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**THE RWANDAN
NATIONAL COMMISSION FOR
HUMAN RIGHTS**
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PART A. INTRODUCTORY COMMENTARY

1 Introduction

Post-colonial Rwanda has known massive violations of human rights and a culture of impunity, one that culminated in the mid-1990s in the genocide of Tutsis and other atrocities. The country also endured a civil war between the state's armed forces and the military wing of the Rwandan Patriotic Front (RPF), the Rwanda Patriotic Army (RPA). The creation of the National Commission for Human Rights (NCHR) was hence one of the mechanisms Rwanda believed would help change the status quo and promote and protect human rights.

The NCHR was provided for under the Arusha Peace Agreement,¹ but it was not until 1999 that it was officially established in terms of Law No 04/99 of 12 March 1999 (hereafter 1999 Law).² It commenced operations on 24 May 1999 following the election of its president and six commissioners by the Transitional National Assembly. The year of this writing, 2019, thus marks the NCHR's twentieth anniversary, which coincides with its re-accreditation with an "A" status for its compliance

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1 Peace Agreement between the Government of the Republic of Rwanda and the Rwanda Patriotic Front (hereafter RPF) signed in Arusha on 4 August 1993.

2 Law No 04/99 of 12 March 1999 Establishing the National Human Rights Commission.

with the Paris Principles governing national human rights institutions (NHRIs).³

The NCHR has done an excellent job of protecting and promoting human rights, and its twentieth anniversary is an apt occasion for assessing its effectiveness in observing the Paris Principles, which are the principal source of the normative standards for NHRIs.⁴ This chapter sets out, then, to examine the NCHR's performance over two decades, doing so by focusing on its establishment, its legal nature, its mandate, and its public accountability.

2 Establishment and evolution of the NCHR

The decision to establish a national human rights commission in Rwanda was made, for the first time, during the negotiations held in Arusha, Tanzania, to find a political solution to the civil war that had raged between the government of Rwanda and the RPA since 1 October 1990. Part of the Arusha Peace Agreement was the Protocol of Agreement between the Government of the Republic of Rwanda and the RPF on the Rule of Law,⁵ signed in 1992. Under its Article 15, the two parties agreed to establish a permanent National Commission on Human Rights with the mandate to sensitise and educate the population about human rights and to institute legal proceedings where necessary. The Protocol empowered the Commission with the mean necessary means to accomplish its mission.

It is worth noting that the amended Arusha Peace Agreement – together with the amended Constitution of 10 June 1991, the Declaration of the RPF of 17 July 1994 (after its triumph over the then government forces),⁶ and the Protocol Agreement, signed on 24 November 1994

3 United Nations, Principles Relating to the Status of National Institutions (The Paris Principles), adopted by General Assembly resolution 48/134 (20 December 1993); for more detail on the Paris Principles, see G De Beco and R Murray, *A Commentary on the Paris Principles on National Human Rights Institutions*, Cambridge, Cambridge University Press (2015).

4 International Council on Human Rights Policy and Office of the United Nations High Commissioner for Human Rights, *Assessing the Effectiveness of National Human Rights Institutions*, ATAR Roto Press SA, Vernier (2005), p 6.

5 Protocol Agreement between the Government of the Republic of Rwanda and the RPF on the Rule of Law (18 August 1992).

6 *Declaration du FPR Relative à la Mise en Place des Institutions*, signed in Kigali on 17 July 1994 by the chairman of the RPF, Colonel Alexis Kanyarengwe.

among political parties,⁷ relating to the establishment of national institutions – constituted the Fundamental Law of the Republic of Rwanda governing the post-genocide transitional period (1994-2003).

As mentioned, the undertaking to put in place a national human rights commission came to fruition only in 1999 with the enactment of the 1999 Law. Article 18 of the latter created a permanent commission⁸ with financial autonomy,⁹ and granted immunity from prosecution to commissioners for opinions expressed while exercising their duties.¹⁰ Nonetheless, it fell short of the Paris Principles in some respects. The 1999 Law provided for the general competence and responsibilities to be exercised by the Commission,¹¹ and conferred a clear mandate to alert the different branches of the government to detected cases of violations of human rights¹² and submit annual activity reports, but it failed to provide for detailed monitoring procedures or methods of operations to be used by the Commission. The same law also had a critical flaw in relation to the selection and appointment of commissioners, as this process, as set out, was rudimentary and did not guarantee the independence and pluralism of the Commission.¹³

Three years later, the 1999 Law was modified and supplemented by Law No 37/2002 of 31 December 2002¹⁴ (hereafter 2002 Law). In addition to altering the name of the institution from “National Human Rights Commission” to “Rwanda National Commission for Human

7 Mouvement Démocratique Républicain (MDR), Parti Démocrate Chrétien (PDC), Parti Démocratique Islamique (PDI), Parti Libéral (PL), Parti Social Démocrate (PSD), Parti Socialiste Rwandais (PSR) and Union Démocratique du Peuple Rwandais (UDPR), respectively.

8 The 1999 Law, Article 2.

9 *Ibid*, Law, Article 13.

10 *Ibid*, Article 10.

