police of Kayonza and sent to the Office of the Prosecutor in Kibungo where he was detained in Kibungo prison for three days.

On 26 June 2003, representatives of the Commission went to see the Prosecutor handling the case of NIYONSENGA and explained the injustice made to him and they showed the copy of the court ruling in the case NIYONSENGA had won. NIYONSENGA was released on 27 June 2003.

After realising that all involved did not have the same understanding on the matter, on 10 July 2003, representatives of the Commission went to meet the Prefet of the province, explained the case and the Prefet said that in the meetings with the people held at Nyagatovu sector he never got to know about that case. The Prefet said that he was going to give instructions so as to finish it.

But this was not the case because the issue came back for the second time to the Commission after it had been dealt with in July 2003 as explained above. It resurfaced again in the letter n° 389/07.22/08 of 31 October 2003, the Muhazi district Mayor wrote requesting NIYONSENGA to leave the property in favour of MUSABYEYEZU who got it from the Prefet of the province.

After getting this case for the second time, the Commission wrote to the district Mayor on 3rd December 2003 requesting to know about the case, especially that they had defied the court decision. The Muhazi Mayor never responded to the letter.

Since the case involved the Prefet of the Province, the Commission met him and asked him how to solve the case. The Prefet was surprised to realize that it was still unresolved and he immediately ordered the Muhazi district Mayor to let NIYONSENGA keep the property in his custody.

The Commission considers that civil and military authorities should always respect courts decisions and be more analytical and complementary in implementing these decisions.

5. Illegal appropriation of the Land of NKUNZURWANDA Raphaël.

On 5 December 2003, NKUNZURWANDA Raphaël who stays in Kibare cell, Matongo sector, Kigarama district, Kibungo province brought to the Commission a complaint concerning the

taking away of his land and being beaten. NKUNZURWANDA argued that KARERA Evariste had taken from him the piece of land allocated to him during the distribution of land exercise.

In their investigations, the representatives of the Commission realised that KARERA had another piece of land. NKUNZURWANDA told the Commission that the case had reached the Police but the latter never let him explain the case. The Police rather forced him to write saying that the land was not his and when he refused to write, he was beaten.

He added that on 23 September 2003, he finally accepted it under pressure of the beating. NKUNZURWANDA Raphaël added that all this was done because of the relationship between KARERA and the Prosecutor MAZIMPAKA Fred.

On 15 December 2003, the Commission wrote to the sector coordinator of Matongo asking him to solve the problem. On 18 December 2003, representatives of the Commission went to find out the real issue and found that the sector council had decided that NKUNZURWANDA gets back his whole property and that KARERA remains with what he got during the land distribution exercise.

The Commission requests the police authorities to investigate on the matter and whether NKUNZURWANDA could actually have been beaten by the Prosecutor MAZIMPAKA Fred.

6. Appropriation of the family property of GAHIMANO Fabien.

On 18 May 2003, GAHIMANO Fabien who stays in Bugarura cell, Kirehe sector, Rusumo district, Kibungo province, brought the complaint to the Commission claiming that the sector authorities had taken away his property consisting of land, houses and banana plantations. The case reached the Commission because the district authorities had neglected it.

After the 1994 Genocide, GAHIMANO Fabien remained an orphan but remained with his father's properties. They comprised of 6 ha of banana plantation, four houses and arable land for farming. All these were in Rurenge cell, Kirehe sector, Rusumo district. GAHIMANO says that during the land distribution exercise in March 1998, each and everything of his was taken, such that he had nowhere to stay. He then ran away to Tanzania. He later came back and got the assurance from the authorities that he would recover his properties but nothing was done. GAHIMANO accepts sharing like others but does not understand how he can be thrown out of his father's properties and remain with nothing.

In attempt to find out explanation on this issue, on 19 September 2003, representatives of the Commission met the Mayor of Rusumo district, NTABYERA Emmanuel who said that he knew the case and decided to solve it urgently.

On 10 October 2003, representatives of the Commission went to the home of GAHIMANO and found that he had got back his properties. One house had been used by the sector coordinator who returned it immediately. The second had been destroyed by a woman called Frida who currently stays in Umutara. The district Mayor said he would follow it up so as to replace the stolen

toles. The third house had been destroyed during the war and reconstructed by another person who now accepted to give it back.

The Commission denounces the way the Rusumo district authorities ignored the rights of GAHIMANO to have where to stay and his property until he had to run away to Tanzania. The Commission considers that the woman known as Frida should be made responsible for rebuilding GAHIMANO's house which she destroyed.

7. Illegal appropriation of the land of BATUMANYEHO Evariste.

On 16 August 2003, BATUMANYEHO Evariste who stays in Nyarubande cell, Gashangiro sector, Ruhengeri town, brought his complaint to the Commission. He said that Cyuve sector Coordinator had given away the land which he had been cultivating for the last 13 years. He said the land was given to his sister, NYIRARWANGO and yet their case over this piece of land was still in the Court of First Instance.

BATUMANYEHO Evariste accused his sister NYIRARWANGO in the Town Canton Court, but he lost the case. He then appealed within required period as indicated in the appeal document and a date was fixed for the two parties to appear to court.

The Cyuve sector Coordinator wrote to BATUMANYEHO requesting him to get out of the piece of land immediately after getting the letter, for the Canton Court had decided the case against him. The Coordinator did this knowing very well that BATUMANYEHO had appealed and that they were ready to appear in court. After the Coordinator had given the letter which looked like a court decision though he was not authorised to, NYIRARWANGO immediately started cultivating the land knowing very well that it was still in dispute.

On 27 August 2003, representatives of the Commission met the sector executive secretary (he was the only authority available in this sector) RWAJEKARE Gervais, and told him that nobody can implement decision on a case which had been appealed against. They explained him that the property in dispute remains in the same hands until the case is settled once for all.

The sector Coordinator informed representatives of the Commission that the sector council didn't know of the implementation of the court decision, but that the coordinator did it on his own.

On 28 August 2003, BATUMANYEHO Evariste informed the Commission that the sector coordinator had refused him his rights over the land and told him to take the case wherever he wanted.

On 5 September 2003, the Commission took the matter to the President of Ruhengeri Court of First Instance who in return wrote to the sector coordinator showing him that he had taken the law in his own hands and that he should return the land to the original owner until the case is settled.

Later, the Commission learnt that BATUMANYEHO got back his piece of land.

The Commission condemns the behaviour of the Cyuve sector coordinator because he violated the rights of BATUMANYEHO when he took the decision to go against the law, and implement decision on a case appealed against.

8. Appropriation of the land of HABIMANA Fidèle.

On 28 October 2003, MUKAGAHIGI, wife of HABIMANA Fidèle, brought to the Commission a complaint saying that her husband was detained following injustice done to him by Bugarama district authorities in Cyangugu province.

MUKAGAHIGI claims that in the year 1997 HABIMANA Fidèle and his family returned to Rwanda from Tanzania where they had taken refuge in 1994. When they arrived at their original place in Rurenge cell, Gashenyi sector, Muvumba district, they found that a man called GASAGURE and his brother Antoni who were old refugees of 1959 had occupied their land. HABIMANA and his family couldn't get a place to live in, so they left to look for another place. They went to Gashenyi, in Muvumba district and told the area coordinator who also informed his colleague of Bwera asking him, in a letter dated 15 June 2000, to help HABIMANA get somewhere to live. The Bwera Coordinator together with the rehabilitation and reinstallation committee of that time got him a place to live.

After settling at the new place and building a house there, the Bugaragara district authorities gave the land to KAMPAYANA Augustin, and HABIMANA was thrown out.

In the letter n° 270/07/40/01 of 12 April 2001, the Prefet of Umutara province wrote to the Bugaragara district Mayor, GUMIRA James requesting him not to remove HABIMANA's family from his land. This was futile because HABIMANA continued to be harassed. He was even detained in connection with a cow of KAMPORORO Peace which fell in one of the pits dug next to HABIMANA's house to trap down animals. He was later released by the Umutara Court of First Instance, case n° RP 273/R2/02/MTR and n° RMP 120.867/S1/HL where he had been charged with killing KAMPORORO's cow. HABIMANA was released after eight months in detention.

On 7 September 2002, representatives of the Commission went to see the Prefet of Umutara NTABANA Innocent and told him what had happened. He promised he was going to follow up the case.

After his release, HABIMANA Fidèle took his case to the Minister of Local Administration and Social Affairs. The Minister gave him a letter requesting the Prefet to solve his problem.

On 12 May 2003, HABIMANA Fidèle was again detained and his family was thrown out by force by the deputy district Mayor in charge of social affairs in Bugaragara district, accompanied by NEMEYE Eugène, a Nyagatare Policeman NYAMUTERA Prudence and the head of local defense forces in Bugaragara district.

On that day also his three houses (3) and other properties which had remained were burnt in broad daylight, as witnesses informed representatives of the Commission. The wife of HABIMANA told representatives of the Commission that the burnt property included a sewing

machine, a sac of sorghum, a big table, hens and other things which could not fit in the police car. Their cows were brought to them later at their new place. Representatives of the Commission went to the place where the burnt houses once stood.

On 23 May 2003, representatives of the Commission went to see the Prefet of Umutara and talked on telephone to the Bugaragara district Mayor requesting him to return back HABIMANA and his family, resettle them to their land and construct him a house. They ordered the Mayor to get toles for the roof.

On 7 October 2003, the Bugaragara district Mayor met representatives of the Commission and told them that he had given the land of HABIMANA Fidèle to KAMPAYANA Augustin who had transformed it into a farm for his cows.

He added that his decision was irrevocable and that HABIMANA had been given another place in Matimba sector in Bugaragara district. The Commission realised that this was a way of silencing HABIMANA because the land said to have been given to him actually belonged to someone else and had a banana plantation on it. It is clear that if HABIMANA had taken it, this could have caused some other conflicts between him and the owner.

The Prefet of Umutara continued to request the Bugaragara district Mayor to look into the matter, but by the end of the year 2003 nothing had been done.

At the time of preparing this report, the problem was still not settled by the Mayor of Bugaragara. HABIMANA Fidèle was released but he continued to be harassed. He finally decided to leave the district with his family and go to live with his father-in-law in Rukara district.

The Commission requests the Bugaragara authorities to render justice to HABIMANA Fidèle and reinstall him in his land without any further harassments. He should also get compensation for his property that was burnt.

The Commission disapproves the Bugaragara district Mayor who used his position to violate the rights of the people he was supposed to protect. The Commission also takes this opportunity to request that leaders of that area who played a role in harassing a citizen and thus disrespecting higher authorities, should be followed up according to the law, because this portrays a bad picture of authorities in general.

The Commission considers that security authorities in the district should be very careful and keen so local leaders would not lead them into activities violating human rights.

9. Illegal appropriation of the house of NYIRAGITEYITEYI Félicité.

On 14 July 2003, NYIRAGITEYITEYI Félicité who stays in Gisenyi but registered in Rukoro cell, Muhoza sector, Ruhengeri town, brought to the Commission her complaint arguing that the Mayor of Mutobo district, SAMVURA Epimague, had made it difficult for her to get back her house located in the former Nyakinama which was designated for resettlement of former 1959 refugees.

As mentioned above, this old lady is one of the 1959 refugees who got a house and was given land in the former Nyakinama commune (which was joined with Mukingo to become today's Mutobo district).

In the years 1997 and 1998, due to insecurity that characterized the district at the time, NYIRAGITEYITEYI fled to Gisenyi. When security was restored, she returned to her former place only to find her house occupied by NKUBITO, commonly known under the popular name of KADAFI. The latter refused to move out.

NYIRAGITEYITEYI took the matter to local authorities but NKUBITO refused categorically to give up the house. She then took the matter to the district authorities.

On 25 March 2003, the district Mayor, SAMVURA Epimaque sent a letter n° 230/07.19/02 to the Coordinator of Kanza sector where the house was located, asking him to remove NKUBITO from the house. This also was in vain.

On 21 April 2003, the Kanza sector coordinator replied to the district Mayor explaining that NKUBITO had refused to obey sector authorities.

In a letter n° 241/07.19/02 of 28 April 2003, the district Mayor wrote to NKUBITO giving him 15 days to vacate the house but he refused. Later, NYIRAGITEYITEYI came to see the district Mayor who told her that she no longer had any right to that house because she allegedly had sold the land allocated to her. NYIRAGITEYITEYI denied this and explained that due to insecurity at that time, she had simply left it to someone for temporary use.

