

NATIONAL HUMAN RIGHTS COMMISSION

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ANNUAL REPORT - 2000

Kigali, March 2001

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I. FOREWORD

The National Human Rights Commission of Rwanda is pleased to present its report for the year 2000, the second since the Commission started its activities on 24th May 1999. The report comprises of the following four parts:

- The introductory part related to certain events that marked Rwanda during the year 2000, the duties and the structure of the Commission and some of the issues that characterized it during the year 2000.
- Part two, which constitutes the major part of the report, deals with the activities of the Commission for the year 2000.
- Part three consists especially of a report on the utilization of the Commission's budget for the year 2000.
- The fourth and last part presents the general conclusion, perspectives for the year 2001 and some recommendations.

In addition to these four parts that make up the actual report, three appendixes are presented, namely: the internal rules and regulations of the Commission as adopted in the year 2000, a list of the members of the Commission and their respective duties, and the organization chart.

Although, in essence, this report is not quite different from that of 1999, it has at least two new specific aspects that indicate the higher level to which the year 2000 has brought the Commission's activities:

First is the manner in which the activities concerning Human Rights violation issues have been presented in this report, with the purpose of indicating the types of cases, their specificity and action taken by the Commission.

Second is that, to the general conclusion and perspectives for the year 2001, as presented in this report, are added the Commission's recommendations, based on lessons learnt through its activities during the year 2000. These two aspects are in response to the wishes expressed by many of the readers of the 1999 report.

A number of things suggested by the Commission in the last part or even in the Report itself concerning violations of Human Rights in Rwanda, may sound unwelcome to some of the readers of the report.

What the Commission would wish to request everybody however, especially members of those Institutions mentioned as having been involved in violations of Human Rights, is to understand that what is presented by the Commission is intended to help Rwanda to attain its goal of becoming a State Governed by the rule of Law. This objective is indeed the basis of the law establishing the Commission and its responsibilities.

The Commission also welcomes any advice and ideas from the readers of this report, pointing out problems or areas of problems that may have not been sufficiently considered.

Finally, the Commission would like to express deep gratitude to all those Government Institutions that helped it without reservation during the year 2000 and the previous one.

The Commission is also thankful to all the donor agencies which brought to it assistance, in the form of advice, ideas and resources that came to enhance further the recurrent expenditure budget provided by the State of Rwanda.

Many thanks also to the private institutions, and all Rwanda citizens who brought to the Commission different cases, counseling and ideas.

The Commission would like to reassure the public that for the year 2001, it will facilitate further access to its services, by establishing offices in the Provinces all over the Country and by doing all in its capacity to ensure that Human Rights issues brought to its attention, or found out by it, get appropriate and reliable solutions.

GASANA NDOBA
President of the Commission

II. INTRODUCTION

This activity report of the National Human Rights Commission is the second ever since the Commission was established, for the first report covering the period June to December, 1999 was released in January 2000, as provided for in the law establishing the Commission. The contents of this report cover the Commission's activities from January to December 2000.

2.1. Some of the issues that characterised Rwanda during the year 2000.

Many events happened in Rwanda during the year 2000, but the following could be singled out as the major ones:

The year 2000 was characterised by security after the acts of Human Rights violations that took place in the northern part of Rwanda due to activities of infiltrators which claimed many lives and destroyed many development projects so far realized by the people: schools, hospitals, bridges, administrative buildings and others.

During the year 2000, people's resettlement activities continued. However the year 2000 was also characterized by killings that took place, particularly in Kigali City, during the first months of the year. These left about six people gunned down by people who still remain unknown.

There was also famine due to unusual drought that caused many people to shift to other places, especially those who lived in Bugesera, Umutara and Amayaga regions.

Regarding the political domain, there were changes that deserve recalling. These include the resignation of the Speaker of Parliament, Mr. SEBARENZI KABUYE Joseph, who was replaced by Dr. BIRUTA Vincent; the resignation of the Prime Minister, Pierre Celestin RWIGEMA who was replaced by Bernard MAKUZA and which was followed by the nomination of the New Government on 20/3/2000; the resignation of the President of the Republic, Pasteur BIZIMUNGU (23/3/2000); the Supreme Court, stating that the Vice President, H.E Paul KAGAME replaces temporarily the President of the Republic (24/3/2000); the election of H.E Paul KAGAME as President of the Republic by the Parliament (17/4/2000); and his being sworn in on (22/4/2000) and the National Consultation Assembly on Unity and Reconciliation (18-20/10/2000).

2.2. The Duties and function of the Commission

In this part are recalled some of the duties of the National Human Rights Commission, as prescribed by the Law. These are as follows:

- To examine and follow up Human Rights violation acts;
- To sensitise and educate the Rwandan population on matters regarding Human Rights;
- To seek, where necessary, the assistance of the Judiciary with regard to proceedings in case of violation of Human Rights by any one.

In general the establishment of the Commission was in conformity with the provisions of the United Nations resolution regarding all National Human Rights Commissions and known as the Charter of Paris. This Charter provides for full freedom of these Commissions to enable them to accomplish their responsibilities.

Regarding the National Human Rights Commission of Rwanda, such freedom is provided for by article 2 of the law establishing the Commission and this could be seen in its daily activities throughout the year 2000 and even during 1999.

2.3. The functioning of the Commission and issues that characterized it during the year 2000.

2.3.1. Activities influencing the functioning of the Commission.

During the year 2000, towards the end of March, the National Human Rights Commission released its first Activity Report. On 13, September 2000, the Commission ratified its internal rules and regulations, as prescribed in article N° 12 of the law.

The Commission also changed offices, moving from its former premises to the building, which is close to those housing the Parliament, the Supreme Court and the Ministry of Justice and Institutional Relations. This was especially to facilitate the smoothening of the Commission's activities and to allow accommodation for more staff required by the Commission in order to accomplish its responsibilities. The shifting was effected on 16/8/2000.

On 2/11/2000, the members of the Commission agreed on the candidature of Mr. Bernardin RUTAZIBWA for the post of the Commission's Permanent Secretary. He was confirmed by the Cabinet meeting on 15/11/2000.

On 15/11/2000 one member of the Commission, Mrs. Soline NYIRAHABIMANA left the Commission following her appointment to the Office of the President of the Republic, as Director general responsible for the Constitution and other laws.

As it had always been wished, the senior Staff of the Commission were appointed on 12/12/2000 so as to enable the Commission to carry out its duties more efficiently. In the same month of December 2000, following the Agreement of Cooperation between the National Human Rights Commission and the United Nations Human Rights Commission, signed by the respective Heads of both Commissions on 24/10/2000, four experts were sent by the United Nations to work with the National Commission.

2.3.2. Promotion of Cooperation with other Government Institutions.

1. The members of the Commission were received on 25/1/2000 by the Prime Minister and they discussed the Commission's activities and the difficulties it encounters in its daily operations.
2. On 3/3/2000, the then President of the Republic, BIZIMUNGU Pasteur received the members of the Commission. He had also invited to the discussions the Speaker of Parliament and the Ministers having in their attributions, activities, relating to the Commission's activities. The discussions concerned the law establishing the Commission and provisions of this law that related to cooperation between the Commission and other Government Institutions.
3. On 31/7/2000, the Head of State, Paul KAGAME received in his turn the members of the Commission. He too, had invited the Speaker of Parliament, the Prime Minister, the Supreme Court President and the Minister of Justice and Institutional Relations. They discussed matters concerning the Commission as they had been presented to the former President, Pasteur BIZIMUNGU.
4. During the same year, the Commission held regular meetings with donors in a forum named "Friends of the Commission". They discussed ways and means of promoting Human Rights.
5. Besides the Cooperation activities mentioned under a special heading in this report, during the year 2000 the Commission received twice and held talks with Michel MOUSSALI, the United Nations Human Rights Commission Special Envoy to Rwanda. The meetings took place in March and October 2000.

III. ACTIVITIES OF THE COMMISSION

3.1. The Commission's Plan of Action for 2000

Based on the provisions of articles 3 and 4 of the law establishing the Commission, the latter had generally planned to carry out its duties as prescribed in the law establishing it, namely to examine and follow up Human Rights violation actions on Rwandan territory and any other thing violating these rights and to sensitise and educate the Rwandan population on matters related to Human Rights.

In a special way however, the Commission intended, in the year 2000, to make proposals to competent authorities concerning amendments to be made in the provisions of the law establishing it, with a view to ensure better accomplishment of its responsibilities.

The Commission also planned to recruit its personnel and organize familiarization seminars for them. It would have established offices in different regions on Rwandan territory to facilitate further activities of people's sensitisation, and follow up Human Rights violation actions throughout the country.

It was also planned by the Commission to follow up and monitor the functioning of the Gacaca jurisdictions.

The Commission planned further to bring together those involved in Human Rights protection activities, so as to avoid dispersion of potential strength in the promotion of these activities.

The National Human Rights Commission also planned to intensify contacts with donor Agencies with a view to raise funds needed to carry out further its activities.

3.2. MAJOR ACHIEVEMENTS

3.2.1. Human Rights Protection

Concerning Human Rights Protection, the National Human Rights Commission laid greater emphasis on the realization of the following:

- To inquire into Human Rights violation actions, be they Civil, political, economic, social, and cultural or development rights.
- To do everything possible to ensure that those whose rights have been violated have them restored.
- To give advice to concerned authorities so that actions of Human Rights violation or denial are corrected.
- To prepare reports indicating the manner in which individuals or institutions violate Human Rights.
- To organize educational programmes on civil, political, economic, social, cultural and development Human Rights.

3.2.1.1. Regarding Civil and Political Rights.

From January to December 2000, the Department of Civil and Political Rights had no personnel and its activities were carried out by the Commissioner who normally is

responsible for their supervision. In this, he was sometimes assisted by one, several, or all of his colleagues, depending on the nature of the issue under consideration.

Among other preoccupations of the Commission not mentioned in this report, are killings that took place in Kigali city, particularly towards the end of February - beginning of March 2000. The victims of these killings reported to the Commission include KAGAJU Antoinette and GASUMIZI Valens who were killed in the night of 26 February; KABERA Asiel and Samuel SARGBA who were killed in the night of 5 March 2000.

During the year 2000, there were several other killings in the Capital, which took the lives of many victims including some Security Staff. The authors of these killings are yet to be known. Due to insufficient means as mentioned earlier, the Commission did not manage to conduct thorough investigations on these killings. However, it expressed its deep sorrow and great concern in the Communiqué made public on 7 March 2000. The Commission requested the competent authorities to do all that is possible to ensure that, whoever is responsible for those killings is found and punished accordingly. It also requested every Rwandan citizen to collaborate with all others in pointing out the killers and to condemn their deeds.

The cases mentioned in this part of the report are those for which the Civil and Political Rights Department has conducted at least preliminary investigations. They were either reported to the Commission by the individuals concerned or they were discovered by the Commissioner responsible for this Department or again by any other department within the Commission in the course of examining other cases.

Some of these have already been settled but during the year 2000 others were still unsolved as yet.

CASES FOLLOWED UP BY THE COMMISSION THROUGH THE CIVIL AND POLITICAL RIGHTS DEPARTMENT.

During the year 2000, the Commission continued the follow up of cases brought to its attention during 1999 and which so far had remained unsettled. The Commission also fled and followed up new cases reported to it in writing or verbally, by the person concerned, by another person or by an institution.

Concerning illegal arrests and detentions

1. The arrest and detention of NGENZI Daniel.

The Commission followed up the case ever since it learnt of the perplexing arrest and detention of NGENZI Daniel and since it was informed that NGENZI's lawyers had been denied access to his file in the hands of the Military Prosecution. The Commission found out that NGENZI had been suspected of conspiracy in the desertion and escape of a soldier currently living in Canada. NGENZI Daniel's file N° was RMP 66/AM/KGL/NA/97. NGENZI Daniel had been illegally arrested on 31/8/1999 by the Directorate of Military Intelligence (DMI) authorities and was detained at their office until the Commission

demanded his transfer for, according to the provisions of the Constitution, DMI is not authorized to carry out arrests and detention.

He was then transferred to Mulindi Military Prison. His provisional detention order was written on 14/10/1999 and his Interrogation Statement was made on the same day. For all the time he was in detention, he was never taken to court. It was only after the Commission reported the matter to competent authorities that NGENZI was finally bailed out and would appear before court free from detention.

In connection with his bail on 7/8/2000, there were some unclear issues that could lead to confusion or even frustrate the accused. For example, it is stated in the provisional release order that his release was meant to allow him to continue his usual duties "while in the meantime his case was under investigation". However, a different document had been written indicating that conclusion had been made concerning investigations on NGENZI `s case. The latter document was signed by the Public Prosecutor on 27/01/2000, date on which NGENZI `s case was forwarded to the Military Court.

Another example is that NGENZI's passport was retained at the Public Prosecutor's Office without indicating it, in writing, to the passport owner.

2. The arrest and detention of Second Lieutenant MURERA Bertin, Pte BYABAGAMBA Innocent, RUTABANA Benjamin, RUKÉBA Francois and RUGEMA Janvier.

The families of the soldiers MURERA Bertin and BYABAGAMBA Innocent, together with those of the Civilians, Benjamin RUTABANA (known by the name Ben) and François RUKÉBA sought verbally the Commission's assistance so as to know where these four men had been detained. They had been arrested, some in Tanzania, others in Burundi and forced back into the country by Rwanda Government.

Their respective families were worried that these men might have been killed. The Commission had also heard a witness who said he had been detained in Burundi with some of these men before they were brought back to Rwanda.

On 19/2/2000, the Commission wrote to the then Vice-President of the Republic who was also Minister of Defence at that time, requesting to meet those people and look into the matter. The Commission's request was granted by a letter of 29/2/2000 from the Military Chief Prosecutor, who even informed the Commission that, besides the four men it requested to meet, there was a fifth by the name of RUGEMA Janvier.

The Military Chief Prosecutor also visited the Commission's Head Office and held discussions with the members of the Commission about the arrest and detention of those five men. Their respective charges were also discussed.

The soldiers were charged with desertion whereas the Civilians were charged with aiding and abetting the soldiers to desert.

On 2/3/2000, the Commission members met the detainees at the Military Prosecutor's Office. It was noticed that they had all been there for about 21 days without any written statement regarding their arrest. Whereas they had been brought back to Rwanda on 4th and 5th/2/2000, the statement was dated 26/2/2000. The Commission raised their concern because this was in violation of the existing law.

The concerns of the Commission intensified further when it learnt that, at the time of their arrest, two of them, namely, MURERA Bertin and RUTABANA Benjamin had sought refugee status in Tanzania, through the United Nations High Commission for Refugees. Their forced return to Rwanda was therefore in disregard of the International Convention Relating to the Status of Refugees, signed and ratified by both Rwanda and Tanzania.

In these discussions, the detainees informed the Commission that, except for RUGEMA Janvier, they had all been told the charges against them. At that time, MURERA Bertin and BYABAGAMBA Innocent admitted the guilt of their desertion and they gave reasons for it. As for RUTABANA Benjamin, he said that the charges preferred against him were fabricated and not the real reason for his arrest. He thought the real reason could be that, he had been suspected of aiding and abetting in the escape of former Speaker of Parliament, Mr. SEBARENZI KABUYE Joseph.

On his part, RUKÉBA François admitted to have taken BYABAGAMBA Innocent in his car as far as Butare, on the day BYABAGAMBA fled the Country. He did not however, know that he was running away from the country. He said they later on met in Burundi by coincidence. RUKÉBA François denied any involvement in the soldier's escape.

During these discussions at the Kigali Military Prosecutor's Office, none of the detainees said he had been tortured or undergone any other cruel, In-human treatment. However, they showed such signs as unusual fatigue that the Commission believed those men might have experienced such kind of treatment but, out of fear, they concealed the fact.

At the time of their discussions with the Commission, the men were detained in Kanombe Military Prison. After the discussions, the soldiers, MURERA Bertin and BYABAGAMBA Innocent were transferred to Kibungo Military Prison whereas the Civilians, RUTABANA, RUKÉBA and RUGEMA were taken to Murindi Military Prison. In the Commission's opinion, detention of civilians in Military Prisons is illegal.