11 Article 3 states: “In general, the Commission has as an objective to investigate and follow-up on human rights violations committed by anyone on the Rwandan territory, especially State organs and individuals under the cover of the State organs as well as any national organisation working in Rwanda”. Article 4 states: “In particular, the functions of the Commission are to sensitise and train the Rwandese population in matters of Human Rights; on informing relevant authorities to eventually initiate judicial proceedings in case of Human Rights violations by anyone”.

12 The 1999 Law, Article 5.

13 Article 8 states: “The Commission consists of 7 members of Rwandese nationality known for their morality, integrity and competence. The members of the Commission are chosen by the National Assembly out of 10 candidates nominated by the Government. They serve a three (3) year renewable term. Members of the Commission are appointed by a Presidential Decree”.

14 Law No 37/2002 of 31 December 2002 Modifying and Supplementing Law No 04/99 of 12 March 1999 Establishing the National Human Rights Commission.

Rights”,¹⁵ it introduced some important substantive changes. It increased the responsibilities of the Commission by expanding its original competence and responsibilities to include the functions of advising on bills in relation to human rights at the request of public authorities concerned or upon its own initiative; persuading government institutions to ratify international human rights legal instruments and following up on their incorporation in the domestic legal system; and hearing and examining complaints of human rights violations and receiving the testimony of witnesses.

The Commission also had the responsibility to conduct inquiries in any place where human rights violations were reported to have been committed; to inspect prisons to ensure detainees’ rights are respected; to make recommendations to the relevant public authorities about actions to be taken to end and punish human rights violations; to request the prosecution of persons responsible for human rights violations; and to cooperate with other NHRIs, non-governmental organisations (NGOs) in the country and international organisations in activities relating to the promotion and protection of human rights.¹⁶

The 2002 Law also conferred specific powers to the Commission to enable it to achieve its objectives.¹⁷ In this respect, the Commission was given the powers to access evidence and information on human rights violations either by questioning persons, suspects, and experts or by collecting them through reading official and other available written documents. To this were added powers to conduct unlimited on-site investigations in any place where human rights violations are alleged and to request the relevant authorities to respect the rights of victims, where any violations have taken place. To enable it to achieve its mandate to promote human rights, the Commission was given the power to conduct research on relevant issues and publish its findings. Lastly, members of the Commission were given the competence of judicial police officers, with a jurisdiction covering the entire territory of the country. This power could be extended to any employee designated by the commission chairperson.¹⁸

Although these were significant developments that enhanced compliance with the Paris Principles by broadening the Commission’s mandate, the 2002 Law failed to address the issue of independence and pluralism in the composition of the Commission, in addition to which it

15 The 2002 Law, Article 1.

16 *Ibid*, Article 4.

17 *Ibid*, Article 4.

18 *Ibid*, Article 4.

removed the immunity previously accorded to commissioners. In 2003, with the adoption of a new constitution¹⁹ that ended Rwanda's nine-year transitional period, the NCHR was reaffirmed in the 2003 Constitution's chapter on special commissions and organs. Article 177 of the Constitution provided for the broadened mandate of NCHR as follows: "The National Commission for Human Rights is an independent national Commission especially in charge of the promotion and protection of human rights A Law shall determine responsibilities, organization and functioning of this Commission".

To give effect to the new constitutional order, Law No 30/2007 of 06/07/2007 Determining the Organisation and Functioning of the National Commission for Human Rights (hereafter 2007 Law) was adopted, repealing the 1999 Law and its 2002 amendments. The 2007 Law did not bring about major changes in the responsibilities of the Commission, but it did at least involve the newly constituted institutions, in particular the Senate, in the approval of draft presidential orders appointing commissioners,²⁰ and upheld the new constitutional requirement of equality between men and women by providing that at least 30 per cent of commissioners shall be women.²¹ Furthermore, it restored commissioners' immunity from prosecution for views expressed in the exercise of their duties,²² and limited their term of office to four years, renewable only once. The 2007 Law had the merit of elaborating on the organs of the Commission and their functions,²³ but much like its predecessors, it failed to design the commissioners' selection processes in such a way as to guarantee their independence – a matter on which the Law thus contravenes the Paris Principles.

In a bid to adopt provisions that would ensure full compliance with the Paris Principles, Law No 19/2013 of 25/03/2013 Determining the Mission, Organisation and Functioning of the National Commission for Human Rights (hereafter 2013 Law) was enacted, repealing the 2007 Law and creating an independent mechanism for selecting candidate commissioners. The 2013 Law was amended slightly by Law No 61/2018 of 24 August 2018.²⁴

19 The Constitution of the Republic of Rwanda of 4 June 2003 (hereafter 2003 Constitution).

20 The 2007 Law, Article 12.

21 *Ibid*, Article 12.

22 *Ibid*, Article 14.

23 *Ibid*, Articles 19-24.

24 Law No 61/2018 of 24/08/2018 Modifying Law No 19/2013 of 25 March 2013 Determining Missions, Organisation and Functioning of the National Commission for Human Rights.