When the Mayor of the district refused to help her, NYIRAGITEYITEYI called upon the provincial authorities. On 5th July 2003, in a letter n° 1145/07.19/02, the Prefet of the province wrote to Mutobo district Mayor requesting him to send him a report on the issue urgently. In his response (letter n° 392/07.19/02 of 16 June 2003), the district Mayor said that during the exercise of old case refugee resettlement, NYIRAGITEYITEYI registered for both Gisenyi and Ruhengeri. She later decided to settle in Gisenyi and sold the land and house in Nyakinama.

On 25 July 2003, representatives of the Commission met the district Mayor who told them that NYIRAGITEYITEYI could get her house back only if someone helped her pay one hundred sixty thousand francs (160,000 Frw) to be given to the current owner of the land who had bought it. NYIRAGITEYITEYI explained that she had not sold the piece of land, but had only lent part of it for temporary use.

On 19 September 2003, a representative of the Commission again wanted to know from the district Mayor about the case. He said that he had left the matter to the two families, especially that they are said to be related. Although he accepted to report the outcome to the Commission, at the time this report was published, nothing had been done.

The Commission denounces the behaviour of Mutobo district Mayor who clearly played a role in refusing to give to NYIRAGITEYITEYI her house and thus violating her rights to a shelter. Fearing for her own security should not be a reason to lose her house.

The Commission further requests the Ruhengeri Prefet to play a role in solving this problem.

10. Selling the cows of SEBURIKOKO Georges and his friends.

On 20 February 2003, the Commission learnt about the case concerning the cows belonging to SEBURIKOKO Georges, which had been captured and led to Kigali for slaughter. The Commission then made an investigation on 13 March 2003 and took to higher national authorities a special report¹² on the issue. The said cows had been suspected to have foot disease (Uburenge), because a certain SERUHAGO David had brought infected cows from Uganda and put them together with those of SEBURIKOKO.

In its report, the Commission explained that the punishment did not follow the procedures prescribed, in case the property seized is the only source of the owner's family income.

After investigation, the Commission discovered that the laws related to fighting foot disease "Uburenge" are not well known, because they have not been published in the Official Gazette. As a result, these laws are difficult to follow and this can be a pretext for violating people's rights and encouraging bribery or corruption.

It was discovered also that the cows from Uganda and those from Rwanda were not butchered on the spot immediately, as the 18 July 1938 decree states. They were escorted through Nyagatare and Bugaragara districts before they were loaded into lorries at the Karangazi market and taken to Kigali where they were butchered. Moreover, the owner of the cows was given no written document authorising his cows' slaughter, as required by the above-mentioned law-decree.

Again, the decision was taken without any investigation done on those involved in this act, bearing in mind that a crime is imputed personally to the one who committed it. According to the investigation findings, apart from the cows of SEBURIKOKO, other cows slaughtered included those of MUKABUGINGO Béatrice, KALISA Fred, SEMATAMA Samuel, MUKANGARAMBE Agnès and MUKANKOMBE Félicité.

The impact of the punishment was not limited to the criminal alone but also had adverse repercussions on the cow owners' families which depended entirely on those cows for a living.

Going by the reasons given in its report, the Commission requested higher national authorities to take strategies aimed at discouraging all orders contradicting the existing laws, thus violating human rights.

The Commission also requested that SEBURIKOKO and his friends be compensated. It requests any authority concerned with such issues as the fight against foot disease should act in collaboration and complementarity with other legal and judicial institutions.

¹² Commission report on the seizure and slaughter of cows belonging to SEBURIKOKO Georges.

Although the Commission is aware that national leadership has a duty to prevent all diseases that may contaminate animals and this in the great interest of the people, there should also be consideration as to the protection of the people's fundamental rights.

Since the decree of 28 July 1938 is rather outdated, the Commission recommended the decree's reviewal and introduction of laws adapted to the modern situations and protecting not only the people's interests in general but individual's interests as well.

At the time of this report, the Commission learnt that SEBURIKOKO and his friends had not received any compensation.

11. Seizing the cows of KAREKEZI Pascal.

On 29 April 2003, KAREKEZI Pascal of Kirengeri cell, Nyagasozi sector, Ntenyo district in Gitarama Province, brought his complaint to the Commission arguing that the Ntenyo district Mayor, BARIHUTA Aimé had stopped his cows from grazing, arrested them and locked them in the district office.

In following up this case, representatives of the Commission wanted to know whether KAREKEZI did not break any law or whether his cows were not becoming a nuisance to environment, security or public interest. KAREKEZI told the representatives of the Commission that the district Mayor had picked only on his cows from among many others. There were no laws broken nor hinderance to public interests.

The representatives of the Commission were told by the district Mayor that he arrested those cows because KAREKEZI had once again grazed his cows along the road leading to Ntenyo district contrary to the warning given to him earlier.

On 29 April 2003, representatives of the Commission met the Prefet of the Province and the Ntenyo district Mayor to discuss this issue. They came to a conclusion that KAREKEZI should get back his cows. The authorities may follow him up for any other crime.

12. Taking of the cows of GASHEGU MUNYANTARAMA.

On 6 December 2002, GASHEGU MUNYANTARAMA who stays in Rugeshi cell, Mukamira sector, Buhoma district, Ruhengeri province brought to the Commission his complaint. He said that on 16 November 1998 Major MUKASA CYUBAHIRO took by force his five cows which he had just bought from SEROMBA. Major MUKASA did this with MUTABAZI who was a Sergeant at that time but whose whereabouts today, he doesn't know.

On 16 November 1998, Major MUKASA and Sergeant MUTABAZI arrested GASHEGU and SEROMBA and detained them and their cows at Mukamira military barracks.

GASHEGU took the case to the military prosecutor's office in Ruhengeri but the matter was never followed up. On 6 October 1999, he wrote to the Military Chief Prosecutor in Kigali who sent the case back to Ruhengeri. The case continued pending until it reached the Commission.

GASHEGU spent 21 days in Mukamira Military Prison. A council of cow vendor businessmen met and decided to call for help from MULINDAHABI Joseph, the Bourgmestre of former Nkuli commune and GASHEGU was released. He told representatives of the Commission that Major MUKASA had threatened him and pushed him to signing that the cows were not his.

Those cows stayed in Mukamira barracks for quite sometime and some even got calves there to the extent that even to day one descendant of these cows is still in Mukamira barracks.

On 6 December 2002, representatives of the Commission reminded the Kigali Military Prosecutor about the case, so that it could be followed up. The file was not found because the Prosecutor argued that it had been sent to Ruhengeri and that they were going to look for it and follow the case up. Because they continued ignoring him, on 12 November, 2003 GASHEGU brought back the case to the Commission.

On 18 November 2003, a representative of the Commission, after getting Major MUKASA's telephone number, called him and asked him about the cow. Major MUKASA answered that he did not know who took him to court. Although Major MUKASA promised the representative of the Commission to go to Ruhengeri and discuss the issue, at the time this report was under print, he had not yet gone.

The Commission requests the Military Prosecution and Military high authorities to investigate into this case and give this citizen his rights. The Commission also requests all those involved in this case to be investigated on and punished by the law.

13. Auctioning cows of Muvumba district inhabitants.

On 18 December 2002, 26 cows belonging to TWAGIRAYEZU Léonidas who stays in Gishuro cell, Tabagwe sector, Muvumba district, Umutara province crossed the border to Uganda and reached 300 meters inside Uganda. They were arrested by Uganda local defense forces. The owner of the cows stays at 200 meters from the Rwanda/Uganda border.

When the cows were released, the local leaders of Tabagwe sector stopped them from entering the country, fearing that they could have caught foot disease (Uburenge) from Uganda. The cows remained in no man's land. TWAGIRAYEZU was then arrested and detained in Muvumba district cell for one week.

On 16 December 2003 these cows which had been put in Buziba quarantine were auctioned by a delegation from the Ministry of Agriculture, Livestock and Forestry. This delegation was led by GAFARASI Isidore in charge of livestock, accompanied by ZIMURINDA Justin in charge of Agriculture and Livestock in Umutara province. There were also representatives of Buziba Police Station led by MUDACOGORA Damascène.

NZARAMBA Gérard and his family consisting of his wife and two children staying in Tabagwe cell, Tabagwe sector, Muvumba district, Umutara province with their 18 cows fled to Uganda crossing through Tabagwe from where they were returned to Rwanda. This family and

their animals were put in quarantine at Buziba, along the Rwanda-Uganda border. NZARAMBA Gérald was released on 13 December 2003 and went to the quarantine where his animals were in detention.

On 16 December 2003, the police and local defense forces chased him away from his cows. These were with those of TWAGIRAYEZU Leonidas and then were all auctioned by the delegation from the Ministry of Agriculture, Livestock and Forestry. This auction was understood to be a punishment to these people because their cows had gone beyond the border and entered Uganda. This auction of cows generated one million six hundred ninety five thousand francs (1,695,000 FRW) and this money was put to the account of those in charge of controlling livestock importation.

In their investigation, the representatives of the Commission discovered that in Gishuro cell, Tabagwe sector where TWAGIRAYEZU stays, there was no sign whatsoever marking the real border between Rwanda and Uganda. Leave alone animals, even peasants cultivate until they are stopped by their neighbours from Uganda. This is an evidence that this citizen never intended to take his cows across the border.

It is also clear that the people are afraid that their animals shall be always sold like that, especially that the border does not have any clear demarcation line. This concern was expressed by the sector coordinator of Tabagwe.

The representative of the Commission also found that the life of these cow owners had terribly degenerated especially because they all had young children who lived mainly on these cows' milk.

The Commission considers that selling people's cows without a court's authorisation amounts to violation of their rights.

The Commission requests that all those people who had their cows auctioned should get a compensation in form of money equivalent to their cows' value.

The Commission requests higher national authorities to give serious consideration to this matter and solve the problem. Laws preventing the spread of animal disease should be put in place in the interests of the public and individuals alike.

h. Other complaints related to property.

Concerning property, the Commission received also complaints related to land distribution and properties of old case refugees of 1959. This point was thoroughly dealt with by the Commission in both the 2001 and the 2002 annual reports. As the provisions of the Arusha Peace Accord in relation to return of refugees were not implemented immediately, some returnees wanted to get back their properties and this caused many conflicts which were solved in some places by sharing land. Although these problems were resolved in some places, it is not certain that all parties involved were satisfied. An example of this is the case of BINAMA MASIKINI Déogratias who claims to be given back his land located in Kigenge cell, Isha sector, Impala

district, Cyangugu province. Immediately after his return from exile, BINAMA was given the property he had left behind. Later the district obliged him to share it with NGIRUWONSANGA who was owning it before BINAMA returned.

The Commission considers that a land law should be enacted urgently to solve once for all property problems of old case refugees of 1959.

i. Cases related to Children's rights.

1. Violation of MUKAMURANGWA Evelyne's rights to education.

On 19 March 2003, MUKAMURANGWA Evelyne who stays in Joma sector Kabagali district, Gitarama province wrote to the Commission requesting for help so that she can go back to school. She added that her mother is deaf and she has nobody else to follow up her case.

MUKAMURANGWA is a child who abandoned school because her real father RUFOKO Abiya refused to implement the court decision in the case n° RC 31.190/99 he had versus his wife, NYIRARUKIRIZA Perusi in the Kigali Court of First Instance. She had claimed to be provided with food for herself and the children she had had with him legally.

On 2 December 1999, the court ruled that NYIRARUKIRIZA Perusi should be paid by RUFOKO ten thousand francs (10,000 FRW) francs every month to feed them. This money was supposed to be deducted from RUFOKO's monthly salary of 59,174 Frw paid by RWANDEX where he worked as a watchman, from 4 November 1986 to 30 September 2002 when he retired.

RUFOKO gave this money once before he retired. In order to implement the court decision, the court bailiff wrote to the director of the cooperative bank requesting that the money RUFOKO Abiya had put in the bank as gratuity does not be given to him directly but should be put to the court. Thus the court could implement its decision.

In its investigation, the Commission found that the complaint of MUKAMURANGWA Evelyne was based on the worry that this case ruling may not be implemented. The reason behind her worry was in fact that the authorities she contacted did not explain to her the procedures to follow so as to get her problems solved.