The Commission continued contacts with the Chief Military Prosecution authorities and visits to the said two soldiers in Kibungo Military Prison to see how they were being treated, as their families had expressed fears concerning the detainees' conditions.

Five months after the Commission met them for the first time, all the five were bailed out. They are currently waiting to appear before the court, free from detention. However, at the time of writing this report, some information yet to be confirmed by the Commission says that two of them, namely RUKÉBA François and RUGEMA Janvier, might have fled the Country.

3. The arrest and detention of Second Lieutenant NSENGIYUMVA Samuel.

Second Lieutenant NSENGIYUMVA Samuel was first arrested on 8/3/1998 and was detained following the assassination of a Kigali based businessman, by the name of BAYINGANA Victor. On 23/12/1999 the Military Court passed judgment of the case N°RP0741/CG/99, in which the Military Prosecutor accused three people namely, Second Lieutenant NSENGIYUMVA Samuel, retired Sergeant RUTAGUNGIRA René and KAGAJU Antoinette who was later gunned down by people who remain unknown to this day.

In the said case, the court ruled that the accused were innocent and acquitted them. Court ordered that they should be released immediately. This was done. However, as reported to the Commission by MUKAKARANGWA Aline, a sister to Second Lieutenant NSENGIYUMVA Samuel, the latter was rearrested by the Military Prosecutor's Office on 3/1/2000 and was detained for reasons still unclear to the Commission. In fact regarding the case in connection with BAYINGANA Victor's death, NSENGIYUMVA had been brought to court and had been acquitted.

In following up this case, the Commission approached the Kigali Military Prosecutor's Office. None of those interviewed at this Office could explain any reason why NSENGIYUMVA should remain in detention.

The Commission also approached the Military Court that had passed a judgement concerning this case and it consulted also the Military Supreme Court. It wanted to know from both courts whether there had been filed any new charges against NSENGIYUMVA after his release; and whether the new charges led to his detention, in accordance with the law. The Commission learnt that neither court had ordered NSENGIYUMVA to be rearrested and detention nor had there been any new charges filed against him. By the end of the year 2000, Second Lieutenant NSENGIYUMVA was still in detention for dubious reasons.

What is apparent is that the Military Prosecutor's Office disregarded laws governing arrest and detention and thus NSENGIYUMVA' s rights have been grossly violated.

The arbitrary arrest and detention of Second Lieutenant NSENGIYUMVA is one of the problems the Commission encountered regarding the prosecution that disregards laws and the rulings of the Courts.

On 27/3/2001, the Military Prosecutor's Office decided to release Second Lieutenant NSENGIYUMVA Samuel provisionally. The decision however prevented him to travel outside the country and it required him to report to the Prosecutor's Office every Tuesday. He was also required to remain at the same working place as he had been before his arrest, namely the G2 (A) Office.

In the provisional release order it was stated that Samuel had been charged with murder. To the Commission's knowledge however, this had not so far been indicated

anywhere. The Commission finds that this manner of doing things is improper and needs correction.

4. The arrest of Selemani ISSA.

Selemani ISSA's case was brought to the attention of the Commission through his wife's letter of 23/4/2000. At that time Selemani ISSA was in detention in Gikondo Prison, Kigali.

He had been accused by Government authorities in the case N° RP38522/KGL in connection with theft, fraud and fabrication of fake currency. However, the matter presented to the Commission concerned a case, which Selemani and his lawyer had requested the court to examine first, namely Illegal detention.

The Kigali Court of first Instance passed judgement of this case on 28/2/2000 and ruled that the prosecution lost the case. On 31/03/2000 the Kigali Court of Appeal, in its turn, ruled that Selemani ISSA and those accused with him should be provisionally released and answer the charges while on bail. This was not implemented.

Until 24/4/2000, date on which his wife reported the case to the Commission, Selemani ISSA had not been released. This implies that for almost a whole month, the ruling of the Court of Appeal, which was in fact a further confirmation of the ruling of the Court of first Instance, was not executed.

When the Commission wanted to know the reasons for such a delay it learnt, from the Investigations Directorate of Military Intelligence (DMI) that Selemani ISSA had kept on refusing to get his photograph taken, whereas, he was on the list of people who were commonly suspected of various kinds of crimes. It was therefore feared that he might flee the Country, especially as it was believed that he had a double Nationality.

While the Commission was conducting further investigations on this case, it learnt from Selemani's wife that he had been provisionally released while his case was still under further investigation. This is one of the several problems the Commission encountered, suggesting that obstacles exist which hinder the execution of court rulings.

The arrest and detention of MBANDA Jean.

MBANDA Jean, a former member of Parliament, on 29/5/2000, long after he ceased to be member of parliament, was arrested by the Prosecutor General's Office of the Supreme Court and he was detained on charges of treachery vis a vis APROTAM, an association he used to head.

His lawyers expressed concern due to the fact that once a person's case is in the hands of the Supreme Court he is automatically denied the right to appeal anywhere else. Regarding MBANDA himself, the lawyers recalled that when he was arrested, he was no longer a member of Parliament. His case could therefore be handled by the Kigali Public Prosecutor's Office and the Kigali Court of first Instance.

The day he was arrested, MBANDA was remanded in custody at Remera Police Station and spent there ten days before he was transferred to Kimironko Prison. MBANDA requested to meet his usual lawyer, Advocate MUTAGWERA Frédéric. On 13/6/2000, the Supreme Court authorized MBANDA to have a lawyer, a right actually entitled to him, according to the Constitution.

On 23/6/2000, the Court gave a ruling regarding MBANDA' s detention as appears under item N°. 003 in his file N° RMPC/240/RS/PROGECA.

On the same day, MBANDA's lawyer, Advocate MUTAGWERA Frédéric proposed to the Court of Cassation in the Supreme Court that, according to the national laws, the Supreme Court should not handle his client's case. His proposal was objected to.

On 20/11/2000, Advocate MUTAGWERA wrote to the Vice President of the Supreme Court who is at the same time President of the Court of Cassation reminding him that a different ruling should be made if MBANDA's detention was to be legal. He was referring to Court proceedings as prescribed in article 41 of the Criminal Procedure Code. There was no response to his letter. Thus, by the end of the year 2000, MBANDA had illegally spent seven months in detention.

To MBANDA' s Detention was added the confiscation of his car for more than four (4) months, by the Prosecutor General's Office of the Supreme Court, without any explanation to the car's owner, or to his family.

Another act violating Human Rights Principles was the publicity given to MBANDA's arrest and detention. The Advocate General, RUKANGIRA Emmanuel, did this in the press, including the television where he even presented certain documents as evidence of MBANDA's crime. He should have left the matter to the Court which alone is empowered to give a ruling after the accused has also been given chance to examine the exhibits brought forward against him and to be heard in self- defence.

On 10/11/2000, MBANDA Jean wrote to the President of the Supreme Court and that of the Court of Cassation complaining that authorities of the Prosecutor General's Office of the Supreme Court had treated him unfairly. He requested to be bailed out while waiting to appear in court.

The Commission visited MBANDA at Remera Police Station and it continues the follow up of his case. At the time of writing this report, the Commission is not informed as to whether or not the Court of Cassation admitted his complaint mentioned above.

6. The arrest and detention of BUGINGO Eudes

His friends drew the attention of the Commission to BUGINGO Eudes' arrest and detention on 1/6/2001 through a verbal report.

BUGINGO had been arrested in Kigali the day before, on 31/5/2000, by the Prosecutor General's office of the Supreme Court. He is normally a resident of Butare, where he is an employee of Rwanda Revenue Authority as Customs Auditor, responsible for the southern part of Rwanda (Butare and Gikongoro).

The Commission visited BUGINGO at the Muhima Police Station. He informed the Commission that on 30/5/2000, arrived from Butare where he works, he found a message of the Advocate General in the Prosecutor General's Office of the Supreme Court, RUKANGIRA Emmanuel, summoning him. He explained further that when he reported to the Advocate General's Office the following day, he was asked by RUKANGIRA Emmanuel to give testimony against MBANDA Jean who had been arrested by the same Office on 29/5/2000.

BUGINGO continued to explain that he was asked to explain what had exactly transpired regarding the MBANDA-APROTAM issue. It was then alleged that there was some information he was concealing and, according to BUGINGO, these allegations might have been the cause of his being remanded in custody, at the Muhima Police Station. This was meant to allow him time to think about his life, bearing in mind how much his family depended on him.

On 14/8/2000, BUGINGO's relatives wrote a "Save Our Soul" letter in which they considered as "torture" this kind of arbitrary arrest and detention.

The Prosecutor General in the Supreme Court, GAHIMA Gerald, wrote BUGINGO's preventive detention order on 30/6/2000.

In the said discussion between RUKANGIRA Emmanuel and BUGINGO, the latter was asked how he came to know MBANDA Jean and how he cleared goods from the Dar-es-Salaam Port. BUGINGO gave his explanations until lunchtime. Mr. RUKANGIRA left him under the care of some police men at the office and he left for a rest.

The end of the year 2000 found BUGINGO still in detention, despite his repeated request for bail.

To the Commission's knowledge, the Prosecutor General's Office has not to this day forwarded BUGINGO's case to court for hearing. The reason so far given by the Prosecutor General's Office for denying BUGINGO's bail application is that "his record of conduct is unknown or questionable".

Concerning BUGINGO Eudes, just as for MBANDA Jean, the Commission finds no legal basis to have their cases handled by the Prosecutor General's Office of the Supreme Court, instead of the of the Prosecutor's Offices in subordinate Courts.

7. The detention of BWANAKWELI Charles

BWANAKWELI's wife who informed it that her husband had been in detention for 20 days at the Kicukiro Police Station sought the intervention of the Commission into this case.

A delegation of the Commission went to visit the said Police Station and held talks with BWANAKWELI, as well as the authorities there.

Investigations of the Commission indicated, among other things, that BWANAKWELI was arrested at his residence by the Military Police though he was not a soldier and this with no arrest warrant nor any summons to that effect. Moreover, for all that period of more than 20 days, BWANAKWELI's name did not appear in the Station's register book. It was only after the Commission had reported the case to the national Police authorities proving that the arrest was illegal, that BWANAKWELI was released.

8. KARUGANDA Theophile's remand in the Custody of Mushubati District.

The Commission was informed of KARUGANDA Theophile's case through a letter by his brother in Belgium. The letter said that KARUGANDA had been detained illegally and that his detention had been initiated by some one who had a child with KARUGANDA's wife.

The Commission investigated into the matter at Mushubati District's Custody where KARUGANDA was in detention. It was learnt there that he had stayed in custody temporarily since 30/7/1997 and that among other charges, he was suspected to have played a role in the 1994 genocide. He had a file, which contained his statement. He admits to have signed the statement at his own free will.

Up to the time of the Commission's visit in mid-August 2000, KARUGANDA's case had not been presented to the council of judges to decide on whether his detention was in accordance with legal procedures.

Regarding the allegation that one of those prosecution witnesses against him had had a child with his wife, KARUGANDA stated clearly that he knew who was involved in the affair and that the suspect is clean in that respect. The year 2000 ended with KARUGANDA still in custody.

The Commission was surprised at the inconsistencies between the allegations of KARUGANDA's brother and the statements of the concerned himself. The Commission intends to continue investigations on this case.

9. The case of HITABATUMA Emile, his wife and others remanded with them in Mushubati District's Custody.

In the course of following up KARUGANDA's case the Commission also discovered other cases of people suspected of common crimes, and who were remanded in Mushubati District's Custody. Some these had been there for a long time without any

document to indicate the charges against them; others admitted the charges, but theirs were crimes not deserving so long a time of remand.

Those of whom the Commission could retain the names include HITABATUMA Emile and his wife, NYIRANZIMENYEREZA Yozefa. Others are NDAHAYO Valens, MUNYANZIZA and MUKAMUDENGE Emerita. They were remanded in the said Custody on 1/8/1997. These people say that they were brought to the custody by the former "Counselor" of Mwaka Secteur on charges of murder. The Counsellor then left and never came back to give any further explanations until the day the Commission visited them.

The Commission's delegation found that for all that time these people had no document supporting their arrest. The delegation asked the new local Judicial Police Officer (J.P.O) to make investigations. If there is clear evidence as to their charges they should be imprisoned according to legal procedures or else they should be released.

After the investigations, the J.P.O found out that the person believed to have been killed by these five people had actually been killed by infiltrators. This information had indeed been known earlier but none seemed to follow up the matter in favour of these people.

One of them was released on 29/6/2000, and the other four were set free on 10/7/2000.

9. The arrest and detention of SHIKAMA Vincent and others in TABA District.

From 2nd to 24th June 2000, the Commission implemented the first phase of its plan to visit Police Stations and Custodies in the Districts; with a view especially, to know the conditions of the detainees and for how long they had generally stayed in custody.

In particular, the Commission was interested in examining cases of those charged with common crimes. The Commission plans to prepare a special report on such cases after completion of the second part of this programme. However, the Commission found it necessary to include in this part of the report for the year 2000 concerning investigations, some special cases brought to its attention regarding people charged with common crimes and who are in remand in Taba District Custody.

These include SHIKAMA Vincent who was in Custody since 28/5/1995 due to inability to pay one thousand and five hundred francs (1500 Frw) and HABİYAMBERE Jean, remanded since 21/11/1995 charged with fighting someone.

In both cases, the delegation of the Commission did not find any document indicating that the concerned had been questioned and that they had been legally detained.

The delegation asked the local Judicial Police Officer (JPO) who was there present to do all he could then so that those people get their rights restored.

When the Commission visited the place again on 17/11/2000, no file had been prepared for the two cases. The first JPO had been transferred and had been replaced by another one who knew nothing about these cases.

Others who had been in the custody for a long time when the Commission visited it the second time and on charges of common crimes, included SEBAZUNGU Bertin, BAGARAGARA Jean Pierre, BUREGEYA Barthazar and MUSENGIMANA Célestin. These had been remanded in the Custody since 21/7/1997, suspected to have been involved in the murder of some one. On that day, the Commission's delegate requested the Office of the Public prosecutor in Gitarama to follow up the cases and ensure that the rights of those six people are restored.

On 23/11/2000, a Committee appointed by the Provincial authorities to make a tour of inspection in the Custodies, released a total of 35 detainees, including the six mentioned above.

Other cases regarding Civil and Political rights followed up by the Commission

1. The Escape of SEBARENZI KABUYE Joseph.

While he was still in Office, the former Speaker of Parliament reported verbally to the Commission his worries in connection with his security, following accusations of treachery towards his Party, Liberal Party and the Forum of authorized Political Parties in Rwanda. The matter had even been broadcasted on the National Radio and Television.

The Commission asked him to put his case clearly in writing but he never did. Instead, a few days later, SEBARENZI resigned from office after the majority of the Members of Parliament had signed a document asking him to do so. There had also been debates in the Parliament indicating that most Members had lost confidence in him.

A little later, SEBARENZI fled the Country and this caused a state of uncertainty to a few individuals and some Non-Governmental Organizations like Amnesty International. These expressed their concern to the Commission suggesting that it should draw particular attention to SEBARENZI's security, especially as one Belgian Newspaper "Le SOIR" had already announced on 4/2/2000 that he might have been detained in Rwanda.

On 10/2/2000, the Commission wrote to the Minister of Internal Security and the Minister of Justice and Institutional Relations seeking explanations on SEBARENZI's security and the charges against him expressed in the press.

The Minister of Internal Security replied on 6/3/2000 informing the Commission that SEBARENZI had never been detained by Rwandan Security authorities. He explained further that up to the date of writing, no charges or any other reasons had reached his Ministry suggesting SEBARENZI's arrest or indicating that his security necessitated special attention.

The Commission learnt later that SEBARENZI had fled to Uganda, where he then left for Norway and then possibly he went to Canada.

The Commission felt concern about SEBARENZI's escape as it was soon followed by several others, including those of politicians, military officers and journalists.

2. Captain Frank TEGA's Insecurity.

Captain Frank TEGA reported to the Commission the case of his insecurity by a letter dated 16/3/2000 in which he sought protection.