3 The nature of the NCHR

As mentioned, the NCHR is a constitutionally mandated institution. In fact, it is one of the institutions created by the Peace Agreement signed by the Government of Rwanda and the RPF in Arusha on 4 August 1993. Under Article 3 of the agreement, parties had agreed to elevate the Peace Agreement and its protocols to the level of a fundamental law that, along with the Constitution of 10 June 1991, would govern the country during the transitional period. The 2003 Constitution ending the transition period in Rwanda also provided for the NCHR and stated its mandate.²⁵ The Revised Constitution of 2015,²⁶ without restating its mandate, listed the NCHR under the category of national commissions entrusted with the responsibility to help in resolving important issues facing the country, and provided that a specific law would determine its mission, organisation and functioning.²⁷

The NCHR is a permanent and independent commission endowed with legal personality and enjoying administrative and financial autonomy.²⁸ Commissioners discharge their duties in a personal capacity²⁹ without being subject to any instructions from the legislative, executive or judicial power or any other organisation,³⁰ and enjoy immunity from prosecution for views and acts committed in the course of their duties.³¹

Acting through its chairperson and members, the NCHR participates in the decision-making organs of certain justice-sector institutions, as the chairperson of the NCHR is a member of the High Council of the Judiciary³² and the High Council of the National Public Prosecution

25 The 2003 Constitution, Article 177.

26 The Constitution of the Republic of Rwanda of 2003 revised in 2015 (hereafter Revised Constitution of 2015).

27 The Revised Constitution of 2015, Article 139.

28 Law No 19/2013 of 25/03/2013 Determining Missions, Organization and Functioning of the National Commission for Human Rights (hereafter 2013 Law), Article 3.

29 Law No 61/2018 of 24/08/2018 Modifying Law No 19/2013 of 25/03/2013 Determining Missions, Organisation and Functioning of the National Commission for Human Rights (hereafter Law No 61/2018), Article 5.

30 The 2013 Law, Article 3.

31 The 2013 Law, Article 24.

32 Law No 012/2018 of 04/04/2018 Determining the Organization and Functioning of the Judiciary, Article 6.

Authority.³³ The NCHR is also represented at the disciplinary committee of the Rwanda Bar Association.³⁴

The appointment procedure of members of the Commission has been improved to ensure their independence. Indeed, candidates for the post of commissioner are selected by an independent selection committee whose members are appointed by a presidential order.³⁵ The mission, organisation and functioning of this committee are established by Presidential Order No 72/01 of 12 March 2014³⁶ (hereafter Presidential Order No 72/01).

Presidential Order No 72/01 specifies that the committee is to be composed of five members³⁷ with demonstrated experience in the field of human rights.³⁸ The appointment of members of the selection committee by a presidential order may raise questions about their independence; however, the 2013 Law and Presidential Order No 72/01 have limited the appointment powers of the President of the Republic by diversifying the composition of the committee. Accordingly, its composition must include one member from a national human rights organisations, one member from the Public Service Commission, two members from civil society at large, and one human rights expert from academia.³⁹

Nonetheless, the procedure used in selecting the members of the selection committee who are to be appointed by the President remains uncertain in the law. A practical solution to this gap in the law was found while appointing the first members of the selection committee: they were appointed by the President on the advice of the Minister of Justice⁴⁰ The appointees were, therefore, persons delegated by their institutions upon request of the Minister of Justice in his capacity as the authority entrusted

33 Law No 013/2018 of 04/04/2018 Determining the Organization, Powers and Functioning of the High Council of the National Public Prosecution Authority, Article 3.

34 Law No 83/2013 of 11/09/2013 Establishing the Bar Association in Rwanda and Determining Its Organization and Functioning, Article 29.

35 The 2013 Law, Articles 19 and 20.

36 Presidential Order No 72/01 of 12/03/2014 Establishing the Candidate Selection Committee to the Post of Commissioner of the National Commission for Human Rights and Determining Its Mission, Organisation and Functioning (hereafter Presidential Order No 72/01).

37 Presidential Order No 72/01, Article 4.

38 *Ibid*, Article 5.

39 The 2013 Law, Article 19, and Presidential Order No 72/01, Article 4.

40 Presidential Order No 01/01 of 19/01/2015 Appointing Members of the Candidate Selection Committee to the Post of Commissioner of the National Commission for Human Rights.

with implementation of Presidential Order No 72/01,⁴¹ a practical procedure which was not provided for in the law but which ensures the independence of the members of the committee.

Members of the selection committee are appointed for a five-year term, which is renewable,⁴² and are expected to be transparent and objective in the process of selecting candidates.⁴³ Vacancies in posts for commissioners are widely advertised by the selection committee in newspapers, by radio and television, and on the NCHR's website.⁴⁴ The committee must ensure that candidates for the post of commissioner come one from one of four groups: human rights organisations, academia, the public service, civil society organisations (CSOs), and the private sector.⁴⁵ Equality between men and women must be upheld in that 30 per cent of the commissioners have to be female.⁴⁶ Candidates are selected on the basis of their leadership experience⁴⁷ after an interview conducted according to rules established by the selection committee.⁴⁸ The selection report, containing, inter alia, the list of selected candidates, is submitted to the government,⁴⁹ which sends it to the Senate for approval before the candidates are appointed by a presidential order.⁵⁰

This selection process undoubtedly represents a major improvement in Rwanda's compliance with the Paris Principles as it significantly reduces the role of political actors in the appointment of commissioners, limiting it to the promulgation of the list of selected candidates drawn up by an independent election committee.