On 27 October 2003, the Commission wrote to the Director of the Workers Saving Bank, requesting him to quickly sort out the case of MUKAMURANGWA and her father RUFOKO Abiya because her rights to education were being violated due to lack of school fees. Thus the court Bailiff of Kigali court of first instance who had written the letter n° 82/06.04/HS/BA of 25 February 2003, requesting to put the money on the account of the Kigali Court of First Instance would be able to settle the matter.

On 09 December 2003, the Director of the Workers Saving Bank of Rwanda wrote to the Commission responding to their letter and informing the Commission that RUFOKO Abiya had been allocated 990,682 Frw given only once as retirement allowance.

In accordance with article 2 of the Ministerial decree n° 09/19 of 11 March 2003 stating the fixed percentage to be deducted from one's salary, the Director of the Bank informed the Commission that to the court will be sent the sum of 330,227 Frw equivalent to 1/3 of the money from RUFOKO's savings. The Kigali Court of First Instance Bailiff was given a copy of the letter.

At the time this report was under preparation, the Commission learnt that MUKAMURANGWA Evelyne had gone back to school and she is currently studying at ESAPAG, Gitwe.

The Commission is satisfied with the co-operation that existed between the Bank and the Commission itself in settling this case and the other institutions should indeed emulate this example.

2. Violation of KANYANGE Joselyne's rights to education.

On 16 July 2003, NYIRAHABIMANA Fortunée of Gasharu cell, Nyanza sector, Butare town wrote to the Commission arguing that her daughter KANYANGE Joselyne who was in secondary 2 (the academic year 2002-2003) at ENP/TTC Save school had been returned home due to lack of school fees.

The school administration said that it was not until January that they realised she no longer attended school. Sometime later, one NYIRAHABIMANA went back to school to inform them that the girl could not get the school fees and asked for the possibility for her to repeat the year in case she happened to secure the money.

The school administration turned down the request because KANYANGE did not have any document from MINALOC or FARG. From that day, the school authorities got no follow-up and considered the girl as a drop out.

On 12 March 2003, KANYANGE and her mother went to school requesting that she repeats the year 2003-2004 because she had got money from donors. The money had actually been put on the ENP/TTC's bank account n° 0030034-04-24 in Bank of Kigali, Butare branch.

The school administration said they would look into the matter and give her an answer at the beginning of the school year, in July 2003. When NYIRAHABIMANA went for an answer, she was told that the child had been sacked, thus NYIRAHABIMANA came to the Commission for help.

Representatives of the Commission went to see the catholic school representative in Butare, MUGEMANA Wellars and explained to him the whole issue. They explained that the girl had left school because she was poor and could not get school fees, that the school got informed of this and that later she had got donors to help her. The Commission requested him to look for a school for the child so her rights to education could be protected. He accepted to assist.

The Commission learnt that KANYANGE Joselyne is now in Kansi secondary school.

The Commission observes that the ENP/TTC administration ignored the rights of the child and realises that this administration should be characterised by co-operation with parents.

Furthermore, the Commission would like to point out that the ENP/TTC Save ignored the Government policy on education. According to this policy, no child should be sacked because she could not get school fees. The Commission takes this opportunity to request the Government to follow up the implementation of this policy so that no school evades it deliberately. The Commission requests the Government to look into the financial assistance to schools as enshrined in law n° 20/2003 of 3 August 2003 towards the implementation of this policy.

j. Cases related to employment and labour rights.

1. Non-payment for a job done by KAYUMBA Gilbert.

On 19 August 2002, KAYUMBA Gilbert wrote to the Commission claiming his money from Rwanda Journalists Association (ARJ), money he worked for for two years without pay. He worked for this association from 1st August 1999 to 30 September 2001 selling their papers in a kiosk at Rusumo. KAYUMBA Gilbert took this case to various levels and they wrote to the administration of this association asking it to solve KAYUMBA's problem but in vain.

On 7 and 20 November 2002, a delegate from the Commission followed up the issue to ARJ leadership and realised that they admitted KAYUMBA's claim. They added that many of their workers in different provinces had this problem. In their investigation, representatives of the Commission learnt that non-payment of these workers was due to the bankruptcy of ARJ caused by the former management.

At the time of preparing this report, the Commission wrote to the ARJ administration asking them to pay their former employees because the Association was still operational and had property.

2. Non-payment of honorarium of KAYIRANGWA Charité and friends.

On 7 October 2002, KAYIRANGWA Charité and her friends wrote to the Commission complaining that the Ministry of Youth, Culture and Sports which had "Ingando" (Sensitisation Camps) in its attributions had not paid them the honorarium for assisting in "Ingando" organized in Nkumba for Ex-FAR, from 10 January 1998 to 23 April 1998.

On 31 March 2003, representatives of the Commission were informed by the officers concerned in the Ministry, that by that date all those who participated in Ingando were yet to be paid. They however added that the money claimed was different from the sum recognised by the Ministry. The representative of the Commission was given a copy of the letter of 5 March 2003 the Ministry sent to the Prefect of Ruhengeri province explaining the amount it recognised as debt. Those in charge of Ingando confirm that the Ministry is still trying to find means to settle the matter.

The representative of the finance manager in the Ministry of Youth, Culture and Sports told representatives of the Commission that the matter will be settled after 15 January 2004.

At the time of preparing this report, the Commission learnt that KAYIRANGWA Charité and her friends had not yet received their money.

The Commission requests the Ministry of Youth, Culture and Sports to translate their promise into action and pay urgently the workers' dues, especially that this case has been so long overdue.

3. Sacking of SINDIKUBWABO Eulade.

On 22 April 2003, SINDIKUBWABO Eulade known as Padiiri, staying in Shyogwe, Mapfundo cell, Rwamaraba sector, Gitarama town, presented to the Commission a complaint against the Director of Shyogwe health center, NIYIBIGIRA Justin who had illegally sacked him. SINDIKUBWABO wanted the Commission to intervene so that he could regain his employment.

He argued that he had spent four months in Kabgayi Hospital suffering from pneumonia without hospital care and without salary. He said that after recovery he never regained his job, but instead he was sacked without notice, nor any of the entitlements provided by labour laws.

In investigating this case, on 26 July 2003, representatives of the Commission met SINDIKUBWABO's employer and explained to him the provisions of the law regarding sickness or sacking of employees. He argued that SINDIKUBWABO couldn't go back to his job because he had been replaced and his contract was over.

After negotiations, the employer decided to pay him a monthly salary he had not obtained. He would also grant SINDIKUBWABO an unpaid leave equivalent to one month salary.

The Commission condemns the way the SHYOGWE health center Director hurried to sack SINDIKUBWABO Eulade knowing very well that he had been sick and that this was contrary to the Rwandese labour laws.

k. Visits to some cells and prisons in the country.

This year, the Commission visited some cells and prisons in the country with a view to determine how human rights were being respected and to get acquaintance with prisoners' welfare in general.

- **Cells visited.**

In Kibuye province, the following cells were visited: Rusenyi, Mabanza, Gisunzu, Cyumbati, Rutsiro and Gasenyi.

In Ruhengeri province, the cells visited included those of Bukamba district police station, ex-Kidaho police station, Ruhengeri town, Kinigi district and Ruhengeri Brigade.

In Kibungo province, the cells of the following police stations were visited: Sake, Mugesera, Rusumo, Mulindi, Rukira, Nyarubuye, Cyarubare, Rwamagana town, Kigarama, Kabarondo, Muhazi, Kibungo town and Birenga.

In Kigali Ngali province, the following cells were visited: Buliza, Rulindo, Rushashi, Musasa, Bicumbi, Kabuga town, Gashora, Ngenda, Gasabo, Shyorongi and Nyamata cell.

In Gisenyi province, the visited cells included those of Gisenyi police station, Nkamira, Ngororero, Nyagisagara, Kabaya, Kayove, Mutura, Kantwali, Cyanzagwe and Nyamyumba.

In general, starting from the advice and counselling the Commission gives wherever it visits, in relation to what can be done to promote respect and protection of prisoners' rights, it is observed that much has been achieved although there are still some problems.

Problems facing these cells in general.

Detainees spend in cells between three and fifteen days, which is a long period compared to the provisions of the law.

Delays in constituting files also makes it difficult for the detainees to appear to court in due time.

The families of the detainees are faced with the responsibility of feeding them and taking them to hospital. Those with no relatives near their places of detention face big problems of poor health and feeding.

In some of those cells, there are hygiene problems due to overcrowding and lack of clean water.

Specific problems.

In Kigali Ngali province, apart from Rushashi, Musasa and Rulindo cells which are supervised by the Rushashi Prosecutor's office and those of Nyamata, Ngenda and Gashora under the Nyamata Prosecutor's office, some other cells are under the supervision of Kigali town Prosecutor's office, including Buliza, Bicumbi, Kabuga town, Gasabo and Shyorongi. These latter cells experience serious hardships because the Prosecutor's office is far from them. Being under the administration of Kigali Ngali Police, the coordination becomes difficult and delays activities: After the Kigali Ngali prosecutors have completed their files, they have to forward them first to their provincial police instead of presenting them directly to Kigali prosecution.

In Nyagisagara and Mutura cells of Gisenyi province, prisoners told representatives of the Commission that they are still beaten by the police or local defense forces. In Kayove cell, the roof is leaking and it is very small compared to the numbers of detainees there in.

The Commission met the Chief of Nyagisagara police station who told them he was going to warn the policemen and local defense forces. He added that those involved in beating prisoners shall be prosecuted.

During these visits, it was clear to the Commission that the police does not have enough equipment to ensure that detainees do not overstay in the cells.

However, the Commission requests those authorities responsible for arrests and detentions that before rushing to arrests, they should first know the crimes they are following up and respect laws governing specifically the crime in question.

Prisons visited.

Provincial prisons were visited as follow:

In Ruhengeri province, the Ruhengeri main prison was visited on 28 December 2003, Kibungo prison on 28 March 2003, Gisovu prison 18 March 2003, Byumba I and II prisons in July 2003, Gikongoro prison on 15 October 2003, Gisenyi main prison, on 2 December 2003, with the aim of seeing how human rights are respected in these prisons and determine the prisoners' welfare in general.

The Commission realised that, in general the number of prisoners keeps decreasing though still these prisons are overcrowded.

In general, the Commission noticed that the prisoners' rights are respected as mentioned above but there are some corrections to be made:

- In Gikongoro prison there is a problem of toilets which needs to be solved urgently;
- There are still some prisoners who are declared innocent by courts and yet remain in detention;
- There is still need for prisoners to get copies of their cases decisions in time so that those who want to appeal, to implement or close the cases may have time to prepare themselves.

I. Monitoring human rights in Gacaca Courts.

In the monitoring of Gacaca Courts, particular attention is given to seeing whether the rights of victims, witnesses and genocide suspects are respected in Gacaca courts. A monitoring project has started; every term the Commission writes a detailed report and submits it to the National Institution in charge of Gacaca.

In the year 2003, the Commission monitored human rights respect in Gacaca courts located in 87 sectors focusing specifically on:

- How laws governing Gacaca were respected;
- The way "Inyangamugayo" (Men of integrity) perform their duties;

- The security in the Gacaca courts;
- If outsiders do not temper with Gacaca activities;
- If the right of expression is respected;
- The general atmosphere where Gacaca courts are taking place;
- General information on Gacaca courts;
- Gacaca courts procedures.

In general, the Commission noted that in the year 2003, Gacaca courts activities were conducted smoothly. This was indicated by the fact that in “some places local authorities were really committed to the betterment of Gacaca courts activities”.

It was also observed that in general people progressively participated in Gacaca activities.