Captain TEGA Frank was a soldier in the Rwandese Patriotic Army (R.P.A). He once was Commissioner in charge of the Youth and Culture in the Rwandese Patriotic Front R.P.F Inkotanyi.

At the time of his report to the Commission, he had been appointed a few months earlier as one of the judges in the Military Court. He was living in Kabeza of Kanombe Secteur, Kanombe District, not far from the location under the common name of Giporoso.

His worries as expressed in his letter to the Commission and in the discussions that followed, were founded on the fact that for some time, a group of unknown people were spending nights around his house. He suspected them to be soldiers who were plotting to kill him or to do him harm of one kind or another.

Even after he had shifted to Nyamirambo near the Police Station and later to another location in Nyamirambo, still his worries persisted.

The house-to-house inspection that was conducted in his area by security authorities towards the end of December 2000 led to the confiscation of his gun and bullets he used officially. This increased further his fears, as he felt he had then been stripped of the last means he relied upon for his security.

According to Captain TEGA, the question of his security surfaced for the first time during the 1995-96 period. At that time he informed high authorities in the Ministry of Defence and the RPF - Inkotanyi and the problem seemed to recede to some extent. It however, came up again in 2000, this time with greater impulse.

The Commission communicated this case to the then Vice President of the Republic who was at the same time Minister of Defence, in a letter dated 17/3/2000. It also got in contact with different high-ranking officials in the army and the National Police, with a view to establish the truth on this case and to ensure the security of the person concerned together with his family.

On many occasions and on Captain TEGA's request, the Commission asked the security authorities to intervene and settle security problems at his residence. Sometimes this

could happen more than twice in the same night, and the situation was the same whether at Kabeza or in Nyamirambo where he shifted to.

One of the policemen who had been sent to Captain TEGA's place on such occasions confirmed to the Commission, that in one of the nights he found in Captain TEGA's compound a shoe that apparently belonged to the army. The said shoe was found in the very direction that Captain TEGA thought his hunters were coming from.

Moreover, those who lived with Captain Frank TEGA, both at Kabeza and Nyamirambo confirm that his fears were founded. However, some other people, including those in the Security Department doubted the authenticity, of the evidences brought forward by Captain Frank TEGA. Others still suggested that he might have bend the mentally disturbed.

To establish the whole truth on this case, the Commission needed to have means in terms of personnel and equipment but during the year 2000, both of these were lacking.

Towards the end of January 2001, while in pursuit of further information on this case, the Commission progress learnt that Captain TEGA was no longer at his residence in Kigali. It was believed that he had left the Country.

4. Disappearance of HATEGEKIMANA Jacques.

HATEGIKIMANA Jacques is a young man who was born in 1977. He originates from Mashasha Sector of Nyamabuye District in Cyangugu where both his parents live. He was a student at "La Promise" secondary School, in Kigali living with a relative in Bibale Sector Remera 111, in Kigali Urban.

During the Commission's preliminary investigations, it was said that HATEGEKIMANA was taken away in the morning of 13/05/1998 by policemen (gendarmes). Those who lived with him knew the name of one of the men and the place where he lived.

They could also identify one civilian whose name we withhold as investigations continue. They knew him quite well since he is from the same sector and same District as HATEGEKIMANA Jacques.

In May 2000, the Commission conducted fact-finding investigations on this case. The delegate of the Commission visited the place where HATEGEKIMANA used to live, in Kigali, and his place of birth. From the discussions, the delegate had with HATEGEKIMANA's parents and their neighbours who included local leaders, the Commission got information on HATEGEKIMANA's disappearance and how efforts of finding him had so far been futile.

In normal circumstances, provisions of the civil law 1 in its chapter concerning disappearance, article 25 states:

"When a person is missing from the place of his usual domicile and if nobody knows his whereabouts and nobody left to care for his possessions, the person is considered alive for a period of two years from the last day it was known he was still alive".

However, HATEGEKIMANA's missing is different from that dealt with in the article above, for he was kidnapped by known people. His case therefore relates rather to "Individual freedom rights violation" as indicated in articles 388 - 390 of the penal Code.

The Commission has written to the Ministry of Defence requesting for assistance in its efforts to meet those close people suspected of involvement in HATEGEKIMANA `s disappearance.

By the end of the year 2000, the Commission had received no reply. Investigations on this case are still going on.

4. Forceful and Menacing appropriation of RUVAKUBUSA François's property.

On the 19/01/2000 RUVAKUBUSA François reported to the Commission his case whereby his car, TOYOTA DYNA RR B3.098B was taken away fraudulently by the same people who had sold it to him, in conspiracy with some soldiers and some agents in the Kigali Public Prosecution Office.

Those he mentioned in particular include one called MUSHAMBA Steven, Deputy Prosecutor SINDAYIGAYA Marko from the Kigali Public Prosecutor's Office and a soldier by the name of MASUMBUKO Alexis whose rank is not mentioned and who menacingly kept him at gunpoint.

RUVAKUBUSA informed the Commission that the Military Prosecutor's Office had helped him to find the car and handed it over to the Kigali Prosecutor's Office. From there the car was taken away, by the same people mentioned above, as he learnt later on.

The Commission helped to introduce RUVAKUBUSA to the Police concerned with such crimes, the Criminal Investigations Department (CID) and the Kigali Public Prosecution Office authorities. By the end of 2000 RUVAKUBUSA had, for a long time, not come again to the Commission to report on the progress of the matter.

5. The rape of N. somebody ... and denial of her right to appear to court.

In a letter dated 30/01/2000 from the Head of a Nun's congregation called "Soeurs Auxiliatrices" the Commission was informed of the case of a nun who was raped at her place of work in February 1999, by an unknown person, assisted in the act by some other people who are also unknown. We conceal the name of the nun for reasons of respect to her personal life and dignity.

Those pointed out as being suspected of involvement in this case, whose names also we conceal for the same reasons given above, were arrested and detained.

The Congregation of the nun concerned wrote to the Commission saying that the said nun was never summoned to court, for hearing. In the Congregation's opinion, this fact led to the release of the suspects without any case to answer.

Seeing that the case was already before court, the Commission helped the complainant to get a lawyer from an association of lawyers who usually give assistance in such cases.

By the end of the year 2000, the Commission had not heard from those who sought its assistance about the progress of this case.

7. RINGUYENEZA Pierre Claver's case with the Ministry of Defence.

RINGUYENEZA Pierre Claver who used to be a nurse in the Ministry of Defence sought the assistance of the Commission in his letter of 4/4/2000. The letter concerned the case N°RC.26786/97 in which RINGUYENEZA had accused his employer of sacking him for reasons not acceptable to the employee.

Although RINGUYENEZA had won the case both at the Court of first Instance and the Court of Appeal, his employer never executed the Court's rulings, and give him his dues. The Court's bailiffs contacted by the Commission on this matter informed it verbally that execution of the court's rulings would not be easy because, so they said, the claims are addressed to the Government.

Later on, the Commission wrote to the Minister of Defence explaining the urgency of the matter especially, as the non-payment of RINGUYENEZA's dues put him and his family in serious financial problems. Those problems had been brought to the knowledge of the Commission which tried to seek assistance from donors, on behalf of RINGUYENEZA, but in vain. By the end of 2000, the matter had not yet been settled.

On 19 March 2001, RINGUYENEZA wrote to the Minister of Finance and Planning with copies four National Institutions including the National Human Rights Commission. Annexed to the said letter was a document from local administration authorities of Remera Sector, Kacyiru District testifying that RINGUYENEZA's life was insecure. He was required to vacate the house he had been hiring "before 31/3/2001" and this was due to failure to meet the conditions stated in the agreement between him and the landlord on 15/7/2000. The annexed document also requested the "Rwanda Government to assist RINGUYENEZA regarding execution of the court rulings on his case RC 12372 on 23/12/2000".

8. Protection sought by GASIMBA F. Xavier.

In his letter of 29/6/2000, GASIMBA François Xavier, a lecturer at the National University of Rwanda, reported to the Commission that a neighbour had informed him that two people, one of whom was dressed in a Military uniform and was armed, had come to the neighbour's house by mistake, but that they actually were looking for GASIMBA.

On hearing this, GASIMBA was scared and he reported the matter to the Commission in writing, with a copy to security authorities.

Due to insufficient means at that time, the Commission could not follow up the case during the year 2000. The year ended before GASIMBA informed the Commission as to whether the situation had worsened or whether the matter had been settled by the security authorities who were already informed of the case, or by any other means.

8. The arrest of NSABIMANA Sylvain and his driver Sam, in Uganda.

During the period when there was tension between Uganda and Rwanda, some people who went to Uganda from Rwanda were, on reaching Uganda, mistreated, had their possessions confiscated and some were even detained.

NSABIMANA Sylvain and his driver Sam (the Commission did not manage to know his other name) were among such people. The two men were driving their Minibus RR 9715B. When they reached Uganda, they were arrested by Uganda soldiers and were beaten at Kabale Military Camp where they were even put in detention.

As the law establishing the Commission does not empower it to deal with acts of Human Rights violations taking place outside Rwanda, the matter was referred to the Rwandan Ministry of Foreign Affairs. It was also communicated in writing to the National Human Rights Commission of Uganda for follow up.

Through existing good Cooperation between the two institutions, the Ugandan Commission welcomed the request and informed its counter part in Rwanda that it had taken up the matter. The National Human Rights Commission of Rwanda learnt later that the two men had been released. With their possessions restored to them, they returned to Rwanda.

9. SEBERA Antoine's Case with the Supreme Court

The case between the construction company of the late SEBERA Antoine and the National Bank of Rwanda (BNR) has been in existence for more than 23 years now. As it was the very first case ever to be presented to the Commission, and since it existed even before the establishment of the Commission, it is necessary to present in summary the background of the case:

- On 16/2/1998, SEBERA Antoine's Construction Company, under the name of SOGEE-SEBERA won the Tender for the construction of the building currently housing the National Bank of Rwanda (BNR). The value of the tender was calculated at 675,115,225 Frw and the building was to be completed within a period of 24 months.
- The constructions started immediately, but on 23/1/1979, the then Governor of the Bank, Mr. BIRARA J. Berchmas wrote to SEBERA asking him to stop, on the claim that the concrete blocks used in the constructions were not as hard as required by the instructions given.

- Following the letter said above, the blocks were sent abroad for examination and the experts found no fault with them. They said the blocks were in accordance with the instructions. What is clear and regrettable is that the person who had ordered the examination of the blocks never communicated the results to the authorities of SOGEE-SEBERA.
- Instead, BNR hurried to write a letter to SEBERA, authorizing him to continue with the constructions but this time, adding more conditions with terms that were hardly possible to accomplish. This is what was referred to as the agreement of 12/3/1979.
- Apparently, SEBERA had no other alternative, so he resumed work since 2/5/1979.
- On 10/8/1982, the constructions had been completed and the provisional reception of the building was effected by a company under the name of GEOMINES, though it was said that some work was still to be completed. In fact, the roofing of the building was found unfinished.
- According to the National Bank of Rwanda, the poor construction of the roofing had been done by SOGEE-SEBERA but SEBERA, on his part argued that, according to the said agreement of 12/3/1979, it was the Bank that asked a certain Belgian under the name of DEKKERS to do the roofing. He argued further that, at the time DEKKERS was working on the roofing, SEBERA wrote to the Bank, informing them that the materials DEKKERS was using were outdated and not suitable for countries with a climate like that of Rwanda. Then the Bank sent their constructions specialist to examine the matter. In his report, the Bank's specialist confirmed that DEKKERS was the real cause of the problem.

The matter was referred to Court.

On 14/4/1991, the National Bank of Rwanda requested the President of Kigali Court of first Instance to authorize them to get a different building company that would complete the work not well done or left unfinished.

On 6/5/1991, the National Bank of Rwanda, this time, filed a suit against SEGEE-SEBERA in the Kigali Court of first Instance. The nature of the claim was as follows:

- A guarantee that the work not well done will be rectified or if need be another constructor should be engaged 91,000,000 Frw; 33,757,563 Frw to be paid in case completion of the work delayed; 5,257,507 Frw as honorarium for a technical consultant, 6,043,061 Frw termed as expenditure on transport and study of relevant documents; and another 1,958,867 Frw as benefits. All together added up to the sum of 138,926,998 Frw claims by the National Bank of Rwanda from SOGEESEBERA.

- In reaction to this, SOGEE-SEBERA lodged a complaint in which it claimed from the National Bank of Rwanda a bill in the amount of 73,632,780 Frw of 1986 and other deposits on the guarantee account, which would be spent as payment in the event of any unfinished work. These deposits added up to 50,000,000 Frw and the sum could not be traced. On 9/4/1992, the Kigali Court of first Instance gave its ruling. SEBERA had won the case and the Court ordered the National Bank of Rwanda to pay him a sum of 104,869,485 Frw.
- The National Bank of Rwanda appealed and the case was registered under N°RRC.10.675/KIGALI.

In the mean time, Mr. SEBERA Antoine was killed during the 1994 genocide.

After the genocide

After the genocide, the son of the late SEBERA namely Dr. Jean SEBERA continued the case.

- In the Kigali Court of Appeal, the National Bank of Rwanda was represented by Advocate HODARI NSINGA (he is currently President of the Court of Cassation). He requested that expertise be sought to establish exactly what work is yet to be done, how it should be done and which constructor was answerable. The court appointed three experts: one provided by the National Bank of Rwanda, another by SOGEE-SEBERA and the third would represent the Government.
- In the conclusion presented to the court by the said specialists, they confirmed that the roofing constructions had been very poorly done. They further certified that SOGEE-SEBERA was in no way whatsoever responsible for this, as all their work had been done in accordance with the instructions given.
- On seeing the conclusions of the expertise he had himself requested, Advocate HODARI NSINGA asked to cease representing the Bank, an act he was later on accused for by the Bank, in their letter N°. 010/98/R.FX/MGK addressed to the Advocates Society on 11/12/1998. It was now Advocate MUGEMANA J.M.V who took over as representative of the National Bank of Rwanda.
- After hearing from the specialists requested by itself, the National Bank of Rwanda ignored all its former claims. Its case now concerned only the bill mentioned earlier in the sum of 73,632.780 BIR Frw together with the money that had been deducted from SEBERA to be spent as payment for possible work that could be found not well done or unfinished. By 13/12/1980 the sum had risen to 443,951,240 Frw.
- In this case too, the Court of Appeal ruled that the National Bank of Rwanda was the loser. The Bank's refusal to recognize the said bill appeared to be a mere skin-saving pretence, for it was expressed there and then before the court whereas for such situations the law provides for a Court period of 60 days.

As for the other sum of 443,951,240 Frw the National Bank of Rwanda admitted the claim and even requested to pay it with a 9% indemnity whereas SEBERA on his part wanted the indemnity calculated at 19%. To settle the difference, the Court ruled that this indemnity would be calculated at 15%.

Thus the National Bank of Rwanda, having lost the case was to pay a sum of almost nine hundred million Frw (900,000,000 Frw) and even more. The Bank immediately appealed for Cassation of the Case.

In the Court of Cassation.

Of the five (5) arguments presented to the Court of Cassation, by Advocate MUGEMANA J.M.V who represented the National Bank of Rwanda, only one was admitted. The other four were dismissed on the ground that they were digging into the background of the case. Further more, they had been sufficiently considered by the Kigali Court of Appeal.

The argument admitted in the Cassation of the case N° RCA/0.675/KIG consisted in the fact that the lawyer who had represented SOGEE-SEBERA in the Kigali Court of Appeal was a French woman under the name of Nadine SOULAIN, and yet reciprocity in this regard is not provided for anywhere in the French laws.

On 5/6/2000, in the proceedings of the said case, SOGEE-SEBERA was again represented by advocate Nadine SOULAIN up to the end. Neither Advocate MUGEMANA, representing the National Bank of Rwanda who had himself raised the point under discussion, nor the judges themselves did point out anything wrong with the presence of Advocate Nadine Soulain in the Court.

In the ruling of the Court however, it was stated that, in the Court of Appeal, SOGEE-SEBERA had been represented by a foreigner, which thing was legally not acceptable.