3.1 Financial autonomy

The NCHR enjoys financial autonomy;⁵¹ it prepares and submits its budget proposal to the Minister in Charge of Finance; and it is allowed to

41 Presidential Order No 72/01, Article 24.

42 *Ibid*, Article 6.

43 *Ibid*, Article 4.

44 *Ibid*, Article 3.

45 The 2013 Law, Article 18.

46 NCHR Law, Article 18.

47 *Ibid*, Article 17.

48 Presidential Order No 72/01, Article 11.

49 *Ibid*, Article 21.

50 The 2013 Law, Article 21.

51 *Ibid*, Article 3; for more details on the link between the financial autonomy and independence of national human rights commissions, see AE Pohjola, *The Evolution of National Human Rights Institutions: The Role of the United Nations*,

defend it before Parliament.⁵²

The secretary-general of the Commission⁵³ undertakes the technical work involved in planning the NCHR's activities and preparing the draft budget proposal, after which they are presented for approval by the Council of Commissioners.⁵⁴

The NCHR receives funds mainly from the state budget and is also allowed to receive monies from partners.⁵⁵ Its initial state funding of RWF 205,667,127⁵⁶ (\$604,903.31)⁵⁷ covered the costs of its first six months of existence from June-December 1999.⁵⁸ Thereafter, state budget allocations to the NHCR have constantly increased over the years, reaching the amount of RWF 1,186,209,312 (\$1,393,491.11)⁵⁹ for the 2018/2019 fiscal year, according to Law No 38/2018 of 29 June 2018.⁶⁰

The NCHR places little reliance on external partners to fund its activities. Its financial reports⁶¹ from 1999-2018 reveal that donors' funds contributed 0-20 per cent of its total annual budget. Similarly, there was a decrease in external support via the state budget, with the state's share in the NCHR's budget declining from 23.7 per cent in the 2014/2015 fiscal year to 17 per cent in 2017/2018.⁶² This is essentially due to various self-reliance policies the state has adopted in its efforts to mobilise domestic resources to accelerate socio-economic development.

However, there is often a discrepancy between the budget year of the NCHR's partners, which generally begins in January and ends in December, and the state budget year, which begins in June. This makes it

Copenhagen, Danish Institute for Human Rights (2006), p 6.

52 The 2013 Law, Article 41.

53 *Ibid*, Article 37.

54 *Ibid* Article 16.

55 *Ibid*, Article 16.

56 Rwandan Francs.

57 As of the National Bank of Rwanda exchange rate on 1 June 1999, available at <https://bit.ly/302UbVP>.

58 NCHR, Report June-December 1999 (1009), p 8.

59 As of the National Bank of Rwanda exchange rate on 29 June 2018, available at <https://bit.ly/302UbVP>.

60 See Law No 38/2018 of 29/06/2018 Determining the State Finances for the 2018/2019 Fiscal Year, Annex II-1: 2018-2019 Detailed Expenditure by Budget Agency.

61 Financial reports are published in the NHCR's annual reports, available at <http://cndp.org.rw> (the Commission's website).

62 UNICEF, *National Budget Brief: Investing in children in Rwanda 2017/2018* (November 2017), available at https://www.unicef.org/rwanda/RWA_resources_budgetbrief_natn.pdf (accessed 1 March 2019), p 3.

difficult to plan activities that depend on external funding which may be available only in the third quarter of the fiscal year.⁶³

The financial records of the NCHR are audited by the Office of the Auditor-General of State Finances⁶⁴ to ensure that its funds are properly managed. The NHRC has appeared only once⁶⁵ in the Auditor-General's annual reports from 2002-2017.⁶⁶ In this instance it was blamed for having used inappropriate procurement methods in awarding tenders⁶⁷ and for being reckless in managing its fixed assets.⁶⁸ The NCHR's involvement in the preparation of its budget, its receipt of regular allocations of state funds, and – barring the instance above – its relatively good management thereof, demonstrate that the NCHR enjoys financial autonomy and is able to carry out its activities by making efficient use of limited available resources.

3.2 Professional skills and knowledge of human rights

For an NHRI to work effectively, its members and staff need to have adequate professional skills and knowledge of human rights.⁶⁹ Nonetheless, except in the case of the chairperson, who must have a university degree,⁷⁰ the law governing the NCHR is silent on the specific educational qualifications the remaining commissioners need to possess. Proven experience in a position of leadership in any organisation suffices for them to qualify for the job.⁷¹

The law does not provide job profiles regarding the positions of NCHR chairperson and commissioners: the Prime Minister's Order determining the job profiles of employees of the NCHR indicates only that the office-holders are "political appointees".⁷² The term "political appointees" in this context does not mean commissioners are appointed without regard to any prior modalities of recruitment. As previously noted, there are stipulated procedures concerning application and selection, and the

63 See NCHR, Annual Report 2016-2017 (2017), available online at <https://bit.ly/2YnDiuV> (accessed 10 March 2019), p 136.