However, some problems existed in certain places and the Commission gave advice as to how they could be solved. Examples include the following:

- In some places, people’s response to Gacaca activities was inadequate and this led to frequent postponement of meetings and subsequent delay in Gacaca activities. These led to slowing the Gacaca courts because they were often postponed. Therefore, the Commission wanted the Ministry of Justice which has Gacaca in its attributions to sensitize daily Rwandans to participate in Gacaca activities.
- In some places, little interest and bias among some of “Inyangamugayo” were noted. In this regard, the Commission requested that some seminars be organised for “Inyangamugayo” especially that there are some new comers who started activities with no experience in settling differences. As for the bias, the Commission requested that “Inyangamugayo” be reminded of their duties.
- In some places, there was lack or bias of witness mainly due to family links and relations. In this connection, the Commission requested the relevant authorities to remind the population the interest and advantage of revealing the truth to Rwandans in general and genocide perpetrators in particular. It also requested that strategies be found to provoke testimonies as these are the only reliable source of truth.
- In some places, there was a problem of local authorities, especially at local level, involving themselves in Gacaca activities. In reports submitted to decision-making authorities, the Commission requested that laws and regulations be followed so as to avoid interference in Gacaca courts activities.
- In some places, there was a problem of understanding certain articles of the law governing Gacaca courts and some instructions or regulations complicated the people and “Inyangamugayo” as to their implementation. This lack of understanding was one of the causes of poor performance in Gacaca activities. In this connection, meetings which brought together the Commission and Gacaca courts Department, were held on how these articles and unclear rules could be revised. At the time of preparing this report, a law bill

draft on changing and complementing Gacaca courts code is soon to be enacted by the National Assembly.

- In some places, insecurity of genocide survivors and witnesses was created by those who do not want the truth to surface in Gacaca courts. Although the Commission kept showing the seriousness of this problem in various meetings, the problem continued to take a wider scope to the point that some of the genocide survivors and witnesses were killed and others harassed. These killings scared some people from telling the truth on what they knew and witnessed. In the year 2003, the Commission conducted an investigation on the killings which took place in Gikongoro province and submitted a report to the highest National Institutions.
- Another problem noticed was the organization of local authorities programmes and those of Gacaca courts both taking place at the same time. This hindered very much the smooth running of Gacaca courts activities.

m. The 2003 Elections.

Based on its legal powers related to civil and political rights and rights to elect one's own leaders, the Rwanda National Human Rights Commission decided to monitor all activities related to the year 2003 elections.

1. Constitutional Referendum

The constitutional Referendum took place on 26 May 2003. In general, the Commission was supposed to see if elections were well prepared, if people had been sensitized on what to do, if security was ensured, if people voted freely and secretly, if everyone exercised his or her rights to vote, if the counting of votes was transparent, if the rights of monitoring agents were respected and the like.

Delegates of the Commission monitored this activity in 93 election centers in all provinces of the country and Kigali City.

After the monitoring, the Commission found that the election of the Constitution had been well prepared and well done. Training of elections supervisors made them accomplish their duties efficiently. The Commission witnessed security officers in all polling stations and realised that they never interfered with elections. People voted in total security and calm, freedom and confidentiality.

In general, the people showed that they had been well prepared and knew what they were doing. This was demonstrated by the fact that very few notes were spoilt compared to "Yes" or "No" votes.

The Commission realised that from the beginning of the elections to the end, the task of monitoring agents was facilitated. In Ruhengeri and Gikongoro provinces however, the representatives of the Commission were blocked by elections officials, during the compilation of votes at provincial level.

Coordinators and other elections officials proved a high sense of commitment because they reached election centres before seven o'clock in the morning and most of them left at night or early the following day.

2. Presidential polls.

• Candidates' campaign.

In general, from 1 to 23 August 2003, the Rwanda National Human Rights Commission monitored this campaign throughout the country. Specifically, the Commission was represented where each candidate went for campaign. Where it did not reach it was because the concerned candidate had not made known his/her programme in time.

Going by the provisions of the fundamental law n° 17/2002 of 7 July 2003 governing presidential elections and elections of members of the National Assembly, the candidates who fulfilled required conditions were the following:

- KAGAME Paul, RPF/Inkotanyi Candidate
- MUKABARAMBA Alivera, PPC Candidate
- NAYINZIRA Jean Népomuscène, Private Candidate
- TWAGIRAMUNGU Faustin, Private Candidate.

In general, wherever representatives of the Commission made a follow-up, they found candidates' rights, campaigners' rights and peoples' rights were respected in total security.

The Commission found that, apart from one candidate, TWAGIRAMUNGU Faustin, all other presidential candidates used a good campaign language, not divisive, indeed they were in line with the provisions of the law.

As for access to the Government press and media in campaigning, the Commission found that all candidates were given equal chance and opportunity as provided by the directives of the Press General Conference.

• The actual elections.

On 24 August 2003, a day before the actual presidential elections started, MUKABARAMBA Alivera stepped down and declared that she was no longer a presidential candidate.

Representatives of the Commission reached 182 voting centers in all provinces of the country and Kigali City.

Wherever representatives of the Commission reached, they all witnessed that the polling went on smoothly and in accordance with the law.

All stations visited were characterised by the presence of security officers and without interfering in the polls.

In general, most of the monitoring agents, including private candidates did their job safely and their rights were respected.

The counting of votes was done in transparency, in the presence of foreign and local observers as well as the people themselves.

The Commission found that in general the preparation, campaign activities and the voting of the presidential election as a whole went on smoothly. The people were well prepared as regards the provisions of the law. This was shown by the number of people who came to vote for the President of the Republic in calm, total security and in freedom.

The Commission found that no candidate was unfairly treated whether during campaigns or in representation at different stations. The candidate could indeed complain to relevant authorities should anything have gone wrong on his/her part.

In general, the Commission found that the fact that it was the first time in Rwanda to have more than one presidential candidate indicated a very big step Rwandans have made in the implementation of democratic principles of voting the candidate of their choice as their leader.

3. Elections of Members of the National Assembly

The Commission monitored campaign activities of political parties and private candidates to the National Assembly. The elections took place from 29 September to 2 October 2003.

As stipulated in the National Constitution, seats in National Assembly were campaigned for in categories consisting of Women, the Youth, the People with Disability, Political Parties, Private Candidates and Senators. Campaigning and voting for Members of the National Assembly were done with respect to these categories.

- **Candidates campaign.**

From 6 to 27 September 2003, the National Human Rights Commission followed up the campaign of candidates for the National Assembly seats in all provinces of the country and Kigali City. The Commission could not reach all places because of the big number of candidates and their programmes which kept changing.

Based on findings of its delegates throughout the country, the Commission found that in general electoral campaigns for National Assembly seats went very smoothly.

Where representatives of the Commission could reach, they found that the rights to campaigning were respected, be it for political parties or private candidates and all candidates got campaign permits except for those whose requests came in too late. Likewise the Commission

noted with satisfaction that all candidates and political parties got equal opportunities to use Government press and media .

In general, the Commission observed that in their campaign, the candidates and parties avoided divisive and dirty language. All those campaigning were giving their political agenda to the people who had responded to their invitation.

Where the representatives of the Commission reached they realised that in general the security of candidates was ensured with no interference of security personnel in the campaign.

On 5 September 2003, the National Human Rights Commission held talks with the National Electoral Commission to discuss the rules and regulations governing the presidential election and National Assembly elections especially, article 11. During these talks, the Commission expressed its concern over the above mentioned article stating that each candidate should call his/her own audience and the local authorities could only facilitate the authorisation to organise and hold the meeting.

The Commission got satisfactory explanations in this regard. The talks also concerned article 77 of the National Constitution stating that for a private candidate or a political party to enter the Parliament, they should get at least 5% of the electorate.

This was mainly in connection with certain private candidates who thought they could team up and make 5 %, which is contrary to the provisions of the National Constitution.

- **Elections.**

The Commission monitored elections activities in 223 centers in all provinces of the country and Kigali city. In all these places, it was realised that elections went on very well in accordance with the law and in transparency and confidentiality.

All these electoral centers visited by representatives of the Commission were characterised by total security, and no interference from security agents was reported.

The rights of monitoring agents, political parties and private candidates were fully respected.

The counting of votes went on smoothly, in the presence of the people, political parties, private candidates and observers.

The Commission was satisfied that no political party or private candidate complained of his rights being violated with regard to their representation in election centers or possibilities of complaining in case of dissatisfaction.

n. Activities in the year 2003 in monitoring human rights respect in the legal context.

The National Human Rights Commission participated in various meetings prepared by the Legal Reform Commission, especially in the second international legal reform conference which took place from 23 to 27 June 2003.

In the year 2003, in collaboration with other institutions, the Commission played a role in research and preparing a document showing how Rwanda produced reports on what it promised to do with regard to fundamental international conventions on human rights. These reports are produced in due time and sent to the United Nations Secretary General who in turn submits them to relevant committees for verification as to whether the contents reflect the reality.

Towards the end of 2003, the National Human Rights Commission in collaboration with other governmental or non-governmental institutions for human rights prepared a report showing achievements of each country in relation to African Charter on Human Rights and Peoples' Rights of the 27 June 1981.

In the year 2003, the Commission played a role in preparing a report based on the African Charter on Human Rights and Peoples' Rights of the 27 June 1981. The report was handed in at the end of the same year.

The Commission also followed up closely the preparation of the reports in connection with the International Convention on Elimination of all forms of Discrimination Against Women of the 18th December 1979 and International Convention on the Rights of the Child of 20th November 1989.

In the area of encouraging Rwanda Government to ratify International Human Rights Conventions, as stipulated in article 3 of the revised law n° 37/2002 of 31 December 2002, the Commission conducted a research and published a booklet. The booklet is called in French "*Le Rwanda et les principaux instruments internationaux et régionaux relatifs aux droits de l'homme, deuxième édition 2003*". This booklet embodies all international conventions ratified by Rwanda and incorporated in the Rwandese laws together with those Rwanda has not yet signed. This booklet has been submitted to various Government Institutions, private institutions and any other people interested in the promotion and protection of human rights.

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2.2. HUMAN RIGHTS EDUCATION AND SENSITIZATION.

During the year 2003, in the area of education and sensitization of the people on human rights, the Rwanda National Human Rights Commission registered the following achievements:

- Human rights sensitization to various categories of Rwandans,
- Activities related to human rights education to Rwandans.

2.2.1. Human rights sensitization in general.

Regarding sensitization of Rwandans in human rights, the Commission organised various public lectures and debates for various categories of people, radio and television programmes, and various publications on human rights.

A. Public lectures to various categories of people.

a. Lectures were given to ex-detainees released by the presidential communiqué of 1st January 2003.

Different groups of prisoners released in accordance with the Presidential Communiqué of 1st January 2003, benefited from Solidarity Camps “Ingando” organised for them before they returned to their respective places. In these various “Ingando” which took place in different provinces, the Commission presented various lectures to a total of 25,107 prisoners on the following themes:

- Ethnic discrimination and genocide: How genocide is preceded by discrimination and segregative political ideologies;
- International laws and National laws punishing ethnic discrimination and genocide.

b. Secondary School and University teachers and students.

In the year 2003, the Commission delivered lectures in the following secondary schools:

- Youth Training Center (CFJ) of Maraba in Butare province;
- Ngara and Mbogo secondary schools in Gikongoro;
- Musamvu and Kabare secondary schools in Kibungo province;
- APPEREL Bukinyana secondary school and COCBI (Birunga Christian college) in Gisenyi province;
- Kabgayi catholic university.

These lectures were attended by about 2105 students and their teachers on the following themes:

- Fundamental principles of human rights;
- Children’s rights
- Fighting all sorts of discrimination.

Those who attended these lectures requested that similar lectures be given also to all schools including primary schools because children should know about human rights at an early age.

c. Administrative authorities.

Human rights lectures were delivered in Solidarity Camps “Ingando”, for youth organisations, women representatives, coordinators and sectoral administrative authorities, members of the community development committees in Rusumo, Cyarubare, Nyarubuye, Rukira and Rusumo districts in Kibungo province. These lectures were also given to provincial leaders in Kibungo, Gitarama and Gikongoro provinces.

Apart from lectures centered on human rights principles, others were centered on good governance, human rights and development, human rights in Gacaca courts. Administrative leaders were also given lectures on civic education and elections. The Commission sensitised them on civil and political rights.

Administrative authorities requested that human rights lectures be given particularly to all local authorities and the population in general.

d. Security authorities.

Lectures were delivered in “Ingando” for 1287 people from the Local Defense Forces, as follows:

- On 23 April 2003 in Byumba province
- On 8 April 2003 in Cyangugu province
- From 21 to 23 September 2003 in Butare province.

Human rights lectures were also delivered to 296 military staff in Gitarama and Cyangugu.