What remained unclear to the Commission is how a foreigner who could not defend anyone in the Court of Appeal, could do so without any obstruction in the Court of Cassation which is in fact the highest court of competent Jurisdiction.

On the other hand, in the case N° R.A 0285/13.03/98 between BACAR and BIRARA, for which the ruling of the Court of Cassation took place on 11/5/1999, Advocate KAZUNGU J. Bosco, the representing BACAR at the Court, raised a similar argument. He said that in the Kigali Court of Appeal, BIRARA had been represented by a Belgian lawyer whereas there was no reciprocity provided for in the Belgian laws. In the rulings of the Court of Cassation, the argument was dismissed as unfounded.

In the said case between BACAR and BIRARA, it was Advocate MUGEMANA J.M.V who emphasized the unfoundedness of this argument. Paradoxically however, it is the same Advocate MUGEMANA J.M.J who finds the same argument as the very basis of his position in the case between the National Bank of Rwanda and SOGEE-SEBERA.

In addition, the Commission learnt that of the three judges who constituted the jury in the BACAR-BIRARA Case, two, namely NZAMUKWEREKA Venant and MAFARANGA Anastase, were also part of the jury in the case between the National Bank of Rwanda and SOGEE-SEBERA.

Even the third judge in this latter case, namely Mr. KABENGA Eustache, had played a role in the BACAR - BIRARA Case. He handled it when it was referred back to Ruhengeri by the Court of Cassation. He was then President of the Ruhengeri Court of Appeal before his appointment to the Court of Cassation.

The Commission has learnt that the case between the National Bank (BNR) and SOGEE-SEBERA might have been referred back to the Court of Appeal on 4 January 2001. It has also learnt that SOGEE-SEBERA has found it necessary to hire a different lawyer altogether, as the question of a lawyer had been the only complaint brought forward so far.

B. CONCLUSION ON CASES FOLLOWED UP CONCERNING CIVIL AND POLITICAL RIGHTS.

1. Regarding cases followed up in connection with civil, and political rights, the rights mostly violated were in relation with illegal arrests and detention.

It is a well-known problem, as the Prosecutor General of the Supreme Court; GAHIMA Gerald says it in his own words: *"The problem of arrest is a very big one. Very often the person arrested is immediately detained. There are legal provisions governing arrest and detention procedures. Very often arrest and detention are practiced in the Country regardless of judicial procedures. This is one of the major Human Rights violation acts. It is a very big problem"*. (Radio Rwanda: Programme in Kinyarwanda-Kubaza bitera kumenya - 23/7/2000).

On his part, Advocate MUTAGWERA Frederic, the lawyer of MBANDA Jean in the case mention in this report, told the Commission on 8/12/2000 that in his opinion "Those empowered by the laws to protect people's rights seem to disregard the same laws".

In an effort to solve this problem, at least four things should be taken into consideration:

- First is that those authorities responsible for arrest and detention should have respect for the national laws and international Conventions signed and ratified by Rwanda. They should also understand that there must be reasons to support the arrests and that in so doing, legal procedure should be respected.
- Second is that individual rights to freedom and respect should be given their due value.

- Third is to emphasize the principle that all people are equal before the law, for it is this very principle that gives confidence to every body and enables people to live at peace with another.
- Fourth is to insist on the policy of sensitizing every Rwandan citizen on the necessity of knowing and fighting for his rights.

The Rwandan National laws and even the Constitution clearly put great emphasis on Human Rights. This gives confidence to every body and enables the people to live at peace with one another.

One example is that, as regards Human Rights, the Arusha Peace Agreement accorded more value to the 1948 Universal Declaration of Human Rights as compared to the Rwandan Constitution of May 1991.

Another example is that Rwanda signed and ratified the International Covenant on Civil and Political Rights of 16 December 1966 and enacted its provisions into the National laws, by the decree N° 8/75 of 12 February 1975. (Official Gazette, 1975, page 230). Article 2 (2) of this Covenant states: *"Where not already provided for by existing legislative or other measures, each State Party to the present Covenant undertakes to take the necessary steps, in accordance with its Constitutional procedures and with the provisions of the present Covenant, to adopt such legislative or other measures as may be necessary to give effect to the rights recognized in this present Covenant"*.

Article 2 (3) also states that the states Party to the Covenant undertake:

- (a) "To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, not with standing that the violation has been committed by persons acting in an official capacity".
- (b) To ensure that any person claiming such a remedy shall have his right there to be determined by competent authority provided for by legal system of the State, and to develop the possibilities of judicial remedy.
- (c) To ensure that the competent authorities shall enforce such remedies when granted".

Article 4(2) of the said Covenant states that "no derogation from article 6,7,8 (paragraph 2 and 3), 15, 16 and 18 may be made under this provision.

Concerning arrest and detention, it should also be recalled, " No one shall be subjected to torture (article 7 of the said Covenant and article 5 of the Universal Declaration of Human Rights "). Nobody also should be compelled to testify against himself or to confess guilt (article 14 (3) g of the Covenant) as it may have happened in the case of BUGINGO Eudes.

Another thing that is often neglected is that " Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by Law to exercise judicial power and shall be entitled to trial within a reasonable time or be

released. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, judicial proceedings, and should occasion arise, for execution of the judgement" (Article 9 (3)).

Considering the cases reported to the Commission, not only international conventions are often disregarded as regards arrests and detention. The provisions of the National Criminal Law are also often violated. An example is its article 38 (2), where it states: "*If the judge is from the same area as the prosecutor, the accused should appear before the judge not later than five days from the day the arrest warrant was issued*".

Similarly, article 41 (1) of the Law is often neglected. It states:

"The law states that the accused should remain in remand waiting for judgement within 30 days including the day the order was given. After the 30 days his detention could be extended for one month and could be repeated whenever it appears extremely necessary, to avoid problems in the country while investigations on the case are going on".

In addition, any body whose rights are violated through arrest or detention has the right to complain to Court so as to establish promptly whether his detention is in accordance with the law. If the detention is found unjust, the concerned person should be released.

The case of SHIKAMA who was detained for more than five years due to inability to pay 1500 Frw is an indication that what is said above is not always adhered to. Concerning SHIKAMA, it should also be recalled that: "No one shall be imprisoned merely on the ground of inability to fulfill a contractual obligation" (article 11 of the International Covenant cited above).

2. A part from what has been said concerning arrest and detention, the case of Second Lieutenant NSENGIYUMVA is a peculiar one in that he had appeared before the judge and the court found him not guilty. But he was rearrested by the Military Prosecution Authorities. This relates to disregard of the rulings of the court, and cases like this are rampant.

However, article 14 (7) of the International Covenant mentioned above states as follows: "*No one shall be liable to be tried or punished again for an offence for which he has already been finally convicted or acquitted in accordance with the Law and penal procedures of each country*".

The problem of disregarding the rulings of courts is also found in the case between RINGUYENEZA and the Ministry of Defence, and was observable even in other files examined by the Commission. One such file is that of an old lady, NYIRAFURERE of Gitarama which has not been mentioned above. The file concerns a case between the lady and "Deputy Prosecutor" MUYANGO Oswald, currently working in Gitarama, and who occupied the lady's house without authorization.

The information at the Commission's disposal is that, although the lady has been to court and won the case, the year 2000 ended before she was paid her dues and there is no apparent hope that she may get them in the near future.

It should be understood as a usual fact that it is the judiciary's responsibility to protect every body's rights and freedom. This is in accordance with Article N° 33 of the Constitution of the Republic of Rwanda of 10 June 1991. This law is a good precedent, which could be helpful to a country, which has been characterized by impunity. With reinforcement of this principle, people would give up their intentional disregard of the law, for there are even provisions concerning penalty for those who violate other people's rights.

One example of this is the provisions of the law concerning " Arbitrary and illegal arrest and detention" as quoted in the Manual of Judicial Police, published by the Ministry of Justice in 1995.

" Any officer or public agent, any agent holding authority or public office who will illegally or arbitrarily arrest or have some one arrested or detained, will be punished by imprisonment from 3 months to five years and a fine of five to ten thousand (5000 - 10000 Frw) Rwandese francs or one of those penalties. The imprisonment will be from 6 months to ten years if the illegal or arbitrary detention lasted more than one month (article 297 of the rules of criminal law)".

The Penal Code Act punishes not only the authors of arbitrary or illegal arrest but also:

"The authority who, having the power to do so, will have neglected or refused to stop the illegal detention or arrest, while informed of it..(art. 299, Paragraph 1 of the Penal Code)";

The authority who, not having the power to stop an illegal or arbitrary detention while Informed of it, will have neglected to inform the competent authority ..."(art. 229, paragraph 2 of the Penal Code);

"The Director of Prison or any other agent in charge of the guard of the prisons who receives a prisoner without a written order or an arrest warrant or without a judgment ... (art. 300 of the Penal Code);

It also states that *"In addition to the penal sanctions, the Judicial Police Officer (JP0) can also be punished by disciplinary measures and be condemned to pay damages to the victim of the illegal and arbitrary detention".*

RECOMMENDATIONS

1. The Commission is of the opinion that there is urgent need to set up a law providing for exemplary penalty for those who purposely disregard the law and violate Civil Rights.

Respect for rights enables every individual in the Country to be a guardian of peace and to make a contribution towards national development. This could also

be a great contribution towards National Security and reconciliation among Rwandans.

Rwanda has signed and ratified many International Conventions on Human Rights which have even been enacted in national laws; there are also national laws. Those responsible for Human Rights protection should accord to these Conventions and laws their due value.

2. It is a matter of urgency that all people suspected of common crimes, but are arbitrarily or illegally in detention should be bailed out. Where necessary, they could be followed up in accordance with the law of the land.
3. The Commission recommends that in following up cases of common crimes, and the arrests and detention of suspects, the law of 23 February 1963 that institutes the Code of Criminal Procedure, should be followed. This requires amendment of law n° 26/99 of 31/12/1999, which amends law n°16/97 of 26/12/1997, which amends law n°9/96 of 8/9/1996 which amends temporarily the Criminal Code proceedings.

This law is not actually in accordance with the principle that "individual freedom is inviolable" (act N° 12 of the Constitution 10/6/1991). The period provided for the suspect to wait before he appears in Court or before his detention is confirmed is too long.

4. The person arrested should be regarded as innocent as long as the Court has not yet pronounced judgement convicting him or acquitting him. The Commission finds also that all the people detained not in accordance with legal procedures should be differentiated from those who are imprisoned after judgement has been passed to that effect. The difference could be in terms of their attire and in their appellations. Calling a "prisoner" some one whose judgement has not been passed amounts to defamation.
5. Given the history of our country, with shortage of judges and lawyers, in comparison with other countries, obstructions against representation in legal matters should be minimized.
"Every body has the right to file a case in court for trial. This implies that of self defence, including that of hiring a lawyer "(Article 7 of African Charter on Human and Peoples Rights, 1981)
6. The National Police which has just been established needs to have equipment and other means to enable it to carry out its activities smoothly.

3.2.1.2 Concerning Economic, Social, Cultural and Development Rights.

Before presenting the cases examined by the Commission concerning Economic, Social, Cultural and Development Rights, it is fit to recall some of the Human Rights Principles the Commission based on.

The Universal Declaration of Human Rights to which Rwanda attaches great importance states that: *"Everyone has the right to own property "; "No one shall be arbitrarily deprived of his property" (Art. 17)*

Article 25 in turn, states:

" Everyone has the right to a standard of living adequate for the health and well being of himself and of his family, including food, clothing, housing (...)"

The Declaration article N° 26 states that:

"Everyone has the right to education (...)"

"Education shall be directed to the full development of the Human Personality (...)".

Coming back to the Rwandan laws, it will be recalled that article 4 of the Protocol of the Arusha Peace Agreement concerning the repatriation of refugees and the resettlement of displaced persons states:

" The right to property is a fundamental right for all the people of Rwanda. All refugees shall therefore have the right to repossess their property on return... "

"The two parties recommend however, that in order to promote social harmony and national reconciliation, refugees who left the country more than 10 years ago should not reclaim their properties, which might have been occupied by other people. The Government shall compensate them by putting land at their disposal and shall help them to resettle "

"As for estates which have been occupied by the Government, the returnees shall have the right for an equitable compensation by the Government "

Regarding respect for Economic, Social, Cultural and Development Human Rights, the Commission followed up the cases here below:

a) Rights to personal property (houses, land...)

- **Cases on houses.**

The Commission followed up eight cases concerning ten houses. Three people had their four houses restored to them as follows: Mrs. MUNYANEZA Emeritha got back her two houses in Rugenge Secteur (Kigali City); Mrs. NDUWAYEZU Violette was given hers at Rugunga, Kiyovu (Kigali City) Mrs. MUKAMUSONI Judith's orphans got back the house left them by their parent, which is at Cyivugiza in Nyamirambo (Kigali City).

Other three people won the cases concerning their houses but have not got them as yet due to some complications yet to be solved. These are BYABATETSI Christine, NIYIMPA Julie and an old lady, NYIRAFURERE whose property had been taken by Deputy Prosecutor, MUYANGO Oswald.

Another case reported to the Commission is about the house of KAYUMBA Isidore who had been away for 30 years. On his return to Rwanda his house had been sold by

Mukingi District, in 1960. The Commission wrote to the Minister of Local Administration the letter N° GN/NAT/PR/212/200, requesting him to follow up KAYUMBA's case, on the basis of article N°. 4 of the Arusha Agreement.

The Commission received the case of NYIRARUKUNDO Josephine but discovered that the case had not been communicated to the competent authorities before it was presented to the Commission. NYIRARUKUNDO was advised to see the authorities of the Province of Kigali Urban.

In search for solutions to cases concerning houses not returned to their owners due to non-implementation of the Court rulings, the Commission sought assistance from the concerned Ministries; namely the Ministry of Justice and that of Local Administration and Social Welfare. The two Ministries were requested to follow up such cases so as to take appropriate measures.

Given the special nature of the question of property (houses and other property) of people who returned after staying outside the country for more than ten years, the Commission plans to forward it to the Government, the Parliament and other High Authorities of the country, so as to look for strategies that might ensure more protection of every body's right to personal property.

- **Cases of land**

Seven people, namely GAKWAYA Pierre, MUTEMBEREZI Pierre Claver, SHEMA Charles, UWAMARIYA Mélanie, NIYIMPA Julie, BYABATETSI Christine and BIRINDA Augustin reported to the Commission cases of their plots of land occupied illegally, utilised without authorization or awaiting those entitled to them. Of these people only SHEMA Charles has got back his plot. MUTEMBEREZI Pierre Claver, BYABATETSI Christine and NIYIMPA Julie have won the cases but the courts' rulings have not been executed. The Commission has reported these cases to the court authorities.

GAKWAYA Pierre found his family's plot had been given to some body else by Gishoma District authorities while the said family was in exile. On 15/12/2000 the Commission wrote to the authorities of Cyangugu Province requesting them to complete settlement of the matter through friendly understanding between the concerned, as they had already attempted to do. However, there was no reply to the Commission's letter.

It is regrettable that at the time of writing this report nobody among Cyangugu Province authorities showed willingness to bring the matter to final settlement.

As for the case of Mélanie UWAMARIYA whose plot has been utilised illegally by a neighbour, the Commission plans to try and settle the matter amicably between the concerned without having to go to se Court

Regarding the other person, BIRINDA Augustin who had been moved away from his plot illegally, ache Commission advised that he should first present the matter to competent authorities. In his case these are authorities of Kigali city.

- **Livestock cases**

Cases concerning cattle were presented to the Commission, in writing and verbally by TWAGIRAYEZU Theogène of Gikomero (Kigali Rural) and NDUTIYE Karawudiyani of Nyaruguru (Gikongoro). In the Court of first Instance, TWAGIRAYEZU won the case concerning his cows, taken away after the 1994 genocide and war but the court's ruling was never affected. The Commission wrote to the local administration authorities requesting them to settle the case.

The case of the old man NDUTIYE concerning cows has been existing for about 37 years now. The case has been heard in various courts in Rwanda and NDUTIYE has always come out the loser. He however, persists in saying that he has been treated unfairly.