64 The 2013 Law, Article 42.

65 Report of the Auditor General of State Finances for the year ended 30 June 2012.

66 Available online at <http://www.oag.gov.rw/index.php?id=173>.

67 Report of the Auditor General of State Finances for the year ended 30 June 2012, p 41.

68 *Ibid*, p 45.

69 See note 3, p 6.

70 The 2013 Law, Article 17. Again, there is no requirement of a degree in human rights law or a related field.

71 *Ibid*, Article 17.

72 See Annex II of the Prime Minister's Order No 53/03 of 27/2/2015 Determining the Organizational Structure, the Salaries and the Fringe Benefits of Employees in the NHCR.

process is carried out by an independent selection committee. The selection committee should thus be able to assess candidates' knowledge of or exposure to human rights by scrutinising their application files and interviewing them.⁷³

Looking at the current composition of the NCHR, three out of six commissioners⁷⁴ hold postgraduate degrees in fields related to human rights law.⁷⁵ Among these law graduates, one is the current chairperson of the NCHR, who previously served as the legal advisor of the Senate. One of the other two was legal advisor to the National Consultative Forum of Political Organisations before becoming its director of communication and committees affairs, whilst the other was a legal officer in the National Gacaca Courts Service.

As regards the commissioners who are not jurists, each of them holds a university degree in fields related to social sciences. One of these commissioners is the NCHR's newly appointed deputy chairperson: prior to joining the Commission, she was the vice mayor of social affairs for the City of Kigali, an elective position in the country's decentralised administrative entities. Of the two remaining commissioners, one has been a Member of Parliament and the other, the executive secretary of the Eastern Province.

The profiles of the current commissioners demonstrate a mixture of persons trained in law and persons of experience who have been exposed to human rights issues in the course of their previous careers. In addition, the NCHR organises regular training to empower commissioners and staff with human rights knowledge and other skills necessary for carrying out their tasks. As part of capacity-building, commissioners and staff are encouraged to enrol in programmes aimed at enhancing their knowledge and skills in human rights matters. The annual reports of the NCHR indicate that scholarships have been awarded to commissioners and support staff in a bid to enhance their knowledge and skills on human rights promotion and protection through participation in training, workshops, short courses, and Master's and postgraduate-diploma programmes offered inside and outside the country.

73 Presidential Order No 72/01, Article 11.

74 At the time of writing, the seventh commissioner had resigned and not yet been replaced.

75 LLM in Human Rights and Democratization in Africa, LLM in International Criminal Justice and Law of Human Rights, and LLM in International Law.

Other NCHR staff, especially those in the Human Rights Promotion Research and Planning Unit and the Human Rights Legislation Protection and Monitoring Unit, are recruited on the basis of well-elaborated job profiles linked to their positions in accordance with the Prime Minister's Order Determining the Organizational Structure of the NCHR. Thus, in addition to their holding university degrees, NCHR members of staff are required to demonstrate a good understanding of human rights norms at national and international levels, have a wide knowledge and understanding of the Rwandan legal system in general and criminal procedure law in particular, knowledge of investigative and evidence-gathering techniques, and knowledge of court processes and procedures in general.⁷⁶

3.3 Accessibility of the NCHR

The head office of the NCHR is located in Rwanda's capital city, Kigali.⁷⁷ In 2001, the NCHR opened branches in almost all the provinces of the country. This was motivated by the need to make its services more accessible to the populace.⁷⁸ It opened one office per province made up of two staff members, the one acting as the head of the branch and the other as his or her deputy. They were tasked mainly to act as liaison officers for the Commission, and had the duty, inter alia, to receive the complaints of victims of human rights violations and conduct the necessary investigations to assess the relevance of these complaints before referring them to the Commission. They were also involved in different human rights promotion activities. Their physical presence in the provinces has helped the NCHR attract many cases from all corners of the country.⁷⁹

However, reforms to the public service in 2005 impacted negatively on the capacity of the NCHR in terms of human resources.⁸⁰ As a result of these reforms, 61⁸¹ of the 107 employees recruited in 2001⁸² were retrenched. Following the decrease in the number of staff, the NCHR had

76 Annex II of the Prime Minister's Order Mo. 53/03 of 27/2/2015 Determining the Organizational Structure, the Salaries and the Fringe Benefits for Employees in the NHCR.

77 The 2013 Law, Article 2.

78 Foreword of the President of NCHR Gasana Ndobwa in the NCHR Annual Report (2000), available at http://cndp.org.rw/fileadmin/user_upload/reports/Annual%20report%202000.pdf, p 3.

79 National Human Rights Commission, Annual Report 2001, available at <https://bit.ly/2NrykWN>, p 8.

80 NCHR, Annual Report 2005, p 97.

81 NCHR, Annual Report 2005, p 93.

82 NCHR, Annual Report 2001, p 8.

to close down its branches in the provinces and consequently adopt a new *modus operandi* whereby commissioners and staff work in provinces from the head office.⁸³ This obviously makes the services of the NCHR less accessible to citizens who live in provinces with limited financial resources.