- On 29 September 2003, at Ntendezi in Cyangugu province, these lectures were delivered to soldiers from various groups who were attending Solidarity Camp “Ingando”,
- On 29 April 2003 in Gitarama, lectures were delivered to Gitarama Military Camp.

They were sensitised on fundamental principles of human rights, women and children’s rights, rights to labour and employment, the use of arms, powers and rights of security officers and armed forces. They recommended to the Commission to give more lectures on human rights to security institutions because protection of these rights is their duty.

On 27 January 2003, at Mutobo in Ruhengeri province, there was another lecture for those who disassociated themselves from and denounced infiltration. They were sensitised about international and Rwandan laws punishing genocide, discrimination, basic principles of human rights in the Rwandan laws.

e. Religious leaders.

Lectures on human rights were also delivered to different religious leaders, representatives of different church committees including Evangelical Church of Rwanda (EER), Presbyterian Church of Rwanda (EPR), Lutherians, Moslems, Seventh Day Adventist Church, Inkuru Nziza (Good News), Assemblies of God, Friends of Jesus, the Committee for Peace and Justice in the Catholic Diocese of Kibungo. These lectures were centered on the fundamental human rights principles, women and children's rights and the role of churches in protecting and promoting human rights.

f. Associations.

Lectures on human rights were delivered to members of CAURWA Association in Gikongoro province, 196 members of IMBARAGA Association in Gisenyi province, 37 members of WIHOGORA Association in Gaseke, Gasiza and Kageyo districts of Gisenyi province and 22 members of TUJJURANE of Gitarama province. These lectures focused on fundamental human rights principles, children's and women's rights and the role of associations in the promotion and protection of human rights.

g. Youth organisations.

Lectures were given to 260 scouts and Xaverians of Gikongoro, Gisenyi and Kibungo provinces attending Youth Solidarity Camps. The lectures were centered on fundamental human rights principles, women and children's rights and the role of the youth in the promotion and protection of human rights.

h. Children conference on human rights.

In the promotion and protection of children's rights, the Commission organised a Rwanda conference on children's rights which was held at "Centre de Pastorale Saint Paul" from 25 to 27 April 2003 and brought together 49 children representatives from all provinces of the country and from different categories: pupils from primary and secondary schools, children who don't go to school, orphans and those with disability.

The first phase of this project consisted in arts competitions, done in all corners of the country and the main theme was "Know and make known the Rwandan law protecting children". This project aimed at sensitizing Rwandans, especially children, on the laws protecting children, be it international conventions ratified by Rwanda or Rwandan laws, especially the law n° 27/2001 of 28 April 2001 relating to the rights and protection of the child against violence. Children of various categories involved in these competitions were:

- Primary school pupils competed in drawing;
- Secondary school students competed in drama;
- Children grouped in youth centres including former street boys, some of whom are now learning crafts, competed in music.

This conference provided to children a forum for them to discuss the situation of their rights and they expressed their recommendations and requests to relevant national institutions:

- The National Human Rights Commission should sensitize and educate all children on their rights and provide them with booklets to help them learn those rights. It should also organise children training sessions on human rights at least once every three months.
- The Ministry having education in its attributions should increase the number of schools especially for those children with disability and help them acquire equipments and school uniforms. It should work in such a way that children are not sacked from schools because of lack of school uniforms.
- The Ministry of Justice should accelerate cases related to children's harassment and those found guilty of those crimes be punished severely. It should also speed up the process of establishing special courts and Police specifically responsible for children.

The children gave also the following general requests:

- Parents should be sensitized on producing children they are able to look after.
- Street children should be sensitized to leave the streets before appropriate measures are taken.
- Children should always be listened to by parents, teachers or guardians.
- Children supported by FARG should be accepted in all health centres and hospitals without any discrimination.
- The right to religious faith should be respected in all educational institutions.
- There should be a way of showing to children educative films without adverse impact on their normal upbringing.

These recommendations and requests shall be an important basis in the preparation of the Rwandan guidelines on children's rights.

B. Radio and television programmes.

With regard to sensitizing Rwandans towards human rights, the Commission delivered lectures on various themes in its Radio broadcast programme "Uburenganzira Iwacu" (or "Human Rights at our home") which is broadcasted every Friday, from six thirty to seven o'clock in the evening. It also presented other programmes on Rwanda Television.

a. Radio Programmes.

Number	Theme
1.	The role of human rights in national development
2.	Summary of broadcasted programmes in the year 2002
3.	The pillar of human rights, the characteristics and perspectives for their implementation
4.	Categories of human rights and their requirements
5.	Human rights complaints handling in the Commission
6.	Justice as a protector of human rights
7.	Monitoring of Gacaca courts
8.	Duties and powers of the Commission as enshrined in the new law and answering some of those who wrote to the Commission
9.	The current situation of women's rights and perspectives to improve them in the whole country
10.	Some of the provisions in the law against discrimination and divisions in our country and answering some of those who wrote to the Commission
11.	The impact of ethnic discrimination on human rights and steps made to fight it in Rwanda
12.	The role of education in preventing and fighting racial discrimination today.
13.	Views of some youth from Nyamirambo district on protecting, promoting and defending human rights after genocide
14.	The role of justice in protecting human rights
15.	Pillars of human rights and perspectives for their respect
16.	The National Constitution as a pillar to human rights and the role of the Commission in their protection and answering some of those who wrote to the Commission
17.	Children's rights: short play "Uhumba ibibondo ugahondwa ibibando" (Fire children hire canes)
18.	Children's rights and perspectives
19.	Children rights and answering some of those who wrote to the Commission
20.	Let's defend the child by registering them officially
21.	Some of the questions on refugee's rights and answering some of those who wrote to the Commission
22.	Views and explanations to questions related to arbitrary arrests and illegal detentions and delayed cases
23.	Some of the contents in the law on discrimination and divisionism
24.	Democracy and human rights
25.	Human rights and elections in Rwanda
26.	The view of the Commission on presidential election in Rwanda in relation to human rights
27.	The Press and Human Rights
28.	The role of churches in the promotion and protection of human rights
29.	International human rights day celebrated in Byumba at national level on the theme: "Rwandans get to know your role in protecting and defending your rights and the rights of others"
30.	The situation of human rights in relation to Gacaca courts today

31.	Summary of programmes broadcasted in 2002 and answering some of those who wrote to the Commission.
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b. Television programmes.

On 7 October 2003, the Commission presented a programme on Rwanda Television to commemorate the 55th anniversary of international human rights day celebrated on 10 December. This programme was presented jointly by the Commission, the Ministry of Justice and the Collective of Leagues and Human Rights Association (CLADHO).

This programme was centered on the theme: “ Get to know your role in protecting and defending your rights and the rights of others” which passed simultaneously on radio and television.

C. Publications.

In the year 2003, the following documents were prepared:

- To celebrate the 9th anniversary of the liberation of the country on 4 July, a message to sensitize Rwandans on fighting genocide ideology and all kinds of discrimination was published in “INGABO” Newspaper.
- Pamphlets and brochures were prepared on:
 - Rights to employment and labour,
 - Attributions of the Commission and procedures of seeking its assistance.
- The calendar for the year 2004 was prepared with various messages on human rights.

D. Activities related to commemorative days.

In collaboration with other institutions, the Commission played a role in celebrating human rights days. The Commission delivered special messages for each day and transmitted them to Rwandans through the radio and television, signboards and public lectures. The days commemorated include the following:

- On 8 March 2003, Women’s Day which was commemorated in Gikongoro at national level;
- On 21 March 2003, Fighting Against Ethnic Discrimination Day;
- On 1 May 2003, Labour Day;
- On 16 June 2003, African Child Day;
- On 10 October 2003, Human Rights Press Day.

On 10 October 2003, in collaboration with the Ministry of Justice, the National Commission for Human Rights and the Collective of Leagues and Human Rights Association (CLADHO), the International Human Rights Day was celebrated in Byumba at National level. Children played a role in celebrating this day. The children who got first positions in the competitions organised for Byumba schools presented their arts products before they received their prizes. These arts products were mainly, designs and poems in the three official languages of Rwanda.

In her speech regarding that day, the President of the National Human Rights Commission reminded the justification of that day and the achievements of the Commission in implementing its objectives which include the promotion and protection of human rights in Rwanda.

E. Support in creating human rights clubs.

In the year 2003, the Commission contributed in creating nine human rights clubs some of which were at district level. They include the following:

- Human Rights clubs in Kanama, Nyamyumba, Kayove and Gaseke in Gisenyi province. In Byumba province were created “Association des amis des Droits de l’Homme”, “Tabarwa mwana”, “Ubumwe”, and the “Comité de Défense et de Protection des Droits de l’Homme”.

In Kibungo province a human rights club was created in UNATEK University. All these clubs were sensitized on human rights and they have the objective of educating and sensitizing others on human rights starting with the area where they are located.

2.2.2. Human rights Education.

In the area of human rights education, the Commission organised seminars for different categories of Rwandans.

A. Administrative authorities.

In the year 2003, the Commission trained 136 members of district committees in Cyangugu. Others included 19 members of Nyagatare town committee and Bugarama district, this programme shall continue in other districts of Umutara province. 24 members of women committees of Butare province were also trained. These seminars were centered on the following themes:

- The source and fundamental principles of Human rights;
- Principles and laws governing individual’s freedom and laws on arrests and detentions;
- Good governance and development: peoples rights in following up public property management and related programmes;
- Children rights in Rwandan laws and international conventions and their current situation;

- Women's rights in Rwandan laws and international conventions and their current situation in Rwanda;
- The situation of human rights in the country, the role of leaders and the population in their protection and promotion and co-operation with the Commission.

Participants in these seminars requested that such sessions should bring together members of different Councils and Executive Committees so as to iron out their working relations regarding human rights issues.

B. Judicial Institutions.

Human rights seminars were organised for 86 judges and prosecutors in courts of first instance and prosecutor's offices in Gitarama and Kibungo provinces. They were given general knowledge on human rights, particularly on the themes here below:

- Fundamental principles of human rights;
- The nature of problems facing human rights brought to the Commission and the role of the judiciary in solving them;
- Human rights and penal laws;
- Children and women's rights in Rwanda and the role of the judiciary in their protection;
- The role and place of international conventions ratified by Rwanda;
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment;
- Collaboration between courts and the prosecutor's officer and their role in human rights protection.

After these seminars, the prosecutors and judges recommended that these seminars bring them together with the administrative and police authorities so as to have the same understanding on human rights.

C. The youth.

- The Commission organised human rights training sessions for fifty five (55) students who demonstrated interest in promoting and protecting human rights from Busogo Agriculture and Livestock Institute (then operating from Rubirizi). The following themes were covered:
 - Introduction to fundamental principles of human rights;
 - Women's rights in Rwandan laws and international conventions;
 - Children's rights in Rwandan laws and international conventions;
 - International conventions against genocide;
 - The role of intellectuals and students in human rights protection and promotion;
 - Human rights in good governance and development;
 - The role of Gacaca courts in protecting human rights.

- Seminars were also organised for students who are members of human rights clubs in secondary schools of Butare province. These sessions centered on the following themes:
 - Fundamental principles of human rights;
 - Children's rights and preparation of action plans.

Participants were given equipment to help them promote human rights.

D. Farmers associations.

The Commission trained four hundred and eight (408) farmers grouped into associations in Ruhengeri, Gisenyi and Umutara provinces.

In general, participants were trained in:

- Fundamental principles of human rights;
- Children and women's rights in Rwanda laws and international conventions;
- The role of Associations in the protection and promotions of human rights.

E. Cyangugu religious representatives.

The Commission trained forty three (43) representatives of various denominations working in Cyangugu province. They included Catholics, Presbyterians, Pentecostal Churches, Seventh Day Adventists, Maranatha and Restauration Church. They concentrated on the following themes:

- Fundamental principles of human rights;
- Human rights enshrined in the Rwanda National Constitution and Institutions responsible for their protection;
- Children and women's rights in the National Constitution and Rwandan laws;
- Partnership between leadership and religious groups in the promotion and protection of human rights;
- The role of religious organisations in promoting and protecting human rights.

Participants recommended that human rights sessions bring together religious leaders and local authorities especially district leaders, so that together they may analyse problems facing human rights and find solutions.

F. Security authorities.

- The National Army.