Given the special nature of the case, as it is between brothers, the Commission asked the Prefet of Gikongoro, where the old man is from, to try and reconcile NDUTIYE and his brother. This has not been possible however, because NDUTIYE's brother showed no response. By the end of 2000, no solution had been found and there is no indication that NDUTIYE will give up.

b) Right to Education

Since the second half of 1999, the Commission has been following up the case of NYINAWAKIBIBI Charlotte who, for dubious reasons had been expelled from ESPANYA in Nyanza (Butare) where she was a sixth year student in a Nursing Secondary School.

Following the contacts the Commission had with the school authorities, the said student was readmitted in February 2000, through good understanding between her and the school administration.

c) Right to Employment

The former employees of the National Printing House reported to the Commission their case of being sacked following the privatization of the company. In Rwanda, no legal provisions exist as to the fate of an employee who loses his job in that manner. Due to this fact, a government delegation, headed by the Minister of Finance and Economic Planning, held a meeting with representatives of the former employees of the National Printing House and came out with the following decisions:

- The former employees would get salaries for the months of September and October 1998
- They would also get terminal benefits equivalent to those provided for terminated government employees.

The decision concerning terminal benefits was never executed.

This question was examined by the Commission's Department responsible for Economic, Social and Cultural Rights, which made its recommendations. The Commission will communicate to the concerned its conclusions on the matter, in the near future.

Another case that was examined is that of a non- citizen employee, Bruno VILLA whose services in COGEBANQUE were terminated illegally.

The commission advised the employee to contact the concerned department within the Ministry of Public Service and Labour, which would settle the matter.

The latest information at the Commission's disposal is that the case has already reached the Court.

d) Child Rights

Three people reported to the Commission cases based on violation of Child Rights. These include cases of BAYINGANA victor's children, those of KAGAJU Antoinette and that presented by NIYIMPA Julie. These concerned mainly the custody of orphans' property and their up bringing.

What is clear is that many people claimed to be rightful guardians of the orphans, each trying to prove that he had more right than the others.

Concerning those children the decisions of the courts are not executed, the reason why the Commission wrote different letters to the Ministry of Justice and Institutional Relations and to the Ministry of Local Administration, requesting them to look closely into these cases. The Commission also requested the respective local Administration Authorities to make greater effort in the execution of Court's rulings.

Another case concerns MUTETERI Joyce's child who was stolen by the father, whereas the right to keep the child had been given to the mother, by the court. , The case of Joyce MUTETERI is actually due to disregard of rulings made by the courts. Her husband Mr. BUSIGYE Johnston, who is Advocate General in the General Prosecutor's Office of the Supreme Court, does not want to execute the courts rulings. Following the intervention of the Commission, the child was given back to the mother.

Another thing the Commission noticed is the mistreatment done to this lady by relatives of her husband. They tore to pieces her Rwandese passport but she says that this mistreatment was reported to the Military Prosecution immediately after the act, in 1998, though till this day nothing has been done to restore her right.

The Commission wanted to know whether the said Military Authorities were informed of the case. They were informed but up to the end of the year no decision had been taken so as to enable MUTETERI to have another passport.

e) Social Welfare Rights

Regarding social welfare, the Commission received the case presented verbally by an orphan who was a student, UKOBANGIZE Clementine, of Runda (GITARAMA). She was expelled from the property left to her by her parents and the Fund which normally

assists Genocide Survivors stopped paying her school fees, the reason why she left school.

The Commission requested the Fund to reconsider the matter. As for the case of her property, the matter was referred to the GITARAMA Court of first Instance and by the end of 2000 it was still under consideration.

Special Note:

We cannot end this part of our Report without pointing out that the Commission meets difficulties related to lack of funds. Some people come to the Commission with a hope that it might assist them financially for the time being. But neither the law establishing it nor the budget allocated to it makes provisions to that effect.

The Commission explained to such people the procedures to approach other institutions dealing with that kind of assistance, whether in the Government or Non Governmental Organizations. In most cases the Commission had, in addition to such advice, to write to those institutions requesting audience for the concerned.

Conclusion

Based on the cases brought to the Commission in connection with personal property rights, including many which were caused by non-execution of the rulings of the courts, the Commission would like to point out that, as long as disregard of the courts continues, it should not be surprising that people continue to complain about the Judiciary which violates Human Rights.

Another big problem encountered concerned the property of those who returned to Rwanda after staying outside for more than ten years.

This will be forwarded to the Government, the Parliament and other authorities as said earlier, for it is indeed a national issue.

What is clear is that the administrative authorities, at almost all levels, often take as a principle the provisions of Protocol n° 4 of the Arusha Peace Accord concerning Civil Rights but in practice, they seem to close their eyes to the Government's responsibility in cases of violation of those provisions.

The Commission finds it necessary therefore, to reproduce textually the provisions of the said Protocol:

" ... The two parties, however, recommend that in order to promote social harmony and national reconciliation, refugees who left the Country more than 10 years ago should not reclaim their properties, which might have been occupied by other people. The Government shall compensate them by putting land at their disposal and shall help them to resettle.

As for estates which have been occupied by the Government, the returnees shall have the right for an equitable compensation by the Government "

The government should therefore try hard to find means of accomplishing its responsibility as stated in this Protocol. This includes giving real assistance to those who forfeited their property in other people's hands, and to accord appropriate compensation to those whose property might still be in Government's hands.

3.2.2. Concerning promotion of Human Rights.

3.2.2.1. Activities planned for the year 2000.

- To prepare and conduct seminars, and public lectures on Human Rights in Secondary Schools and Institutions of Higher Learning, in Youth Camps, and seminars for elected administrative authorities as well as Non Governmental Organisations dealing with Human Rights in Rwanda.
- To prepare and disseminate teaching material on Human Rights (summarizing documents and duplicating them) including national laws which emphasize these Rights.
- To elaborate a seminar Programme plan for special categories of people, including those who teach others: teachers, journalists, those responsible for security, government employees, Governmental Organisations representatives, and heads of private institutions.
- To prepare all required material for starting the Commission's Programme that could be broadcasted on Radio-Rwanda.
- To look for and collect information on achievements and requirements in connection with people's sensitisation on Human Rights.
- To prepare and initiate activities in relation to the Commemoration of International or African Conventions on Human Rights, concerning special categories of people on their respective special Days of the year.

3.2.2.2. Major Achievements

1. Concerning People's sensitisation on Human Rights:

During the year 2000, the Commission organized and conducted public lectures through seminars solidarity camps and in Higher Education Institutions. This was intended to sensitise different categories of people on Human Rights.

Another activity was to sensitise the people to give particular attention to Human Rights on the special days set apart for the Commemoration of International principles of Human Rights.

The Table below shows the details of achievements.

Date and Place	Target group	Main Theme discussed
On 3/2/2002 at Gabiro training Centre	About 350 political Commissars from all army brigades	Rule of law and Human Rights
On 3/2/2000 at Centre Iwacu KABUSUNZU	Members of a Human Rights NGO ARDHO and other 50 people that ARDHO had invited	Objectives of the National Human rights Commission, what it expects and the activities of Human Rights NGO's
On 4/2/2000 at GISHARI Police College	About 500 Candidates of Kigali Institute of Education and Kigali Institute of Science, Technology and management	Introduction to International Human rights (Definition and the contents of the International Convention and other concerns of the National Commission for Human rights)
On 9/2/2000 at Gako Military Academy	About 500 Cadet Officer	Challenges facing Human rights in Rwanda and the role of security officers
May 2000 on Radio Rwanda in Kigali	Editors of Radio Rwanda organized a panel on Radio Rwanda Editorial Handbook	Freedom of press, rights and duties of a journalist in respect to other people's rights

Date and Place	Target Group	Main Themes discussed
On 1/6/2000 at Busogo	The first intake of 450 higher learning Institutions candidates attending a solidarity camp "INGANDO"	Introduction to International Human rights and their reflection in the Rwandese laws; objectives of the National Commission for Human Rights
On 7/6/2000 at BUYOGA District (Byumba)	Selected inhabitants of BUYOGA district during the week set to condemn violence against women and children	The root cause of violence against young girls and women. Measures to fight it.
At the end of June 2000 at Centre IWACU KABUSUNZU	Medical doctors and students of medicine attended a forum of Activists against Torture seminar	Conference on the outcome of torture in Rwandese society
At the end of June 2000 at	About 400 higher learning	

NKUMBA (RUHENGERI)	Institutions Candidates had gathered for a solidarity camp "INGANDO"	
On 24/7/2000 at BUSOGO	The second group of 450 higher Learning Institutions candidates met in a solidarity camp	- Concepts of Human rights in general - Fields of Human rights -International Human rights conventions which Rwanda signed and Incorporated in Rwandese laws; objectives and future plans.
On 21/8/2000 at GACURIRO- Kigali Urban	About 200 youth Representatives of Kigali Urban sectors and students representatives attending a solidarity camp	Same as mentioned above plus the role of the youth in the promotion of Human rights
On 17/8/2000 at Byumba	About 200 teachers held a solidarity camp, organized by the Unity and Reconciliation Commission and BYUMBA province aimed at reinforcing Unity and Reconciliation among Byumba Population	-Explanation of Human rights, examples their complementarities, and their Universality . -Objectives and programmes of the National Commission for Human rights.

Date and Place	Target Group	Main Themes discussed
On 6/9/2000 at Nyanza (Butare)	About 200 girls and women from Butare local councils met in a special congress at provincial level	-Human rights in general, women and children's rights in particular. -Introduction to law no.22/99 of 12/11/1999 on property and succession.
On 6/9/2000 at Gitarama Mu Ngoro y'abategarugori	About 50 police trainers	-Introduction to Universal Human Rights in the Rwandese laws; the role of security and its protection. -Objectives and activities of Human rights commission
On 10/9/2000 at Centre Iwacu KABUSUNZU (Kigali Urban)	Employees of LIPRODHOR who will train grass root locally elected leaders of the provinces	Rights to seek refuge (whenever persecuted) and rights to citizenship
On 26/9/2000 at Rwanda National University, faculty Administration (ISAP)	About 70 University students members of University Human Rights Association AJAPRODHO	-The concept of Human rights and its historical background -Aspects of Human rights

	had a trainers workshop	-The situation of Human rights in Rwanda in general and after genocide in particular -The future plan of the commission
On 27/9/2000 at IRST in Butare	About IRST employees during their weekly debates every Wednesday	-The Universality and Complementarities of Human Rights -The objectives of the commission and its plan of action -The situation of Human rights in Rwanda in general
On 24/10/2000 at Kigali Health Institute (KHI)	About 100 students and teachers of KHI	-Definitions of Human rights at National and International levels -The role of medical officers in the promotion of Human Rights

Date and Place	Target Group	Main Themes discussed
On 11/11/2000 at Catholic Youth (JOC) headquarters	About 70 members of the catholic youth workers and some of their leaders attending in a general meeting	-Definitions of Human rights -The role of international Human rights convention in Rwanda laws -The situation of Human rights in summary
On 23/11/2000 at GIKONKO MUGUSA (BUTARE)	About 200 youth representing various Religious denominations from Districts bordering MUGUSA, were in a solidarity camp jointly organized by BUTARE Catholic Diocese and Butare Province in peace culture promotion	-Definitions of Human Rights -The pillars and the foundation in Rwandan culture -Authorities in charge of promoting and protecting them. -Objectives and activities of the commission -The role of the youth in promoting Human Rights in Butare Province
On 29/11/2000 at BUSOGO (RUHENGERI)	About 484 aged less than 14 years imprisoned because of genocide and crimes against humanity that took place in 1994 held a solidarity camp before	-Definitions of Human Rights in general -Rights and duties of children (social, economic welfare) -Objectives and activities of

	they were released	the Commission
On 29/11/2000 at MBOGO in TARE (KIGALI RURAL)	About 2000 from local cells in MBOGO AND TARE Districts attended a workshop organized by MBOGO and TARE Districts	-Definitions of Human Rights in general -Cases of Human Rights in Rwandese laws -Kinds of Human Rights, their role at District levels -The objectives and activities of the National Human Rights Commission
On 17/12/2000 at National Police Academy in Ruhengeri	About 25 Police Officers attending a one month training course on Human Rights	-Cooperation between the National Police, the National Human Rights Commission -Objectives and activities of the National Human Rights Commission

2. Sensitizing Rwandese Population towards Human Rights

The Commission prepared and broadcasted special Human Rights message through the media and people's forum in general. The Commission also played an important role in the commemoration of the Universal Human Rights day on 10th December 1999.

The message were as follows:

- **Press release n°001/2000 of 06/03/2000** condemning acts of killings which took place at the end of February and beginning of March 2000, in Kigali Urban. The Commission expressed its concern about the fact that those killers are not arrested and brought to court by the concerned authorities.

The commission requested security authorities to operate in all parts of the country to make sure all acts of insecurity are controlled. It also requested all Rwandans to play their role and expose killers and all wrongdoers.

- **Press release n°002/2000 of 08/03/2000**, expresses the satisfaction for good step made by the government in the promotion and protection of women's rights especially in relation to property ownership and decision making. In this communiqué the commission condemned all acts of violence against girls and women and requested all Rwandese to combat them.

- **Press release n°008/2000 of 16/06/2000**, shows that the Commission expressed its solidarity with Rwandans and other Africans to celebrate the Africans child's day. It praises the good step taken in the promotion of children's health after the genocide that befell Rwanda and exposed all problems facing the commission and what should be done to solve them. Among those, there is the issue of squandering orphans property by those looking after them. There is also the issue of children imprisoned with old

people in some prisons and working children. The commission also highlighted the rate of girls and women's rape throughout the country.

- **Press release n°008/2000 of 09/12/2000**, in view to educate Rwandans on the Universal Declaration celebrating its 52 anniversary from its adoption on 10/12/1948 the commission organized the following activities:

- A Public lecture on the Universal Declaration on Human Rights on the prevention and punishment of Genocide and its room in the Rwandese laws given at liberal University of Kigali (ULK) on 8/12/2000, which was attended, by over 500 students and lecturers.
 - 60 minutes radio broadcast and 90 minutes televised programmes on 10/12/2000 and 11/12/2000 respectively on Human Rights convention and the promotion and protection of Human Rights in Rwanda.
 - Radio and televised special messages on Human Rights on the 10/12/2000.

N.B: It was planned that a weekly Radio programme starts in the year 2000, this was not done but the department of Education and sensitization managed to finalize the action plan of the programme.

3. Human rights Education

The commission was not able to jointly, with relevant authorities, prepare Human rights programs and curricula in schools and other special institutions. That activity was postponed for the year 2001.

4. The action plan of the Education and Sensitisation department and other departments of the commission for the year 2001.

- Reviewing the situation of Human rights sensitisation in Rwanda;
- Organizing a meeting for all Human Rights campaigners and sensitization of Rwandans and exchanging information;
- Promoting the image of the Commission in rural and urban areas and preparing public lectures through the Media, papers, expositions, songs etc...
- Close partnership with the Ministry of Education (MINEDUC), local administration (MINALOC) other NGOs dealing with Education and Human rights so as to set up a collective way of sharing information and coordinating Human rights programmes in schools and setting up a curriculum development Committee.

4.2.2. Achievements of the Research and Development Department

In the year 2000, the commission through its Research and Development Department prepared some project and research proposals and finalised those of the year 1999 in view to accomplish its objectives.

1. In relation to the Development of the Commission

In 1999, and the year 2000 members of the Commission worked towards the development of the Commission. The technical staff came to accomplish its objectives later.

Those activities include:

- Prepare and review the Commission budget of 2000.
- Prepare and adopt the Internal regulations of the commission which was adopted on 13th September 2000
- Review applications of Employees including the permanent Secretary and confirming them in their respective posts.
- Receiving and working with four experts sent by the united Nations High Commission for Human Rights, briefing them about the commission and reading the report of their mission.

The four experts spent two to three weeks researching on Institutional Development, Office Automation and documentation centre.

2. TRAINING MEMBERS OF THE COMMISSION

From March 12th to 4th April 2000, commissioner NYIRAHABIMANA Soline and Commissioner NDAHIRO Tom on the invitation of Danish Centre for Human Rights attended a course on Human Rights training twice in March and September respectively.