In practical terms, complaints from around the country and follow-up thereof have to be dealt with by a newly established organ at the head office called the commissariat.⁸⁴ This organ is headed by a commissioner who is assisted by NCHR personnel charged with the promotion and protection of human rights.⁸⁵ The council of commissioners assigns to each commissariat a number of districts in which it is supposed to intervene. As such, when a complaint from the district is lodged with the NCHR, the complaint is sent to the respective commissariat for consideration; the commissariat has the duty to receive, examine and follow up on the complaint. The commissariat is also required to monitor respect for human rights in detention facilities within the districts under its supervision.⁸⁶ As regards the promotion of human rights, the commissariat prepares, organises and conducts, in its respective districts, education and sensitisation campaigns on human rights topics approved by the NCHR.⁸⁷

Another challenge regarding the accessibility of the services of the NCHR is caused by frequent changes of its permanent headquarters. For the last 20 years of its existence the NCHR has been unable to acquire its own premises and has had to change its location in Kigali about four times. This has sometimes caused it to move to remote and exclusive upmarket parts of Kigali, such as Nyarutarama, which are not easily accessible to the ordinary people. The situation presents genuine challenges, particularly so to people from the rural areas, who have to struggle not only to find their way to Kigali but, once there, to locate the NCHR head office.

Various strategies have been adopted to make the NCHR's services more accessible, especially to those in the provinces. One of these has involved the increasing use of the toll-free telephone line⁸⁸ of the NCHR. This has been very effective in Rwanda, where statistics indicate a

83 NCHR, Annual Report 2005, p 97.

84 Internal Rules and Regulations of the National Commission for Human rights adopted by the Council of Commissioner of 29/12/2009 (hereafter NHCR internal Rules and Regulations) (published in Official Gazette No special of 14/10/2010), Article 34.

85 NHCR internal Rules and Regulations, Articles 34-35.

86 NHCR internal Rules and Regulations, Articles 36.

87 NHCR internal Rules and Regulations, Articles 36.

88 The toll-free number is 3430 (see <http://cndp.org.rw/index.php?id=195>).

widespread and continuous increase in mobile telephone subscribers.⁸⁹ The NCHR advertises its toll-free number on radio stations and in other accessible media outlets to encourage the population to report human rights violations via the toll-free number.

The NCHR has also set up a user-friendly electronic complaint-filing system⁹⁰ on its website. This can be used even by victims of violations of human rights who are outside Rwanda while lodging complaints; once the complaints are lodged, users receive electronic updates on follow-up by commissioners and/or staff.

Establishing the Observatory of the Rights of the Child is another important mechanism that has made the NCHR's services more accessible at local level. Indeed, since 2006 the NCHR, together with different institutions and organisations intervening in the protection of the child, created the Observatory of the Rights of the Child, a body in charge of monitoring children's rights through committees of volunteers at sectoral, district and national levels.⁹¹ Members of sector children's rights observatory committees receive complaints or collect information about violations of children's rights taking place in the sector and submit reports about this to the district committees. The latter analyses them to identify the causes and strategise on possible remedies to be proposed before submitting a report to the national committee. After considering this report, a submission is made to the NCHR for it to follow up on the situation in accordance with its mandate of protecting human rights.⁹²

These volunteers' committees have contributed to making the NCHR more accessible because, through their complaint mechanism, ordinary citizens in remote parts of the country are able to reach the Commission without requiring its physical presence on the ground.

Another indicator of the accessibility of the Commission's services is the simplicity of the complaints-lodging procedures established by the law – these do not require formalities to be fulfilled or preconditions met before recourse is made to the NCHR. Complaints may therefore be brought by the victims themselves – or by any other person on their behalf in case of

89 According to statistics of the Rwanda Utilities Regulatory Authority (RURA), the mobile-telephony penetration rate at the end of June 2018 was 78.1 per cent; for more details, see RURA, Annual Report 2017-2018, available at <https://rura.rw/index.php?id=23>.

90 For detail on how this electronic system works, see <http://cndp.org.rw/index.php?id=87>.

91 NCHR, Annual report 2006 (2006), pp 150-151.

92 NCHR, Annual Report 2006, pp 150-151.

their incapacity to do so personally⁹³ – be it in verbal or written form.⁹⁴ The same applies to NGOs, which may file cases in their respective names and on behalf of their members, on behalf of victims or in acting in the public interest, or in case of generalised violations of human rights based on discrimination.⁹⁵

In summary, these various accessibility strategies have proven effective in ensuring that the population has relatively satisfactory access to the services of the Commission.

4 The mandate of the NCHR

The 2013 Law has given a broad and unrestricted mandate to the Commission. Its mandate revolves around three set of activities, which are the protection and promotion of human rights, playing an advisory role in the preparation of bills, and contributing to policies to advance human rights.