In the context of a project aimed at increasing military capacity in helping and protecting children in normal situations, wars and catastrophies, the Commission held seminars for ninety seven (97) military officers. In the year 2003, this project was in its second phase.

From 27 January to 8 February 2003, seminars were organised in Cyangugu province for 24 officers of the Fourth Division. From 14 to 16 April 2003, similar seminars took place in Gitarama for 23 officers of the first division. From 27 October to 8 November in Byumba, 23 officers of 3rd Division participated in similar seminars. Then from 8 to 20 December such seminars were organised in Gisenyi province bringing together 25 officers of the Second Division.

Themes discussed included the following:

- Basic needs for each stage of a child's development;
- Principles and ways of handling a traumatised child;
- Conflicts repercussions on children in Rwanda and the great lakes region;
- Particular problems facing women;
- Genocide ideology and its repercussions on children in the great lakes region;
- Human rights in war times and war laws;
- Co-operation between the Commission and other institutions in human rights protection;
- Reduction of conflicts repercussions on children;
- The role of the army in respecting children rights;
- Explanation on weapons surrender, demobilization and reintegration policies;
- Human rights lessons and teaching methods for adult education.

- **National police.**

From 20 to 22 January 2003, 36 police prosecutors were trained in Kibungo province on the following themes:

- Fundamental principles of human rights
- The situation of human rights in the country and the role of the police in their protection and promotion;
- Principles and laws governing individual freedom and liberty;
- Laws governing arrests, detentions and prisoners rights;
- The role of the police in protecting human rights;
- Principles guiding law enforcing officers, security laws, armed forces and the role of the judicial police in relation to human rights;
- International convention against torture, degrading and inhuman treatments;
- Children and women's rights in Rwanda, the role of judicial police officers (OPJ) in their protection;
- The role and behaviour of police in good governance.

Participants at these seminars requested to have further training on human rights and recommended sessions bringing together the police, the administration and the judiciary.

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III. CO-OPERATION WITH OTHER INSTITUTIONS.

As usual, the Commission co-operated with other institutions in order to achieve its obligations. In the year 2003, the Commission co-operated with governmental institutions, non-governmental institutions working in Rwanda, Embassies, European Union, United Nations Agencies, International non-governmental institutions and the Commission's friends. This co-operation is reflected in various activities enshrined in the following points:

3.1. CO-OPERATION WITH GOVERNMENT INSTITUTIONS.

A. The Supreme Court.

The Commission co-operated with the Gacaca Courts Department of the Supreme Court in preparing training for Gacaca courts staff and Gacaca monitoring. The Commission also submitted reports on the functioning of the courts to this department.

B. The Ministry of Youth, Sports and Culture.

The Commission co-operated with the Ministry of Youth, Sports and Culture in preparing the Heroes Day, the Genocide Mourning Week, and competitions in youth and orphans centres.

C. The Ministry of Education, Technology and Scientific Research.

The Commission co-operated with the Ministry of Education Science Technology and Scientific Research on how programmes of human rights could be integrated in secondary school curricula.

D. Ministry of Interior, Information and Social Affairs.

The Commission worked with this Ministry in producing a report on the implementation of international conventions on children's rights.

E. Ministry of Gender and Women Development.

The Commission co-operated with the Ministry of Gender and Women Development in training of trainers on Gender at National and provincial levels in preparation and duplication of a booklet describing how special emphasis is laid on Women's rights, in the Constitution.

F. Ministry of Justice and Institutional Relations

The Commission co-operated with the Ministry of Justice and Institutional Relations in preparing a national programme on human rights and the preparation of the 55th Anniversary of the Universal Declaration on Human Rights, held on 10 December 2003.

G. Ministry of Foreign Affairs.

The Commission cooperated with the Ministry of Foreign Affairs in preparing the 2nd African Ministerial Summit on Human Rights and Peoples' Rights held from 5 to 9 May 2003.

H. Ministry of Defense.

The Commission cooperated with the Ministry of Defense in the project to sensitize the national army in the promotion and protection of children's rights in normal times, and in times of war and calamities.

I. National Electoral Commission.

The Commission co-operated with the National Electoral Commission in preparing a booklet on electoral procedures and people's rights to vote.

J. National Unity and reconciliation Commission.

In the Solidarity Camp ("Ingando") organised by the National Unity and Reconciliation Commission for University candidates and released prisoners, the National Human Rights Commission played a role in delivering lectures on human rights.

3.2. CO-OPERATION WITH RWANDAN NON GOVERNMENTAL ORGANISATIONS.

As usual, the Commission has co-operation with other non-governmental institutions dealing with human rights protection and promotion. In this line, the Commission cooperated in a particular way with HAGURUKA and CLADHO.

Concerning the monitoring of Gacaca activities, a forum including non-governmental institutions was set up and it is chaired by the Commission. This forum included, HELPAGE RWANDA, INTERNEWS, SERUKA, TROCAIRE, AFRICAN RIGHTS, PENAL REFORM INTERNATIONAL, LIPRODHOR, A.R.D.D.P.L.P, HUMAN RIGHTS WATCH, CLADHO, IBUKA, C.C.O.A.I.B, Réseau des Citoyens Network, Commission Justice et Paix and Pro-femmes Twese Hamwe.

3.3. CO-OPERATION WITH INTERNATIONAL AGENCIES.

A. EMBASSIES.

- **Swiss Embassy.**

Regarding co-operation between the Commission and the Swiss Embassy, a co-operation convention was signed on a project aimed at providing human rights training to all district Executive Committees and judicial staff at provincial level. Concerning capacity building, two Commissioners attended a training course on human rights in France.

- **French Embassy.**

In the area of capacity building, the Commission got four scholarships for its staff members who went to attend training seminars on human rights, in Paris- France.

- **British Embassy.**

In the context of capacity building, the British Embassy sponsored a project known as “Capacity Building of the Rwanda Human Rights Commission” to improve knowledge and skills in human rights for the staff of the Commission.

- **Swedish Embassy and Raoul Wallenberg Institute.**

Concerning the co-operation between the Swedish Embassy and Raoul Wallenberg Institute, one employee of the Commission went on a training seminar on women’s rights in Kenya.

- **German Embassy.**

The Embassy of Germany through German Service for Development (DED) supported the Commission in its programme of education and sensitization in human rights promotion in secondary schools, through poems and Drama competitions in Butare and Gikongoro provinces. The co-operation with this department was also evidenced in their support to students’ human rights clubs.

B. United Nations Agencies.

- **UNHCHR**

The Commission had co-operation with the United Nations High Commission for Human Rights in that the latter funded a project on capacity building of the Commission.

- **UNICEF**

The Commission had co-operation with the United Nations Children’s Fund through a project on education and sensitization of the National Army in the promotion and protection of children’s rights during normal times, war times and calamities.

- **CHAIRE-UNESCO**

Concerning co-operation between the Commission and CHAIRE-UNESCO, two members of staff were sent to Cotonou-Benin for human rights training in line with staff capacity building.

C. European Union.

The Commission had co-operation with the European Union through a project on Monitoring Gacaca courts. In the year 2003, some equipments were purchased to help the staff of that project achieve their objectives. These equipments include cars, motorcycles, computers and others.

D. Co-operation with International Non-Governmental Agencies.

- **HELPAGE RWANDA.**

In this context, HELPAGE RWANDA sponsored a training seminar for local authorities in Cyangugu province.

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IV. MISSIONS ABROAD.

On the invitation of the United Nations High Commission for Human Rights, a delegation of the Commission participated in the 59th Summit of the United Nations High Commission for Human Rights held in Geneva – Switzerland from 12 to 19 April 2003.

In response to the invitation of the International Association of French Speaking Countries, from 25 to 28 April 2003, in Brazzaville-Congo, delegates from the Commission participated in the Summit on human rights for French speaking countries. This summit had an objective of setting up one forum for governmental institutions of those countries which have human rights in their attributions.

At the invitation of African Human and People's Rights Commission, from 2 to 3 May 2003, the Commission participated in the conference of non-governmental institutions held in Nairobi-Kenya. This conference was preparing the second African Ministerial conference on human rights.

From 15 to 29 May 2003, in Niamey-Niger, the Commission attended the 33rd African human and people's rights conference.

From 4 to 15 November 2003, in Banjul-Gambia, the Commission was represented at the 34th ordinary meeting of African Commission for Human and People's Rights.

From 22 to 26 June 2003, in Germany, at the invitation of the German service for development, the Commission attended an international symposium to discuss problems related to good governance, lack of security for international organisations' staff in war zones. The meeting discussed on reinforcing peace in the world.

At international level, the Commission attended a conference in Addis-Ababa Ethiopia, from 24 to 28 March 2003, aimed at finalising a project on additional convention on African human and peoples rights related to women's rights in Africa, before it was submitted to heads of states meeting held in July 2003 in Maputo-Mozambique.

There was a thorough analysis of article by article with particular attention on articles for which some countries had expressed some reservations. These articles were mainly on civil rights based on culture.

The Commission sent a delegation in a meeting held in Nairobi- Kenya from 11 to 22 August 2003 organised and sponsored by the Raoul Wallenberg Institute of human rights and humanitarian law based in Sweden, in collaboration with a Kenyan Institution known as "Education Center for Women in Democracy". The main theme was "East African Program on Equal Status and Human Rights for Women". It was attended by Rwanda, Burundi, Kenya, Tanzania, Uganda and Ethiopia with the aim of asking these countries to incorporate ratified laws in their respective national laws, especially those laws dealing with rural women.

V. INSTITUTIONAL DEVELOPMENT OF THE COMMISSION.

In line with its objectives to promote and protect human rights, in the year 2003, the Commission prepared research proposals, organised and conducted various seminars for its staff and other Rwandans of various categories.

5.1. SEMINARS IN THE COUNTRY.

In the completion of planned activities for the project RWA/02/001, the Commission organised staff seminars on project management and human rights for vulnerable groups.

From 17 to 23 March 2003, the Commission staff attended seminars on monitoring respect for human rights.

Regarding a project sponsored by the British Embassy, the Commission prepared a training seminar on project management from 19 to 23 May 2003 at the Rwanda Institute of Administration and Management (RIAM). This training aimed at educating the personnel on how to prepare a project, its monitoring, evaluation and finishing. A training seminar on human rights for vulnerable groups was held from 22 to 27 December 2003. In general, this seminar aimed at highlighting the situation of vulnerable groups' rights and their respect in international convention and Rwanda laws.

From 15 to 18 December 2003, the staff of the Commission attended a seminar on international organisations and laws regarding human rights protection.

In order to train more of its staff, the Commission organised seminars taking place in the country using experts and consultants from international centers and Universities. Among others were those from RIAM, Professor Jean Bernard MARIE, Director of Research in the French National Centre for Scientific Research (CNRS), OBAID AHMED EL OBAID, Professor at Montreal University in Canada and an expert in legal matters.

5.2. TRAINING ABROAD.

In the context of capacity development, two Commissioners went for training in Strasbourg, one in matters related to refugees, another in human rights, specifically in matters related to the role of non-governmental institutions in the protection and promotion of human rights. These trainings were sponsored by the Co-operation Department in the Swiss Embassy.

5.3. STUDY TOURS.

Apart from activities described in the Commission's annual report for the 2002, in the year 2003, the project RWA/02/001 helped in capacity building of the Commission. It is in this context that from 29 June to 6 July 2003, the Commission organised a study tour in Mauritius for four of its staff members.

From 23 to 29 July 2003, four other members of staff went on another study tour in Uganda. These study trips were aimed at learning how other Commissions conduct investigations on human rights respect.

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VI. DOCUMENTATION CENTRE.

In the year 2003, the Commission intensified efforts to promote its documentation center such that by the end of 2003 it had 600 volumes and other documents mainly related to human rights and law. Among them were books purchased by the Commission itself, donations from international human rights organisations and associations as well as reports from other national Commissions and governmental institutions. The Commission subscribed to a total of about 24 Government and private newspapers including foreign papers.

This documentation center helps members of the Commission and the staff in preparing their activities. In the year 2003, the documentation center of the Commission increased its activities and extended its services even to outsiders. For example, between October and December, the center received 44 users from outside the Commission, mostly University students doing their research.

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VII. FINANCIAL REPORT.