The training focused on the following issues:

- Human Rights in International Conventions, participants assisted in the set up and achievements of Human Rights committees.
- Regional Human Rights fields depending on the prevailing situations. There were lectures on women's rights, condemning torture, freedom and justice or fair play.
- Research on human rights and Democracy, Human Rights and Economic power, Human Rights and development and Human Rights and trade.

* In July 2000, Commissioner UWIMANA Denys attended an annual training of the 32nd training programme of the International Human Rights in STRASBOURG from 2nd to 27th July 2000. He learnt about Human Rights research in higher learning institutions. From 10th to 18th December 2000, Commissioner KANYANGE Anne Marie and Commissioner KAYUMBA Deogratias attended a course in Copenhagen, On Human Rights, rights to life, Institutions which violate human rights and Institutions in charge of security. They learnt about the European Court of Human Rights, which was established on 4/11/1950. They also studied various systems in different continents dealing with human rights in Africa, America, Democracy and Human Rights in Denmark.

* Commissioner SIMBURUDALI Theodore and Commissioner NDAHIRO Tom attended a seminar from 21/11 to 2/12/2000 in MIDRAND-JOHANNESBOURG in SOUTH AFRICA. This seminar was prepared by the African Human rights commission and an NGO known as "Article 19". It focused mainly on freedom of speech as stipulated in the article 19 of the International Human rights convention, which expresses that everybody has a right to express his opinions and should not be persecuted because of his ideas in and outside his country. They also debated on the rights to have and express his views as stipulated in African Charter on Human and people's rights.

2. Projects to develop the Commission

In the year 2000, the Commission contacted various donors with the aim of getting donations in order to achieve its objectives.

In these contacts, the commission used its following projects:

- Global project including the plan of action for three years, this project was prepared in 1999 led to cooperation agreement between the commission and the United Nations High commission for Human Rights. UNDP assisted the commission through the project RWA /00/B02 shared by the Unity and Reconciliation commission, the Ministry of Justice and the Supreme Court.
- A project to monitor and ensure human rights in Gacaca Jurisdictions and help the commission prepare and give report to relevant authorities especially in writings related to human rights violations. In this Project the commission expects assistance from European Community expressed in contacts made between the two parts.
- A project proposal on the branches of the commission in the Provinces. This is the first towards informing Rwandans on the commission activities. Hence sensitizing the people on the rights and closely monitoring human rights violations. This will enable the Headquarters to first hand information because investigations will have been conducted throughout the country.

3.2.4. PARTNERSHIP AND LIAISON

3.2.4.1. Partnership with government institutions especially partnership with the following institutions:

- **National Unity and Reconciliation Commission:**

In the year 2000, the cooperation between the two commissions were reinforced through the training which the human rights commission gave in various solidarity camps. Every time the issue of Human Rights was developed it was dealt with the members of the Commission for Human Rights.

The Commission for Human Rights participated in meetings such as the one which involved member of South African Truth and reconciliation Commission held in Kigali from 23rd to 24th August 2000, National conference on Unity and reconciliation from 18th to 20th October 2000.

- **Ministry of Justice and Institutional relations.**

Cooperation with this Institution focused mainly on Understanding Gacaca Jurisdictions, analyzing illegal arrests and issues concerning trial in Camera.

The two Institutions also exchanged information and ideas of National and International interests regarding human rights.

- **National police**

Cooperation between the National Commission for Human rights and the National Police matters of training and called upon services in matters of human rights violations and the National Commission for human rights was welcomed by the National Police whenever it visited stations, cachots (cells) and prisons

- **Army**

As mentioned above, the National human rights commission honored all invitations from the army in matters of training. The commission will continue working with the army and police matters of Human rights all over the country.

3.2.4.2. Cooperation with Non Governmental Human Rights Institutions

In the year 2000, cooperation between the National Human rights and non-governmental Human Rights Institutions continued to grow. These associations are mainly those making up CLADHO and Pro-femmes. The cooperation was characterised by training and sensitizing Rwandans in Human rights. These are reflected in what was achieved in the Department of Education and sensitisation mentioned above. The commission continued to receive International Human Rights agents working in Rwanda and exchanging information and ideas related to Human Rights. These include Human rights watch, Penal reform International (P.R.I) Advocates without Borders and others.

3.2.4.3. Cooperation with "Friends of the Commission"

An association known as friends of the commission made of some Ambassadors accredited to Rwanda and International Institutions especially the United Nations agencies. Members of that association meet with members of the commission every two months to analyze activities of the Commission and contributions.

3.2.4.4. Cooperation with the United Nations High Commission for Human Rights (UNHCHR)

That cooperation was strengthened by the visit of the president of the Commission in Geneva in April 2000 during the International Conference of the United Nations member countries on Human Rights. In this conference the following items were discussed:

- Cooperation agreement between the National Human rights Commission and the United Nations High commission for Human rights.
- A visit by four experts mentioned above.

3.2.4.5. Cooperation between African Human and People's Rights Commission

On 24 March 2000, the National Commission for human rights received Mrs. Julienne ONDZIELGNELENGA Commissioner in the South African Commission and Vice President of the same Commission. The main objective of her visit was to assess activities of the Rwanda commission for human rights in Human rights promotion and Education.

In its 27th conference held from 27th April to 13 May 2000, the African Human and people's rights Commission invited the National Human rights commission of Rwanda and gave it a special status of affiliate given to National commissions for Human rights. Rwanda gave a report on the situation of Human rights in Rwanda as requested from African countries, members of Organization of African Unity (OAU). In conjunction with other Institutions, the Commission prepared the report.

The Commission also sent two delegates to the 28th Conference of African Human and People's Rights Commission, which took place in Cotonou-Benin from 23/10/2000 to 6/11/2000. As usual, whenever there is a conference of Organisations of African Unity member countries, it is attended by National Commissions for human rights and Non-governmental human rights Associations as observers. The conference requested the African commission to closely work to promote Human Rights. It was also requested that all countries give report to the commission as requested by laws governing these countries. It was also requested that in view of good cooperation reports be sent to African Commissions.

3.2.4.6. Cooperation with International Committee of National commissions ' Human Rights

Cooperation between this committee and Rwanda National Commission for human rights reflected in the Rabbat-Morocco conference, which took place in April 2000 in which the commission sent a delegate.

Each country represented was given time to report on the situation of human rights in home country and exchange ideas on Human rights. The commissions were requested to be the exemplary vanguards of Human rights. The final item of the agenda was to elect the leadership committee and they requested that steps be taken to fight all sorts of segregation.

3.2.4.7. Cooperation with the South African Human Rights Commission

For a week and a half, a delegation of two commissioners visited South Africa with the aim assessing the South African activities as one National Commission in Africa doing well. The delegates were welcomed by leaders of the South African commission for Human rights witnessed various activities. They were explained how they receive complaints, how they treat them and problems facing Human rights in general. It was a good lesson to Rwanda National Commission for Human Rights, which is still very young and still looking on how to improve its operations.

3.2.4.8. Other Institutions, which worked with the Commission in a special way

Apart from the above named Institutions, there are others, which worked with the commission especially in the teaching of Human rights, they include:

- The National University of Rwanda (UNR)
- The Butare Institute for Research and Technology (IRST)
- Catholic Bishops Committee on Justice and Peace (CBCJP)
- Danish Centre for Human Rights (DCHR)

Although these trainings were aimed at other objectives, the commission is pleased to notice that organizers think of Incorporating Human rights aspect in their programmes. The Commission is ready to continue improving that Cooperation.

3.2.5. ADMINISTRATION

Concerning the Administration and management of the Commission, it is provided by the law art. 9 and 11 and clearly expressed in the Internal regulations (see Appendix 1).

3.2.5.1 Main Achievements of the Commission in the Administration and management area.

In the year 2000, members of the Commission worked together in weekly meetings every Monday. The meeting aims at evaluating activities of the previous week and plan for the new week.

Activities which were done collectively and finalized include:

- Finalizing and adopting the Internal Rules and Regulations of the Commission as requested by the law governing the commission (in its article 12).
- Recruiting a Permanent Secretary
- Recruiting Heads of Departments and some Heads of Sections.
- Recruiting other staff members.

IV. FINANCIAL REPORT

The subvention provided by the state budget given by the government of Rwanda for the year 2000, after the financial review by the National Assembly, is four hundred sixteen million and six hundred thousand and two hundred and forty Rwandese francs (416,604,240 Frw). During that year the Commission did not receive any other funding.

The other, organs which supported it did it, in another way, by for instance paying for tickets and other requirements of Commissioners who were going outside the country for human rights courses. That amount was used as follows:

4.1 Financial Report of the money received by the Commission

SERVICE	AMOUNT RECEIVED	AMOUNT USED	BALANCE
1. Spent on salaries	136,077,140	55,593,436	80,483,704
2. Durable equipment	77,253,660	13,890,153	63,363,507
3. Daily routine expenditures	177,273,440	112,594,708	64,791,532
3.1 Petrol	20,217,600	15,676,800	4,540,800
3.2 Water and electricity	2,000,000	357,355	1,642,645
3.3 Newspapers	4,000,000	-	4,000,000
3.4 Fax & Telephones	7,800,000	3,832,852	3,967,148
3.5 Mobile phones	7,000,000	6,108,843	891,157
3.6 Mail	1,000,000	123,320	876,680
3.7 Printing documents	5,500,000	263,990	5,276,010
3.8 Advertising	4,000,000	726,020	3,273,980
3.9 Office equipment	8,000,000	2,715,457	5,284,543
3.10 Car Maintenance	9,000,000	5,871,803	3,128,197
3.11 Technical equipment maintenance	2,500,000	-	2,500,000
3.12 House rent	41,000,000	34,776,180	6,223,820
3.13 Mission in the country	5,000,000	5,651,000	- 651,000
3.14 Mission abroad	27,191,000	24,784,666	2,406,334
3.15 Transport abroad	11,560,000	4,325,360	7,234,640
3.16 Vehicle insurance	5,789,563	4,764,173	1,043,390
3.17 Consultancy services	3,900,000	2,311,350	1,588,650
3.18 H.R. Promotion	5,500,000	200,000	5,300,000
3.19 Security	6,315,277	-	6,315,277
3.20 Bank services	-	10,739	-10,739
4. Human Rights investigations, provincial offices	26,000,000	-	26,000,000
TOTAL	416,604,240	181,965,497	234,638,743
Money received from Belgium	22,524,781	8,699,026	13,825,755

* To facilitate the preparations of the 26th session of African Human and People's Rights Commission, on request by Government committees in charge of preparing the session, the National commission of Human rights received 22,524,781 FRW. From the Belgium Secretariat for Cooperation. The session took place in Kigali from 1 to 15 November 1999. Although the cooperation agreement was signed by the president of the commission, its expenditures were done by the Ministry of Justice and institutional relations which is the one that prepared the conference. This fund therefore should not

mean that it was added to the budget of the commission because it was not meant for any activity of the Commission.

4.2 JUSTIFICATION OF THE MONEY RECEIVED BY THE COMMISSION

4.2.1 Less money was used compared to what was planned

The used amount is one hundred eighty one million, nine hundred sixty five thousand four hundred ninety seven Rwandese Francs (181,965,497 Frw) out of the four hundred sixteen million, sixty four thousand two hundred forty Rwandese Francs (416,604,240 Frw). This was due to the fact that the Commission had not yet recruited the staff for the year 2000 hence, impact could not reach what the money allocated could do.

Another reason is that commissioners never received what they should receive as "Mandatory" although it was agreed in the budget (they got far much less than planned) Commissioners spent whole year getting a temporary salary (even at the time this report was being written) this was mainly due to the fact that concerned and relevant authorities never solved the issue.

Apart from staff salaries and expenditures, there is recurrent expenditures which amounts to a hundred and twelve million five hundred ninety four thousand seven hundred and eighty Rwandese francs (112,594,708 Frw) out of the budgeted one hundred seventy million two hundred seventy three thousand four hundred forty Francs (177,273,440 Frw). This is also due to the fact that some activities were not accomplished because the main tasks of the year were done by commissioners alone.

However, this did not stop missions inside the country (3.13) the money used surpasses the budgeted amount by 13% this means that the missions abroad were not properly taken into consideration. When analyzing the objectives of the Commission, the major part of the task requires investigations and training outside the headquarters.

The Commission did not open provincial branches as planned. Therefore, the money allocated was not used. Some other allocations of funds were not used due to various reasons like the amount allocate to Newspapers (3.1), Security (3.19, and Investigations (4).

Other reasons that led to using less money than allocated include the following:

1. The Commission continued to use the same office it used in 1999 until Mid 2000 a relatively small place compared to the one it occupies currently. Hence a good balance on rent (3.12) and water and electricity (3.2).
2. Regarding transport of people abroad, (3.15) out of seven who attended training abroad, four of them were sponsored by the Danish Centre to human rights.
3. Concerning repair and maintenance (3.11) no money was spent because they were too new to be repaired.
4. Instead some relevant accessories and consumables. The money spent was included in the office equipment (3.9.)

4.2.2. Durable equipment and projects

The Commission planned to use the balance from the amount allocated for durable equipment budget pay the equipment command of the end of 2000 in the first part of 2001. The Commission plans to do the same on projects budgeted for the year 2000.

The year 2000 ended while still preparing the list of the requirements to be paid in the 2001 from the 2000 budget.

V. GENERAL CONCLUSION

PLANS FOR 2001 AND RECOMMENDATIONS

5.1 GENERAL CONCLUSION

5.1.1 Regarding Human Rights Protection:

Some of the complaints brought to the Commission reflected serious concerns. We wish to express them in this conclusion, which does not mean that others are less important.

❖ **Cases of lack of procedures in the arrests, or illegal arrests:**

Although the number of judicial personnel keeps increasing and judicial problems finding solutions, there is still evidence that laws governing preventive detention are not respected every where for Genocide cases and other cases.

Cases given in this report have shown that some of the arrested and jailed people did not follow procedures. Hence putting them to jail is violating their Human Rights and freedom that everyone is entitled to.

❖ **Cases of not respecting the courts rulings.**

These cases have been seen in various aspects: Some people were unjustly jailed because the courts decided that they be released and never got released. These were done not only in the administration of Justice but they were some cases of people who were declared not guilty (NSENKIYUMVA Samuel) but was again arrested and jailed. He was released provisionally after one year and one month without any court decision. The National Constitution provides that only courts decide whether an individual is guilty or not guilty.

These cases were also seen in civil, political, social and economic cases. An example of economic and social cases is that of LINGUYENEZA and his former employer the Ministry of Defence mentioned in this report where it was clearly seen that what the Ministry was ordered to do by the Court of first Instance and the Court of Appeal were not respected.

- ❖ Cases of property for returnees especially old case refugees between 1959 and 1994:

Although there are some few of 1994 cases still facing some problems of recovering their property the main issue concerns old cases of 1959 because what is provided for in Arusha peace Accord did not materialize. One of the major problems is that the Government does not fulfill its duties on matters of recovering property of old case refugees.

Indeed in some rural areas some people are arrested because they claim their properties and considered to be against Unity and reconciliation. Another issue that is forgotten is that "Individual property is inviolable".

Issues related to children's rights:

Concerning children's rights in general, it is yet known to many Rwandese that the year 2000 proved that orphans face a lot of problems in terms of accessing to their parental properties. These are swindled by those looking after them and others especially where courts decisions are not respected

5.1.2. REGARDING HUMAN RIGHTS PROMOTION:

In the year 2000 as shown in the Report, the Commission was asked to Educate and sensitise people towards Human Rights. Members of the Commission are proud of the cooperation between the Human Rights Commission and the Unity and Reconciliation Commission which were reflected in the various trainings organized by the Unity and Reconciliation Commission. The National Commission for Human rights organized such activities in conjunction with Secondary school, ORINFOR, national Police, Army... and Human Rights associations. The Commission also sensitized people on specific rights (children, women, torture...).