The NCHR has the mandate to protect victims of human rights. It is a well-established quasi-judicial mechanism utilising a complaints procedure well entrenched in the law.⁹⁶ It receives complaints from victims, examines facts, and determines whether there have been violations of human rights. Where violations of human rights are ascertained, the NCHR requests the concerned institutions to restore the rights of complainants. It may also carry out mediation and conciliation in human rights litigation in cases where these mechanisms do not conflict with the law.⁹⁷ In cases where human rights violations have occasioned the commission of offenses, the NCHR can request that the competent organs take legal action against offenders.⁹⁸

The Commission monitors compliance with human rights, with an emphasis on the rights of specific vulnerable members of the society, such as children, women, persons with disabilities, HIV/AIDS-infected persons, refugees, the elderly, and migrant workers and their families. It also monitors respect for human rights during elections, and produces reports on this. Its members regularly visit detention facilities to ensure that detainees' rights are respected, and in case of violation, request that

93 NHCR internal Rules and Regulations, Article 57.

94 *Ibid*, Article 61.

95 *Ibid*, Article 57.

96 Law No 61/2018, Article 1, and the 2013 Law, Article 7.

97 The 2013 Law, Article 7.

98 *Ibid*.

the concerned authorities remedy the situation. The commissioners and any other staff designated by the chairperson of the Commission have been vested with the powers of judicial police officers.⁹⁹ Equally, the NCHR has been given standing to file legal actions in any matter for violation of human rights.¹⁰⁰

In a recent development, the NCHR was given an additional mandate to act as a National Preventive Mechanism (NPM). The designation and establishment of an NPM is an obligation of states parties to the Optional Protocol to the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment.¹⁰¹ For the NCHR to perform this new role, special additional responsibilities¹⁰² and powers¹⁰³ were accorded to its members by the law.

Another mandate of the NCHR is to promote human rights.¹⁰⁴ This is an educational role that involves conducting activities such as educating and sensitising people on human rights matters through workshops, seminars and training; preparing educational programmes and promotional materials; working with other organs to develop strategies for preventing violations of human rights; and preparing and publishing reports on the situation of human rights in the country.

The NCHR also has the mandate to advise state organs on a variety of human rights matters.¹⁰⁵ It is required to give advice to state organs, particularly on bills, to ensure they comply with human rights protection and promotion. Furthermore, it makes recommendations towards the harmonisation of domestic laws with international or regional human rights instruments, and encourages state organs to ratify international instruments and ensure their incorporation in domestic laws.¹⁰⁶

99 *Ibid*, Article 8.

100 *Ibid*, Article 9.

101 Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by General Assembly resolution A/RES/57/199 on 18 December 2002, Articles 3, and 17-23. Rwanda ratified it through Presidential Order 60/01 of 12/02/2014.

102 Law No 61/2018, Article 2.

103 *Ibid*, Article 3.

104 The 2013 Law, Article 5.

105 *Ibid*, Article 5.

106 The word “incorporation” rather than “domestication” is used because Rwanda is considered a monist state; for more detail on the mandates of NHRIs in monist and dualist states, see R Carver, “A New Answer to an Old Question: National Human Rights Institutions and the Domestication of international Law”, 10(1) *Human Rights Law Review* (2010), pp 9-11.

The NCHR's annual reports, dating from its inception in 1999 to the present day, indicate the activities it carries out in furtherance of its mandate, the recommendations it makes to concerned public institutions, and the actions they have taken in response. In respect of its protective mandate, the NCHR has been able to receive and/or investigate a diverse range of complaints. In its first five years of operation, the bulk of complaints were cases relating to arbitrary arrests, illegal and prolonged detentions, and property-related claims, which were investigated and attended to accordingly.

In addition, the NCHR was involved in monitoring the traditionally inspired *gacaca* courts launched in 2002.¹⁰⁷ The *gacaca* courts were created as a transitional measure to deal with genocide cases. Judges in the *gacaca* courts were lay persons called *inyangamugayo*, meaning "people of integrity", and were elected from the local community.¹⁰⁸

Throughout the *gacaca* courts' complex trials, the NCHR intervened to ensure that the rights of survivors of genocide, witnesses and accused parties, as well those of *inyangamugayo*, were respected during and after trials. With regard to survivors, witnesses and *inyangamugayo*, the NCHR received and/or investigated complaints about various kinds of harassment, mistreatment, intimidation and homicidal injury to which they were subjected.¹⁰⁹ The NCHR also investigated claims that some public authorities were interfering improperly in *gacaca* court proceedings, usually in an attempt to avoid having relatives charged with crimes.¹¹⁰

With regard to the rights of the accused before *gacaca courts*, the NCHR monitored the conduct of proceedings to assess the respect of the accused persons' rights; the respect of such rights as the right to be informed of charges against them, the right to refute allegations; the right to appeal against convictions; the right not to be imprisoned contrary to the law; the right to be tried within a reasonable time; and the right to be informed of the decision of the *gacaca court*.¹¹¹ From 2003, the NCHR had to submit, to the National Gacaca Courts Service, a trimestral report that contained

107 Although created by the Organic Law No 40/2000 of 26 January 2001, the *gacaca* courts officially started to operate on 18 June 2002 following elections and training of "*Inyangamugayo*" judges.