7.1. INTRODUCTION.

The financial report for the year 2003 is based on funds carried forward from the year 2002, funds allocated by Government budget for the year 2003 and those actually received from the same, funds received by the Commission from Donors as well as expenditure of the Commission.

As shown in the 2002 report, at the end of the year, the Commission had a balance of seventy four million eight hundred thirty one thousand three hundred seventy six francs (**74,831,376 FRW**). This balance comprised mainly provisions for the staff, the Commissioners and watchmen of the Commission offices at its headquarters and in the provinces.

The funds allocated to the Commission in the ordinary Rwanda Government Annual Budget for 2003, amounted to seven hundred thirty million three hundred and five thousand eight hundred ninety eight francs (**730,305,898 Frw**).

The Commission received only five hundred fifty nine million two hundred sixty six thousand five hundred eighty four francs (599,266,584 FRW). This means there is a sum of one hundred seventy one million thirty nine thousand three hundred fourteen francs (**171,039,314 Frw**), equivalent to five months daily expenditure which was not received by the Commission. This had a big impact on various programmes and activities which were not implemented. These include non attendance in international human rights forums, conducting research on selected themes regarding human rights promotion and protection.

The total expenditure of the Commission was six hundred fifty nine million five hundred seventy three thousand six hundred ninety nine francs (**659,573,699 Frw**).

In the year 2003, the Commission received from Donors a total amount of two hundred eighty five million five hundred ninety eight thousand five hundred thirty four francs (**285,598,534 Frw**).

By 31 December 2003, the Commission had a non-paid bill on the ordinary Government budget totaling twenty five million four hundred seventy five thousand seven hundred thirty-nine francs (**25,475,739 Frw**).

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**7.2. EXPENDITURE OF FUNDS FROM GOVERNMENT
BUDGET FOR THE YEAR 2003.**

Expenditure of funds received by the Commission from Government budget for the year 2003 is shown in the table below, and the explanations that follow:

1	2	3	4	5	6	7
BUDGET LINE	AUTHORISED	RECEIVED	EXPENDITURE	BALANCE OF 2003	SURPLUS	TOTAL SURPLUS
1.EXPENDITURES ON COMMISSIONERS AND WORKERS						
1.1. BALANCE ON EXPENDITURES FOR COMMISSIONERS AND EMPLOYEES FOR THE YEAR 2002		48334339				
1.2. EXPENDITURES ON COMMISSIONERS AND EMPLOYEES	315819479	317482840				
TOTAL	315819479	365817179	369896628		4079649	
2.DAILY EXPENDITURES						
2.1.BALANCE FOR THE YEAR 2002		26497037				
2.2.TECHNICAL EQUIPMENT	4386000	2558500	3 596 412		1037912	
2.3.TEACHING MATERIALS	3737500	2180208	11355870	1044338		
2.4.OTHER EQUIPMENTS	440000	256667	3358181		3101514	
2.5.OFFICES EQUIPMENT	21409529	12488892	10814542	1674350		
2.6.PUBLICATIONS	17593000	10262583	7026336	3236247		
2.7.PURCHASING BOOKS	800 000	466 667	1110553		643886	
2.8.WATER AND ELECTRICITY	2800000	1633333	1811918		178585	
2.9.FUEL AND PETROL	51601064	30100621	40852235		10751614	
2.10.COMPUTERS						

NETWORK	1240000	723333	3819708		3096375	
2.11. TRANSLATION SERVICES	4578000	2670500	3242844		572344	
2.12. VEHICLE REPAIR	8 600 000	5016667	13196860		8180193	
2.13. MOTORCYCLE REPAIR	1 200 000	700 000	516 851	183 149		
2.14. REPAIRING TECHNICAL EQUIPMENT	3 600 000	2 100 000	3 492 067		1 392 067	
2.15. VISITS ABROAD	5 552 000	3 238 667	2 968 521	270 146		
2.16. IN COUNTRY FIELD WORKS	2 348 000	1 369 667	1 720 800		351 133	
2.17. IN COUNTRY MISSIONS	42323500	24688708	25777470		1088762	
2.18. MISSIONS ABROAD	23721000	13837250	18112775		4275525	
2.19. DOCUMENTATION	1 000 000	583 333		583 333		
2.20. OFFICE RENT	83 509 576	48713919	65029944		16316025	
2.21. POSTAGE	5 324 000	3105667	1238648	1867019		
2.22. COMMUNIQUÉS, RADIO AND TV PROGRAMMES AND INFORMATION	5 300 000	3091667	7864721		4773054	
2.23. HUMAN RIGHTS PROMOTION	41800700	24383742	19924516	4459226		
2.24. TRAINING COMMISSIONERS AND EMPLOYEES	14750000	8604167	3713972	4890195		
2.25. CONSULTANCY	26256350	15316204	5397420	9918784		
2.26. TELEPHONES AND FAX	16150200	9420950	29139532		19 718 582	
2.27. VEHICLES INSURANCE	7 000 000	4083333	6210000		2126667	
2.28. ENTERTAINMENT	4 966 000	2896833	4895671		1998838	

2.29. WATCHMEN EXPENDITURES	12 500 000	7291667	3708504	3583163		
SUB.TOTAL		268280781	294143450			
GRAND TOTAL	730305898	634097960	659573699			25475739

Source: Accounts documents of the Commission for the year 2003.

Explanations of the table on expenditure of funds from Government budget.

In general, this table indicates that in most budget lines expenditure exceeds the received amount, the justification is that part of the funds allocated to the Commission was not received in the year 2003.

Concerning daily expenditure, the budget line “other equipments” has a big overexpenditure because it was allocated very little money and yet that is the line where all expenditure on non budgeted items is categorised.

Concerning computer networking, there is overexpenditure because this line was allocated little money.

On office rent, there is overexpenditure, the reason being that the year ended with unpaid bills for rent.

Vehicle repair took a lot of funds because the vehicles were bought in 1999 and are currently old. On top of that they are used up country most of the time hence their frequency in garages.

Repairing technical equipments is very costly because they include old photocopiers which cannot be replaced easily. They are therefore under permanent repair.

Overexpenditure was also recorded in sensitization through the press and media because the duration of the Commission broadcasted programme was doubled (took 30 minutes) hence the reason for the surplus.

Telephone and fax expenditure line also recorded a surplus expenditure because it was the most used way in handling complaints, investigations, meeting preparation, contact with donors, exchange of information using internet, and any other exchange of information for the promotion and protection of human rights, as is the objective of the Commission.

Some budget lines remained with a balance. These include publications, postage, training of Commissioners and workers and consultancy. This was mainly due to the fact that the Commission decided to train its staff within the country thus spending less on missions abroad and hire of expertise. In addition, these activities were supported by donors.

Watchmen expenditures line is very small because the Commission, due to limited funds, decided to use one ordinary watchman at every office in the province instead of using professional security companies.

7.3. EXPENDITURE OF ENDOWMENTS FROM DONORS.

In the year 2003, the Commission received from Donors two hundred eighty five million, five hundred ninety eight thousand five hundred thirty four francs (**285,598,534 Frw**).

Out of this money only two hundred fifty three million eight hundred eighty five thousand two hundred eighty five francs (**253,885,285 Frw**) were spent.

The utilisation and sources of these funds are indicated in the table below:

DONOR	PROJECT	AMOUNT PROPOSED	AMOUNT GIVEN	AMOUNT USED	BALANCE	YET TO RECEIVE
European Union	Gacaca monitoring	541168998	148134863	130006696	18128167	
Swiss Co-operation	Training	71756850	32000000	16632918	13367082	
UNHCHR*	Institutional development	146990075	21163223	38571557		17408334
British Embassy	Trainings	76946250	26823758	26823758	0	
UNICEF	Children rights promotion	45161190	45161190	45161190	0	
German Co-operation (DED)	Training and institutional	7215000	7215500	7215500	0	
HELPAGE RWANDA	Trainings	5100000	5100000	4882000	218000	
TOTAL		894338363	285598534	253885285	31713249	17408334

Source : Accounts books of the Commission
Projects reports

* United Nations High Commission for Human Rights

Explanation on expenditure of funds from donors.

The European Union gave five hundred forty one million one hundred sixty eight thousand nine hundred ninety eight francs (**541,168,998 Frw**) to be used within thirty-four months in Gacaca monitoring project.

This project started in November 2002. In the year 2003, the amount used was one hundred forty eight million one hundred thirty four thousand eight hundred sixty three francs (**148,134,863 Frw**). This project continues in the year 2004.

The Commission received from the United Nations High Commission for Human Rights, one hundred forty six million nine hundred ninety thousand seventy five francs (**146,990,075 Frw**). This contract was signed on 28 February 2002. This money was meant for training the staff and

institutional development. In the year 2003, the Commission used twenty one million one hundred sixty three thousand two hundred twenty three francs (21.163.223 FRW). This was used to train staff members, monitoring elections, purchasing books and purchasing an application programme for the documentation center.

This project ended with the year 2003. The remaining seventeen million four hundred eight thousand three hundred thirty four francs (**17.408.334 FRW**) will be paid by the United Nations Development Programme (UNDP) which manages these funds as the contract stipulates. This money will be used to pay bills that remained unpaid at the end of the project

UNICEF supported and funded the project it ran jointly with the Commission regarding training the army on protecting and promoting children rights in normal times, time of war and calamities. This project started in the year 2002 and was located fifty five million three hundred twenty seven thousand francs (**55.327.000 FRW**). In the year 2003 it used forty five million one hundred sixty one thousand one hundred ninety (**45.161.190 FRW**) used to train military officers selected from the four military divisions of Rwanda. This project continues in the year 2004.

The British Embassy in Rwanda supported a capacity building project to train the Commission's staff. The money allocated to it was seventy six million nine hundred forty six thousand two hundred fifty thousand francs (**76.946.250 FRW**). In the year 2003, the money used was twenty six million eight hundred sixty three thousand seven hundred fifty eight francs (**26.863.758 FRW**). This project will continue in the year 2004.

The Swiss Co-operation in Rwanda supported the Commission in the project to train judges and local administrators in human rights throughout the country. The allocated budget was seventy one million seven hundred fifty six thousand eight hundred fifty francs (**71,756,850 Frw**). The contract of this project was signed on 5 September 2003. The first part consisted of thirty two million (**32,000,000 Frw**). By the end of the year 2003, sixteen million six hundred thirty two thousand nine hundred eighteen francs (**16,632,918 Frw**) had been used. This project will continue in 2004.

The German Service for Development helped the Commission in various training activities and human rights promotion. Expenditure on this was seven million two hundred fifteen thousand five hundred francs (**7,215,500 Frw**).

HELPAGE RWANDA supported the Commission in training members of district executive committees in Cyangugu province and religious leaders working in Cyangugu province. HELPAGE RWANDA provided five million one hundred thousand francs (**5.100.000 FRW**).

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VIII. GENERAL CONCLUSION, RECOMMENDATIONS AND PERSPECTIVES FOR 2004.

8.1. GENERAL CONCLUSION.

8.1.1. On human rights violations.

In general the Commission congratulates the Government of Rwanda for the step made in the protection of human rights during the year 2003, though there are still problems in human rights violations done by people in various institutions including administrative authorities, justice, police and private institutions. It is in this connection that the Commission in the year 2003 dealt with various problems related to human rights violations in response to complaints received or from its own initiative depending on the gravity of those problems.

- **On illegal arrests and detentions.**

Most of the complaints brought to the Commission were related to arbitrary arrests and illegal detention. Among them are those who are arrested and detained by incompetent authorities. Others refer to arrests and detentions without investigations, plus detentions at police stations for a period exceeding forty eight hours provided by the law, without appearing to court.

Concerning arbitrary arrests and illegal detentions, the Commission treated cases of people who remain in detentions after serving their sentences, due to negligence of the Prosecutors and prison administrators. This tendency of stocking people in prisons until they get forgotten amounts to violation of human rights and undermines human dignity and justice and the judiciary, which would be failing to fulfill its objectives. The Commission considers this as a matter of serious concern for the prosecution not being able to follow up and prosecute the culprit. This is seen as promoting the culture of impunity and injustice. The accused should be investigated on to establish whether or not he is guilty.

The Commission is confident that cases of arbitrary arrests and illegal detention highlighted will be dealt with in the new judicial and prosecution reforms.