5.1.3. REGARDING THE DEVELOPMENT OF THE COMMISSION

After one month training of Commissioners in July 1999 and the International conference for the three year action plan that characterised the 1999, the year 2000 was characterised by setting up Internal regulations, recruiting competent staff and strengthening partnership with donors but also continuing to improve knowledge as reflected in the example of the Danish centre for human rights which trained commissioners in the year 2000 as mentioned above.

Concerning the United Nations and reinforcing Cooperation with Governments friends of Rwanda, we may recall the cooperation agreement between the commission and the United States Government in sponsoring our training on Investigation techniques which shows the trust bestowed to the Commission and the follow up of its activities.

Other signs of the steps taken in 2000 is the review of the UNDP project in cooperation between UNDP and Swiss government. There is also another Project on Gacaca jurisdictions sponsored by the European Union, some support from friends of the

Commission and the report by the special Envoy of the United Nations High Commission for Human Rights to Rwanda.

5.2. ACTION PLAN FOR 2001

5.2.1. REGARDING HUMAN RIGHTS PROMOTION

Judging from the big challenges and problems encountered by the Commission in the one year and seven months of its existence as reflected in the report, the commission plans to tackle specifically the following questions:

- **Questions related to illegal arrests:**

The Commission plans to work with the judiciary especially the Public prosecution and the security so as to get tangible and proper solutions towards the rule of law.

- **Torture and acts of Humiliation:**

The Commission will sensitise the Government of Rwanda to ratify International conventions that promote human rights as adopted by the United Nations in 1984.

The Commission is prepared to work closely with the Government and Human rights non-governmental organizations so as to achieve its objectives. It is prepared to do the necessary using the teachings; Investigations conducted and seek penalties to those culprits so as to eradicate those violations.

- **Questions related to courts rulings:**

The Commission plans to meet prosecutors and law enforcers to see how best the court rulings can be implemented.

- **Questions related to children's rights:**

The Commission will work closely with the Government, non-governmental Organizations dealing with children's rights, UNICEF so as to protect children's rights especially those of orphans.

- **Questions related to property of returnees who spent more than ten years in exile:**

The Commission intends to engage some talks with the Government and the National Assembly, so as to find appropriate solutions.

In the year 2001, the Commission also plans to closely work and monitor the setting up of Gacaca jurisdictions so as to ensure fair play and equitable judgement for both parties. These would be through advice to leaders of these jurisdictions.

In general, relying on its competence in terms of equipment and human resources, the Commission plans to increase its own investigations due to the many violations of human rights in the country without waiting for individual people's complaints.

The year 2001 shall be to implement the action plan of the year 2000 of highlighting the real situation of Human Rights in Rwanda in general and close cooperation with other institutions to promote human rights.

The contribution of that project will improve cooperation programmes between governmental and non-governmental Institutions.

The Commission shall also conduct researches in various specific issues: women and girls, children, vulnerable groups survivors of genocide and crime against humanity, segregation and all sorts of injustice. The results of these researches will be communicated to relevant Departments of Commission.

5.2.2. REGARDING HUMAN RIGHTS PROMOTION

In the year 2001, the Commission intends to start a radio broadcasted programme on human rights that will take fifteen (15) minutes weekly. It also plans to contact the Ministry of Education and see how jointly they can prepare human Rights teaching material and curriculum for all educational levels.

Having in mind the competence and ability of Universities and higher learning Institutions, the Commission plans to involve those Institutions in preparing curricula for their own students and learners.

The National Commission for Human Rights shall do every thing possible so as to achieve cooperation with the legal and Constitutional Commission. Specifically the Commission shall assist the constitutional Commission whenever possible to achieve its main goals of preparing a project on Human rights to be included in the New Constitution.

Concerning the preparation of the International conference on xenophobia and related forms of intolerance to be held in Durban in South Africa from 7th September 2001, the Commission is ready to cooperate and give its contribution in collecting News to reflect the Rwandese role in the conference.

The Commission shall analyze and evaluate the achievements in human rights done by various associations. A training programme destined to various target groups: Journalists, local administrators, prison warders, teachers, youth and women local leaders.

The Commission shall also in conjunction with other concerned and able authorities organize a consultative Conference to analyze and study the role of the International Community in issues a Genocide and crime against humanity, which took place in Rwanda between 1990 and 1994.

Among other things that the Commission may use in the preparation of this conference would be to organize study tours to Arusha International criminal tribunal for Rwanda, by Members of the commission, reports by the former Swedish prime Minister Ingvar

Carlsson, set up by the United Nations and the Report by the Committee of World Government (IPEP) set up by Organization of African Unity on genocide and crimes against humanity perpetrated in Rwanda.

5.2.3. REGARDING DEVELOPMENT OF THE COMMISSION

In general, the year 2001 seems to lead the Commission to a step forward in capacity building both at the headquarters and in Provincial branches.

- The Commission intends and plans to request relevant authorities to law review n°. 04/99 of 12 March 1999 setting and strengthening the power of the Commission in investigating human rights violations.
- The Commission intends and plans to complete its internal rules and regulations in relation to labour laws.
- The Commission shall recruit all headquarters and branch staff and equip and train them.
- With the help of consultants and experts given by the UNDP and the United Nations High Commissioner for Human Rights, the Commission shall have a clearly defined three year plan of action. These documents will help the Commission in its negotiations with donors for the year 2001 and future negotiations.
- The Commission is convinced that the ability and disposition characterizing its staff and Commissioners and the available equipment shall enable them to find solutions to human rights violations and better use available resources from the government of Rwanda and donors.

5.3. After considering all questions received and the work done, Commissioners found it important to convey these Recommendations to the following Authorities:

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

- a) Remind all those with power to arrest and jail that they should do it in accordance with the law.
- b) Do everything possible to ratify and sign International Convention on Torture (1984).
- c) Punish all those who undermine court rulings.
- d) Take strong measures for governmental Institutions, which violate children's rights and access to their property.
- e) Holding a consultative meeting so as to discuss means and ways of compensating old case refugees in relation to Arusha peace accords.
- f) Remind the DMI that it does not have the right to detain people.
- g) Do every thing possible to make sure that civilians are not held in military camps or prisons.

- h) Call a meeting for government and non-governmental institutions to discuss issues on ethnic segregation and xenophobia so as to collect ideas and views in preparation of the Durban summit from 31 August 7 September 2001.
- i) Taking and supporting all legal provisions and ideas aimed at fighting ethnicity, xenophobia and all sorts of racial segregation.
- j) Do everything possible to finalize and implement the specified officers act (those officers include among others Commissioners of the Human Rights Commission).

To other government Institutions including protecting and promoting security and human rights:

- k) Working, cooperating and seeking advice from the National Commission for Human Rights not considering the National Commission as interfering in investigations and other activities as provided by the law establishing it.

To Non-Governmental Organizations and Associations:

- l) Continue working closely with the Commission through providing views and ideas from their associations and the people in the field of Human Rights.
- m) In particular, support provincial Human Rights branches, which shall start their operations in 2001.

TO ALL RWANDANS:

- n) Bring to the Commission all complaints and views concerning human rights violations in Rwanda through verbal or written documents and giving their comments and contributions to the Human Rights radio programme known as "UBURENGANZIRA 1WACU" which passes every Friday from 18h 45 to 19 h00.

APPENDIXES

APPENDIX ONE

INTERNAL REGULATIONS OF THE NATIONAL HUMAN RIGHTS COMMISSION

Given the law n° 04/99 of March 12, 1999 establishing the National Human Rights Commission especially in its article 12; The National Human Rights Commission meeting on September 13, 2000, adopts the following Internal rules and regulations.

SECTION ONE: DEFINITIONS

Article 1: Definitions

Expressions used in these Internal rules and regulations shall be understood as follows:

- Commission : National Human Rights Commission
- President : President of the Commission

- Commissioner : One of the members of the Commission
- Permanent Secretariate : Staff of the Commission

SECTION TWO: THE COMMISSION

Article 2: Origin of the Commission

The Commission was established by law n° 04/99 of March 12, 1999.

Article 3: Stamp

The Commission has a stamp. The characteristics are defined by a different text completing this order.

Article 4: Autonomy of the Commission

In fulfilling its mandate, the Commission is independent.

Article 5: Duration of the Commission

The Commission is permanent and established for an indeterminate period.

Article 6: Headquarter

The Headquarter of the Commission is in Kigali the capital city of the Republic of Rwanda. It can move to anywhere on the territory of Rwanda, after the agreement and decision by the majority votes of the members of the Commission.

The Commission can establish anywhere on the territory of Rwanda, permanent or temporary offices.

Article 7: Functions

In general, the duties of the National Human Rights Commission are inter alia to analyze investigate all causes of systematic violations of Human Rights in Rwanda that have been committed or could be committed by a state Institution or whoever acting officially or by associations working on the Rwandese territory.

The Commission is especially responsible for:

- The sensitisation and education of the population in matters of Human Rights;
- Where necessary, initiate legal proceedings against anyone violating Human Rights.

Article 8: Duration of Investigations

Investigations of the Commission are unlimited in time so as to shed light on and punish according to the law past and present cases of Human Rights Violations.

Article 9: Powers

As stipulated by the law, the Commission has the following powers:

- a) Researching and investigating all Human Rights violations anywhere on Rwandese territory.
- b) Use any required authority to have access to anywhere Human Rights violations are suspected.
- c) Use any required authority to have access to any documentation of Human Rights violations anywhere on Rwandese territory.
- d) Write and call anyone who may testify before the Commission; any suspect of Human Rights violations, a victim, a plaintiff or a witness.
- e) Mediate where possible all those involved in Human Rights violations with the aim of obtaining an amicable settlement or reconciliation.
- f) Ensure that the victims regain their rights.
- g) Initiate legal proceedings against anyone proved to have violated Human Rights.
- h) Prepare, sensitise and educate the population on Human Rights.
- i) Advise the government on Human Rights violations that the Commission investigated.
- j) Expose all Human Rights violations to the government; advise on how Human Rights can be protected in political and legal areas. More clarifications on this article are more substantiated in bylaws governing Human Rights cases.

SECTION THREE: CONCERNING MEMBERS OF THE COMMISSION

Article 10: Requirements for members of the Commission

Members of the Commission should be of Rwandese Nationality known for their morality, integrity and competence.

Article 11: Number and their selection.

The Commission is made of seven (7) members chosen by the national Assembly out of ten (10) candidates nominated by the government.

The Commission has a President as head of the Commission chosen by the government and confirmed by the National Assembly.

Article 12: Appointment

Members of the Commission are appointed by a Presidential decree.

Article 13: Category

The President of the Commission has a rank of Minister, other members of the Commission have a rank of secretary general in the Ministry.

Article 14: Term of Office

Members of the Commission hold Office for a period of three years renewable.

Article 15: Special benefits

In criminal cases, members of the Commission are prosecuted individually. They are judged by the Supreme Court. They cannot be detained provisionally and can be represented in courts of law. They cannot be arrested because of their opinions while performing their duties.

Article 16: Double Employment

As members of the Commission, they cannot hold any other employment.

Article 17: Behaviour

Members of the Commission should avoid any conduct that may tarnish the image of the Commission. Especially, they should refrain from conducting themselves in a manner inconsistent with the qualities that determined their selection.

Members of the Commission should keep professional secrets and ethics even after their mandate as long as the secret is still valid.

The Commission warns verbally or in writing any member who reflects any kind of misconduct which may lead to his /her dismissal.

When one of the members has misbehaved and been warned three times in writing by the President of the Commission or the Commissioner replacing the President during the same mandate, his/her fellow Commissioners vote for his / her case. When five out of the seven members of the Commission vote against him/her, they request him/her to officially tender his/her resignation to the President of the Republic according to article 15 of the law establishing the Commission.

If he / she fails to do so within one month, the Commission sends a detailed report with all relevant letters to the President of the Republic, the National Assembly, the Government and the Supreme Court and a copy to the concerned member.

The report and letters concerning the President of the Commission should state if he failed in his administrative duties or as a member of the Commission.

Article 18: Leaving the Commission

Removal of one or more members of the Commission is done on request by the President of Republic, the Government or half of the members of Parliament upon the majority of votes revoking those who have been removed from the Commission. The President of the Republic signs a decree.

Removal from the Commission for one or more members of the Commission may be due to following reasons:

- a) Death
- b) Resignation communicated to the President of the Republic
- c) Failing to perform his duties or behaving contrary to the ways and reasons a member was chosen
- d) Taking part in Human Rights violations.

Article 19: Replacing members who left the Commission

When one or more members of the Commission have left, they are replaced within a period of three months. When the number of members is less than four, the Government presents to the National Assembly two candidates for each vacancy fulfilling all the requirements stated in article 8 of the establishing the Commission. The National Assembly chooses members of the Commission

SECTION FOUR: Performance of Duties of the Commission

Duties of the Commission are performed in various aspects. Some are done by members of the Commission collectively or individually according to Department he/she supervises, others are done by the President of the Commission or Commissioner replacing the president while others are done by the staff of the Commission permanent secretariat.

Article 20: Members of the Commission

Members of the Commission meet and discuss and take decisions on matters regarding Commission especially the following:

- a) Setting rules and regulations governing the Commission and reviewing them whenever possible.
- b) Setting up the headquarter and regional branches of the Commission.
- c) Initiate judicial proceedings for anyone proven to have violated Human Rights.
- d) Prepare, and Review plans and programs of activities of the Commission;
- e) Prepare, adopt and review the budget of the Commission;
- f) Adopt reports provided by law and other reports of the Commission it may consider necessary
- g) Adopt a communication and information policy related to achievements of the Commission;
- h) Adopt a policy of cooperation and partnership with other Institutions;
- i) Recruit a permanent Secretary as stipulated in article 11 of the law establishing the Commission and if necessary request the Government to release him/her;
- j) Recruiting and sacking other members of the staff of the permanent Secretariate and fix appropriate modalities;
- k) Planning missions abroad, and choosing the right delegates;
- l) Coordinating, following and supervising Departmental activities mentioned in article 23.
- m) Any other business agreed by the Commission

In the fulfillment of their obligations, members of the Commission should aim at encouraging activities that develop and benefit the Commission.

Any member of the Commission informs his/her colleagues so as to have a common understand and common vision, and inform them on the problems encountered so that they may get collect solutions.

Article 21: The President of the Commission

The President heads and represents the Commission:

The President has the following specific duties:

- a) Coordinate all activities of the Commission.
- b) Following and supervising all activities of the Commission.
- c) When the number of members of the Commission is incomplete, he should inform the President of the Republic, the Government and the National Assembly.
- d) Ensure that the budget and the report and other official documents of the Commission are well prepared before they are approved by the Commission.
- e) Submit in time the budget, reports and other documents approved by the Commission to relevant Authorities.
- f) Supervise the Management of the Commission in general, the property and the finance.
- g) Prepare and chair the meetings of the Commission.
- h) Establish good relations between partners of the Commission and reinforce cooperation with other institutions.
- i) Monitor the implementation of the decisions taken by the Commission.
When the President is absent or unable to perform his duties for one or another reason, he is temporarily replaced in all activities by the eldest member of the Commission.

Article 22: Permanent Secretariate

The Commission has a permanent Secretariate made of the Departments in charge of Human Rights activities per sé and the Support staff,

It is supervised by a permanent Secretary; chosen by members of the Commission and approved by Cabinet Ministers. The permanent Secretary has a rank of Director General in the Ministry.

Article 23: Departments and their responsibilities.

The Commission is made of the following Departments:

1.Civil and political rights Department.

Responsibilities:

- a) To give advice on matters concerning the violation of social and political rights;
- b) To carry out investigations on cases of Human Rights violations in the civil and political areas where arbitrary arrests and imprisonment, torture, extra judicial punishment, denial of freedom of speech, kidnapping, denial of freedom of Association etc...
- c) Write reports on how personalities and institutions violating Human Rights can be prosecuted;
- d) Do everything possible to ensure that all those whose rights have been violated are rehabilitated and their rights regained;

- e) Write a report showing how civil and political human Rights violations can be put to an end;
- f) Write a report on biased passed judgments on civil and political Human Rights.
- g) Prepare and deliver public lectures on civil and political Human Rights.