- **People still in prison despite the Presidential Communiqué of 1st January 2004.**

The Commission realised that although the Presidential Communiqué of 1st January 2004 included some people with no files (dossiers) the complaints received by the Commission revealed that in some places, people's cases were left behind due to negligence.

- **People detained on account of discrimination and divisionism.**

The Commission received complaints from people who are detained on account of segregation and divisionism. It was clear to the Commission that some were released due to lack of evidence. The Commission believes that this is a serious crime but finds the nature of the law relatively not easy to interpret and implement. The Commission therefore thinks that the law governing segregation and divisions should be reviewed.

- **The Prosecution and administrative authorities challenging courts decisions.**

Concerning arbitrary arrests and illegal detentions, there are certain problems caused sometimes by the prosecution challenging courts decisions. Some people are temporarily released by courts and the prosecution keeps them in. This way of working is against detainee's rights and makes people lose confidence in the judiciary whenever they are offended.

The Commission followed up other cases related to non implementation of decisions by administrative authorities. This keeps people in suspense. It was clear to the Commission that in some places local authorities did not know that courts decisions have the power of law, and that is the reason why they can afford challenging them. The Commission reminds once again that this bad culture is yet to be uprooted, although this was pointed out in the 2001 and 2002 annual reports.

- **Delayed and pending cases.**

The Commission also criticises once more delayed and too much pending cases where the courts base their arguments on lack of judges or absence of one of the parties. This makes cases to be postponed several times and causes people to mistrust the courts which are supposed to play a conciliatory role and render justice to people.

A good example of endless cases is that of MUKAMUSONI Berthilde (P. 36 English version) which was postponed eighteen (18) times mainly due to unavailability of judges.

Another incomprehensible thing is the tendency whereby the court postpones a case or removes it from the list of cases because one of the parties is not present and yet he has been officially summoned. As long as the law gives power to courts to judge the case even in the absence of the accused, there is no reason why the court should postpone cases waiting for one party. This postponement violates one's rights to fair trial in reasonable time.

Other reasons delaying cases include the tendency of asking money from the parties for transporting judges to the site or to the field. This frustrates the parties involved especially poor ones and yet it is not provided in the law. An example is the case of NIMUKUZE Pascasie (P. 35 English version) and the case of AYABAGABO Jean Claude (P.39), which were postponed indefinitely due to lack of means by one of the parties. Here the Commission finds that the Ministry of Justice should set up ways and means to help poor parties as regards investigations, so as to overcome such problems.

The Commission is confident that delayed and pending cases which have been noticed shall be dealt with in the new judicial and prosecution reforms.

- **Delays in delivering courts rulings.**

Apart from delaying and pending cases, it was noticed that even after the judgment has been pronounced, it takes long for involved parties to get the courts ruling such that appeals and

implementation of court rulings are delayed. This is mainly due to negligence of courts staff who do not type them in time because where the Commission intervened, these copies were immediately typed and produced.

- **Disappearance of people.**

Concerning cases of disappearance of people, the Commission realised that security services have started investigations. It therefore requests them to speed up the action, so as to help the concerned families come out of suspens.

The Commission requests that the relevant families be told the outcome of investigations and obstacles encountered especially when it involves going beyond national borders.

- **Killing and harassment of genocide survivors and witnesses.**

Among other problems of human rights violations followed up by the Commission, handled were those cases related to killings and harassment of Genocide survivors and witnesses. These cases were mainly found in Gikongoro province, where survivors were killed by criminals. The Commission finds that these killings aim at covering Genocide evidence and Gacaca witnesses, which is a clear sign that there is still a number of people with genocide ideology. The Commission is however happy that, in attempt to prevent these killings, the judiciary is determined to pursue the suspects and that their cases are already in court.

- **Cases related to property.**

Many other cases the Commission handled with regard to human rights violations include those related to properties of old case refugees of 1959 which caused many conflicts between their former owners and those who were holding them. The Commission reminds that this problem continues to generate conflicts in various provinces as shown in its previous reports. The Commission takes this opportunity to request that the law governing land be given urgent consideration so as to solve these land issues once for all.

Concerning the cow foot disease ("Uburenge"), many problems related to property rights were experienced. An example is the case of SEBURIKOKO and his friends (P 59 English version). The Commission showed that the 18 July 1938 decree used in combating this disease is old and outdated. It was observed that this decree was used only in some of its articles and even then, not applied the same way to all cases. Another thing is that some unknown instructions were given and sanctions given never took into consideration the wellbeing of the cow owners and their families.

Other problems violating human rights include those of people looking after orphans, who are only interested in the properties left by the latter's parents. The Commission requests all those concerned by these cases to be very vigilant before giving authorisation to whoever claims the right to look after orphans' properties.

- **Rights to education.**

Regarding violation of children's rights, the Commission received cases related to parents who abandon their duties of educating their children. Some remove them from school as a punishment. On this, the Commission takes this opportunity to sensitize all authorities to follow up these issues because they seriously violate children's rights to education.

- **Rights to remuneration of work done or rights to salaries.**

Among other complaints brought to the Commission are arrears of teachers' salaries. It was realised that teachers replacements get their salaries very late and after running up and down, often with no means.

- **Visits to cells and prisons.**

Apart from handling complaints, in the year 2003, the Commission engaged in monitoring respect of human rights in the country. It is in this connection that the Commission visited a number of cells and prisons to see how human rights were respected in prisons so as to give advice related to these rights.

- **Monitoring Elections.**

The Commission also played a role in monitoring elections that took place in the country in the year 2003 with a view to evaluate how people's rights to elect and be elected freely were respected.

- **Monitoring GACACA Courts.**

The Commission continued to monitor GACACA Courts in order to see how human rights are respected for both the suspect and the victim in genocide cases. Going by what was discovered in GACACA Courts, the Commission submitted its views to relevant authorities with a view to improve GACACA activities.

8.1.2. HUMAN RIGHTS PROMOTION.

As one of its basic obligations, in the year 2003, the Commission achieved a lot in the area of educating and sensitizing Rwandans on human rights as detailed earlier in this report. Apart from its programme "UBURENGANZIRA IWACU" broadcasted on Radio Rwanda every Friday, the Commission delivered different lectures and organised seminars for various categories of Rwandans, including local authorities, judicial personnel, security personnel, various Solidarity Camps ("Ingando") participants, teachers and students, religious leaders, members of associations and youth organisations.

Concerning commemorative days on human rights, the Commission publicly delivered various messages relevant to the respective days and this helped more Rwandans to be aware of these days, to promote and protect them. The Commission gave messages through Rwandan

Radio, Television and written press such as newspapers in the country. Other messages were sent through spots and signboards in public places. In this regard, the Commission confirms that today many Rwandans are aware of their rights. The Commission shall continue to educate and sensitize people to respect their rights and the rights of others.

8.1.3. INSTITUTIONAL DEVELOPMENT.

Regarding institutional development, in the year 2003, the Commission increased trainings for its staff inside and outside the country. Inside the country, seminars were conducted by competent national and international experts. In general these trainings were beneficial and centred on the rights of vulnerable groups, project management, human rights investigations, and international conventions and treaties on human rights.

The Commission also sent some members of its staff on study tours abroad to learn how other Commissions implement their duties and achieve their objectives of promoting and protecting human rights.

These study tours help to equip the staff of the Commission with skills to fulfill their duties of protecting and promoting human rights. The Commission shall continue doing everything possible to train its staff in matters of human rights. The Commission takes this opportunity to thank various donors who continue to contribute to this training of its staff.

8.2. RECOMMENDATIONS.

In its previous reports, the Commission made various recommendations to different institutions concerned with human rights violations, so that appropriate measures can be taken. In general the Commission is satisfied that most of the problems and cases have been well handled by relevant authorities. However, human rights violations have continued despite the appeal to various Institutions. That is why the Commission once again wishes to repeat some of the recommendations it gave in previous years and give new ones, based on the cases dealt with in the year 2003. These recommendations are submitted to the following Institutions:

8.2.1. To the President of the Republic, the National Assembly, the Government and the Supreme Court.

- Finding a solution to arbitrary arrests and illegal detentions which violate human rights of the suspects. Sensitize the prosecution offices and police stations to respect laws governing arrests and detentions, especially not detaining people without preliminary investigation;
- Sensitizing the prosecution to respect courts decisions because these decisions are laws and laws should be reversed only by other laws;
- Urgently adopt a law governing prisons so as to solve relevant problems including people who are forgotten there and yet they finished to serve their sentences. This law should

explain who should be in prison, who should be released and who should remain there. This law should also clearly differentiate who is guilty, who is still under investigation and who is not guilty;

- Urgently solving the issue of implementing the courts decisions and courts rulings so that they become valuable and respectable;
- Finalise the judicial and legal reform, so as to solve long pending cases;
- The Government should provide the prosecutors and judges with necessary means and facilities so they can visit sights of crimes because it has been discovered that lack of these hampers and delays many cases, and justice delayed is justice denied;
- Take measures against leaders who violate rights of those they are supposed to lead and protect;
- Review the law governing land and see whether it actually resolves land problems facing Rwandans in this domain;
- Take strong measures enabling children to have free education in primary schools as stipulated in the National Constitution and in lower secondary education as stipulated in the Government programme;
- Take measures enabling poor secondary school students to continue with their studies without losing their right to education by being thrown out of schools;
- Solving once for all the problem of salary arrears for teachers and those replacing them;
- Study and solve once for all the issue of the properties of old case refugees of the 1959 as repeatedly requested by the Commission in the two previous annual reports;
- Sensitize all authorities to respect and implement court decisions and punish leaders who disregard such decisions;
- Sensitize the courts to give copies of the rulings to involved parties, so that their rights to appeal may not be violated or hampered;
- Stand up for the protection and security of genocide survivors and witnesses in Gacaca Courts. In some places some have already been targeted for death and harassment in order to silence them. Leaders found to play a role in such cases or to neglect them should also be punished.

8.2.2. TO ALL RWANDANS.

- Keep coming to the Commission, to its headquarters in Kigali and its provincial offices bringing complaints and views on human rights;
- Take cases to relevant institutions before coming to the Commission;

- Inform the Commission on serious human rights violations in their respective districts so that the Commission can investigate on them;
- Be ready to protect their rights and others' rights,
- Condemn and fight against the culture of impunity;
- Learn more about individual rights and responsibilities and the provisions of the National Constitution and other laws.

8.3. PERSPECTIVES FOR THE YEAR 2004.

8.3.1. Human Rights protection.

In the year 2004, the Commission has the following programmes with regard to human rights protection:

- Receive and analyse human rights complaints in civil, political, economic, social and cultural areas, rights to development as well as requesting relevant authorities to handle them properly;
- Receive and analyse human rights complaints related to living in a clear and healthy place with good hygienic conditions;
- Follow up the implementation of human rights related to vulnerable groups including women, people with disability and the aged;
- Give views and ideas on draft bills related to human rights and highlighting articles violating human rights;
- Sensitize relevant institutions to set up a human rights programme and participate in the planning;
- Keep reminding competent Government institutions to sign and ratify international human rights instruments;
- Continue monitoring human rights in Gacaca Courts;
- Monitoring human rights in the implementation of community services for the released prisoners;
- Monitoring human rights in cells and prisons;
- Conduct research on the security of genocide survivors and witnesses in Gacaca Courts.

8.3.2. HUMAN RIGHTS PROMOTION.

Concerning human rights promotion, the Commission intends to continue to educate and sensitize Rwandans on their rights and the rights of others. Among the different categories targeted particularly by the Commission are local authorities, judges, prosecutors, secondary school teachers, police, prison authorities, local defence forces, and military officers.

In the year 2004, the Commission intends to continue working with the Ministry of Education on introducing human rights programmes in secondary school syllabus.

Regarding human rights promotion, the Commission intends to vulgarize international conventions on human rights in Kinyarwanda and prepare guidelines on children's rights in this language.

The Commission will also continue activities of sensitizing the people on human rights using the press and media and giving messages on human rights in commemorative days. It will sensitize Rwandans to fight for their rights and those of others and the Government to commemorate those days.

8.3.3. Institutional Development.

In the year 2004, the Commission intends to continue training its staff and Commissioners on human rights, both in the country and abroad.

Regarding capacity building, the Commission intends to organise other training programmes in information technology and languages used in Rwanda, including French and English.

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