2. Department of Economic, Social and Cultural Rights to Development

Responsibilities:

- a) Give advice to anyone on matters concerning Human Rights violations in the areas of Economic, Social, Cultural and rights to Development;
- b) Carry out investigations on matters concerning Human Rights violations in the Economic, Social, Cultural and Development areas such as : Rights to property, rights to Education, Rights to good health etc...;
- c) Writing a report on how personalities or Institutions violating Human Rights Economic, Social, Cultural and Development areas can be prosecuted.
- d) Ensure that anyone whose Economic, Social, Cultural and rights to development been violated can be restored in his rights.
- e) Writing a report on what kind of measures should be taken to halt Human rights violations in areas of Economic, Social, Cultural and Rights to Development.
- f) Prepare and deliver public lectures on Economic, Social, Cultural and Rights to Development.

3. Legal and litigation affairs Department.

Responsibilities:

- a) Implement decisions of the Commission aimed at prosecuting all those proven to have violated Human Rights;
- b) Prepare Human Rights documents related to collecting laws and Human Rights;
- c) Prepare a report on how all laws, policies containing clauses against Human Rights can be changed or corrected;
- d) Prepare relevant documents and Human Rights laws which are included in National laws;
- e) Assist the Departments of the Commission on matters of Human Rights training;
- f) Collect information aimed at requesting the relevant Authorities to set up a National Constitution that includes human rights;
- g) Advise the Commission and its departments on legal affairs whenever necessary.

4. Research and Development Department

Responsibilities:

- a) Prepare, monitor and ensure the implementation of all projects aimed at enhancing the Commission's capacities;
- b) Prepare, monitor and ensure the implementation of the Commission's objectives;
- c) Indicate areas where research can be directed on issues of Human Rights in Rwanda:

- d) Prepare main terms of reference in hiring experts and researchers in the field of Human Rights;
- e) Follow up all research activities of the Commission;
- f) Collect necessary requirements for research activities of the Commission;
- g) Collect and coordinate all reports on Human Rights in Rwanda;
- h) Implement all activities of publishing Human Rights reports and other documents;
- i) Collect, keep and protect all documents and other Educational and Academic Human Rights records;
- j) Work with other Departments of the Commission to strengthen its capacities.

5. Department of Education and Sensitisation of the Population to Human Rights

Responsibilities:

- a) Design and prepare appropriate mobilization and teaching Human Rights programmes all sectors of the population;
- b) Prepare and implement decisions taken by the Commission in general in collaboration with all Departments having Education, culture, mass communication in relation to sensitizing the population to Human Rights;
- c) Prepare and implement decisions especially in relation to the Ministry of Education and other Educational Institutions concerning Human Rights curricula in schools;
- d) Chair meetings, debates and training sessions aimed at educating and sensitizing the population and other groups to Human Rights;
- e) Follow up and analyze human rights teaching programmes and assess their results;
- f) Prepare programmes according to different levels in matters of Human Rights;
- g) Propagate and explain National and International Human Rights conventions.

6. Partnership and Liaison Department

Responsibilities:

- a) Prepare and Implement decisions taken by the Commission on the matters related to partnership with other Institutions and Associations at National or International level working in the field of promoting and protecting Human Rights;
- b) Coordinate activities of provincial branches and improve their contacts with other departments of the Commission;
- c) Prepare and review on time the action plan for departments, Institutions and associations, which have partnership with the Commission.

Article 24: Collectiveness and Complementarity of Departmental activities

- a) Each Department has a Commissioner who supervises it on behalf of the Commission. It is headed by a head of department who prepares a report and submits it to the relevant Commissioner.

- b) The difference between Departments as per article 23 does not mean that two or more departments cannot team up or complement one another for a given time or permanently;
- c) More details about article 23 are provided in a different document on rules governing Human Rights issues.
- d) The Commission has a permanent staff and contractual staff governed by labour laws in Rwanda;
- d) The Structures of Departments may be changed upon the majority of votes by members of the Commission

Article 25: Commission's consultants

Whenever necessary the Commission may hire one or more consultants or any other person with special skills for a specific period; terms of reference and salaries shall be reflected in their contracts with the Commission, or between the Commission and their institution.

SECTION FIVE: CALLING MEETINGS AND DECISION TAKING

Article 26: Calling meeting

In general, meetings of the Commission are called by the President of the Commission in a letter to the Commission members at least 24 hours before the meeting.

This letter calling for meeting should have an agenda.

Notwithstanding section one of this article, due to emergency and importance of the matter, the agenda can be presented at the beginning of the meeting.

Article 27: Quorum

The Quorum of the meeting is four out of seven members of the Commission.

Any member of the Commission who may be absent although he /she is aware of the meeting, should inform the President in writing before the start of the meeting. If there are emergency and serious reasons of his absence he/she should explain it to the President or his replacement or any other member of the Commission who should in turn inform the chairman of the meeting. This does concern a member who is on mission or other duty known to the Commission.

Article 28: Meeting schedule

The Commission meets every Monday for ordinary meetings, confirms minutes of the previous meeting, analyses activities of the previous week and plans for the current week. The Commission meets in extraordinary meetings whenever necessary.

Article 29: Chairing meetings

Meetings are chaired by the President of the Commission and the Commissioner replacing President whenever he may be absent. When both of them are not present the

meeting is chaired by any member of the Commission authorized in writing by the President or his replacing member of the Commission.

Article 30: Agenda of the meeting

The chairman of the meeting is the one who prepares the agenda of the meeting. Members of Commission can give to the chairman any other item to be added on the agenda. They can also change the agenda whenever necessary. The meeting decides the final agenda. Those items which have been discussed are reported to the next meeting which can be extraordinary.

Article 31: Meeting behaviour

Missing points, confrontations, interruptions and other disturbing reactions are not accepted. Any member of the Commission is allowed to bring the discussion to the point and may request chairman that an item be postponed.

The chairman controls the meeting. He decides who should have the floor. He does not have a right to refuse any member a chance to express his/her point of view. The chairman has a right of cutting short anyone disturbing the meeting.

Article 32: Meeting report

The Permanent Secretary is the reporter of the meetings of the Commission. The Commission decides on any staff member or members to assist him in this task.

Meetings of the Commission can be in camera or closed doors. In this case the Commissioner in charge of Research and Development becomes the reporter of the meeting.

Article 33: Other meeting participants.

Members of the Commission can invite any member(s) of the staff or expert (s) to attend the meet

Article 34: Decision taking

Decisions of the Commission are taken on total agreement or consensus. If not possible, they shall be taken on majority of votes, it means at least four out of seven.

Every member has one vote. Nobody can vote for another. Abstention is allowed. Any abstention or any opposite view cannot refuse to abide or hinder the decision taken.

The opposite view of the decision taken is recorded in the minutes of the meeting upon the request of the opposed. Any decision concerning a given Department cannot be taken in the absence of the Commissioner or the Head of the concerned Department.

Article 35: Voting

When there is no consensus, voting is done according to the following methods:

- Raising hands
- Secret ballot

Before voting, members agree on the method to be used.

Upon request of at least four members of the Commission, the Commission can seek advice from the Permanent Secretary on the matter to be voted.

Article 36: Implementation of decisions

Decisions taken by the Commission should be implemented within a given time. If there is no justifiable reason for not implementing them, it is considered to be misconduct to be warned as per article 17 of this law.

On a special note, if the President of the Commission as head of the Commission does not send in time the report or any other documents approved or adopted by the Commission, the Commission requests the Commissioner replacing him to sign them and dispatch them.

SECTION SIX: MISSIONS

Article 37: Mission in the Country

The Commission decides the kinds of missions in the Country to be done by members of the Commission or staff members. Any mission beyond thirty kilometers from one's place of work receives all rights.

Mission letters are signed by the President of the Commission or the Commissioner replacing him or any other person authorized by the Commission.

Mission report is submitted to the Commissioner in charge of the relevant Department not later than eight days from the date of return from the mission. The Commissioner informs and briefs the President on the mission.

When the mission concerns the general administration, the mission report is submitted to the Permanent Secretary who in turn submits the report to the Commission who will finally present it to other members of the Commission in the next meeting.

In case of an emergency matter, the person who went on mission may be asked to produce the report immediately after his / her return.

In country mission, package is determined by the Commission.

Article 38: Mission abroad

Every term, the Commission prepares a programme of missions abroad. However, missions abroad on invitation by partners of the commission or any other unexpected mission can be attended depending on the importance and benefit to the Commission.

If once abroad one will speak on behalf of the Commission, he / she is required to leave a copy speech or message to the President of the Commission or the Commissioner replacing the President.

The mission report is submitted to the President of the Commission or the Commissioner replacing him within a period not exceeding fifteen (15) days from the day of his return from mission.

In case of an emergency matter, the person who went on mission abroad may be asked to produce the report immediately after his / her return.

Letters of mission abroad are signed by the President of the Commission or the Commissioner replacing the President or any other person authorized by the commission.

Mission abroad package is the same as that of a Minister, a Secretary general and other public servant depending on one's category.

SECTION SEVEN: Reports

Article 39: Human Rights report.

The Commission submits reports to the office of the President of the Republic, the Government, National Assembly and the Supreme Court on all findings related to Human Rights violations.

Article 40: Annual report

The Commission submits an annual report within a period not exceeding three (3) months of following year, gives a copy to the Government, the National Assembly and the Supreme Court.

Article 41: Submitting report and other documents

The Commission may avail its annual report and other reports and documents concerning its findings related to Human Rights.

SECTION EIGHT: THE COMMISSION'S PROPERTY

Article 42: Source of the Commission's property

Funds used by the Commission come from the State budget and donations. The Commission prepares its budget to be approved by relevant authorities. The Commission administers the approved budget.

Article 43: Management of the Commission's property.

Ordinary management of the Commission's property follows the state budget rules. Specific management of the Commission's property follows the specific Commission's rules.

Article 44: Budget Control.

The Auditor General for State Finances controls the Commission's budget
The State court of accounts analyses the annual financial report of the Commission in its section related to financial control.

SECTION NINE: PRIVILEGES OF MEMBERS OF THE COMMISSION

Article 45: Privileges of members of the Commission

Salaries and other privileges of members of the Commission are described in special documents.

Article 46: Privileges of Staff members

Salaries and other privileges for Staff members are described in special documents.

SECTION TEN: CONCLUSIONS

Article 47: Languages Used.

The Commission uses the three official languages of Rwanda namely: KINYARWANDA, FRENCH and ENGLISH.

Documents of the Commission are written in Kinyarwanda but can be in any other language as mentioned above depending on the sender and targeted receiver.

Article 48: Reviewing Internal regulations.

This Internal regulations can be reviewed if necessary on approval of members of the Commission.

Article 49: The Legality of these Internal regulations.

The Internal regulations come into force the day of their signature by members of the National Human Rights Commission in their first mandate.

Done at Kigali, on September 13, 2000

By members of the Commission:

Commissioner GASANA NDOBA, President of the Commission

Commissioner KANYANGE Anne Marie

Commissioner KAYUMBA Deogratias

Commissioner NDAHIRO Tom

Commissioner NYIRAHABIMANA Soline

Commissioner SIMBURUDALI Théodore

Commissioner UWIMANA Denys

APPENDIX TWO

MEMBERS of the Commission and their Responsibilities:

Commissioner GASANA NDOBA

President of the Commission

Commissioner KANYANGE Anne Marie

In charge of Social, Economic, Cultural and rights to Development Department.

Commissioner KAYUMBA Deogratias

In charge of Partnership and Liaison Department.

Commissioner NDAHIRO Tom

In charge of Civil and political rights Department.

Commissioner NYIRAHABIMANA Soline

Legal and Litigation Department (called for other duties on 15 November 2000).

Commissioner SIMBURUDALI Théodore

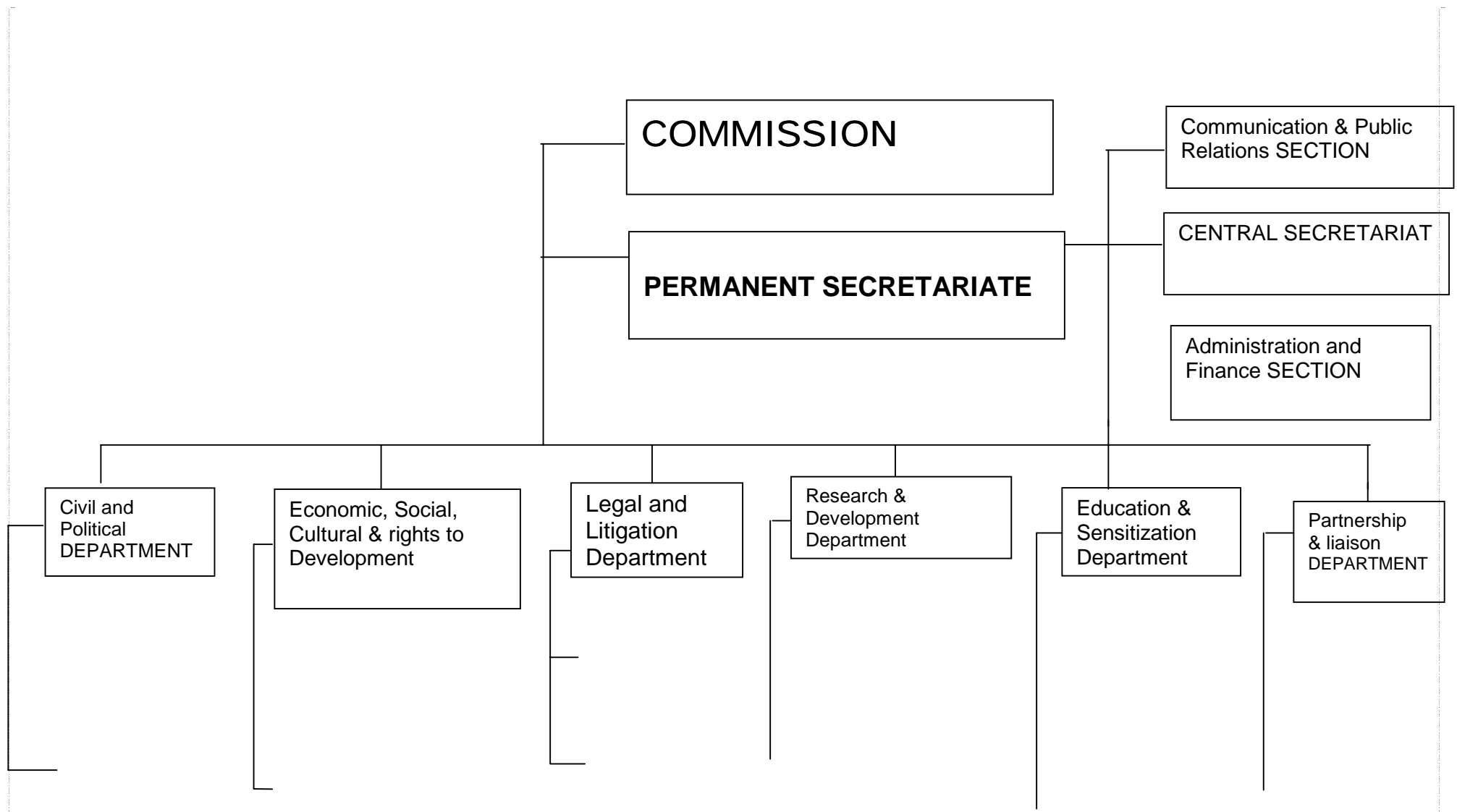
In charge of Research and Development Department.

Commissioner UWIMANA Denys

In charge of Education and Sensitisation Department.

APPENDIX THREE

ORGANISATION CHART OF THE NATIONAL HUMAN RIGHTS COMMISSION



Civil Military
Administration
SECTION

Justice
Administration
SECTION

Grass root Sectors
SECTION

Specific groups
SECTION

Legal SECTION

Litigation
SECTION

Multidisciplinary
Research SECTION

Study and
Evaluation of
Projects &
programmes
SECTION

Documentation &
Publication
SECTION

Education
SECTION

Sensitization
SECTION

Decentralization
services
SECTION

External
Partnership
SECTION