108 See Presidential Order No 12/01 of 26 June 2001 Establishing Modalities for Organizing Elections of Members of Gacaca Courts; for more detail on *gacaca* courts, see also AM de Brouwer and E Ruvebana, "The Legacy of the Gacaca Courts in Rwanda: Survivors' Views" 13 *International Criminal Law Review* (2013), pp 937-976.

109 See NCHR annual reports 2002-2012.

110 See NCHR, Annual Report 2005 (2005), p 75.

111 See NCHR, Annual Report 2007 (2007), p 76.

recommendations on the respect of human rights in the *gacaca* courts.¹¹² Along the same lines, it provided regular training to *inyangamugayo* on human rights and specific procedures in *gacaca* courts.¹¹³ The monitoring of *gacaca* courts continued until their closure in 2012.¹¹⁴

Both during and after its monitoring of the *gacaca* courts, the NCHR continued to receive, investigate and handle human rights complaints commonly related to access to justice and the right to property. These include complaints to do with court delays in trying cases, non-enforcement of court decisions, land-sharing issues, expropriation of land in the public interest issues, and land-succession matters.

The NCHR's effort in protecting human rights were not without criticism. For example, some observers, such as the United Nations Special Rapporteur Maina Kiai, questioned its ability to investigate rights to freedom of peaceful assembly and of association.¹¹⁵ While acknowledging the work of the NCHR, the Rapporteur recommended in the report on his mission to Rwanda in 2014 that the Commission should be more robust in monitoring everyone's effective enjoyment of the rights to freedom of association and peaceful assembly.¹¹⁶ These statements form part of other similar allegations that the NCHR does not publicly take a critical stand on matters pertaining to these rights.¹¹⁷

In furtherance of its promotional mandate, the NCHR undertook various activities, including educating the Rwandan population on a variety of human rights topics; urging state institutions to ratify international human instruments; and providing views on bills in relation to human rights promotion and protection. With respect to human rights education, the NCHR's annual reports indicate that it regularly organises training sessions, workshops, public lectures, and sensitisation campaigns on various human rights issues and that it targets different categories of people in both the public and private sectors. These include staff from the

112 See NCHR, Annual Report 2003 (2003), p 64; NCHR, Annual Report 2005 (2005), p 67; NCHR, Annual Report 2007 (2007), p 93.

113 See NCHR, Annual report 2002 (2002), p 60; see also NCHR, Annual Report 2004 (2004), p 24.

114 *Gacaca* courts were officially closed by Organic Law No 04/2012/OL of 15/06/2012 Terminating *Gacaca* Courts and Determining Mechanisms for Solving Issues Which Were under Their Jurisdiction.

115 See Report of the Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, on his mission to Rwanda (20-27 January 2014), available at <https://bit.ly/2FLcQOx>, pp 17-18.

116 *Ibid*, p 18.

117 *Ibid*, p 18.

judiciary, the prosecution, correctional services, the police, local government and health centres, as well as representatives of people with disabilities, people infected with HIV/AIDS, historically marginalised persons, and others.

As for urging state institutions to ratify international human rights instruments, it is thanks largely to the NCHR's advocacy that Rwanda is now party to eight of the nine core human rights conventions at the universal level.¹¹⁸ In its discussion and correspondence with competent state institutions, the Commission also continues to advocate for the ratification of the International Convention for the Protection of All Persons from Enforced Disappearance.¹¹⁹ Rwanda has not yet ratified this convention even though this was one of the commitments it made in January 2011 during the first Universal Periodic Review.¹²⁰

The NCHR never took any official position on the heated debate around the Rwandan withdrawal of its Article 34(6) declaration in the Protocol on the African Charter on Human and Peoples' Rights on the Establishment of the African Court on Human and Peoples' Rights (hereafter African Court),¹²¹ a move that some observers considered as a significant setback for the realisation of human rights in Rwanda.¹²² In fact, by withdrawing its declaration, Rwanda has barred individuals and NGOs from directly filing cases before the African Court. Even though state officials have defended the withdrawal as a legitimate necessity to avoid the declaration's being exploited by convicted genocide fugitives to secure a right to be heard by the African Court, hence using the court as

118 NCHR, Submission by the National Commission for Human Rights of Rwanda to the United Nations Human Rights Council under the Universal Periodic Review of the Republic of Rwanda, 23rd Session – November 2015, available at <https://bit.ly/2XkHcBZ>, p 5.

119 See Letter No CNDP/FEB/450/14.15 of 23 February 2015 requesting the Minister of the Minister of Foreign Affairs and Cooperation to do his utmost so that the International Convention for the Protection of All Persons from Enforced Disappearance be ratified, in NCHR, Annual Report 2014-2015 (2015), p 48; see also the NCHR letter No CNDP/APR/580/15-16 of 13 April 2016 reminding the Minister of Justice that this convention was yet to be ratified, in NCHR Annual Report 2016-2017 (2017), pp 116-117.

120 See UPR, Rwanda Review in the Working Group of 24 January 2011 adopted in the Plenary of 7 June 2011, available at <https://bit.ly/2FM4eXT>.

121 Rwanda deposited the withdrawal with the African Union on 29 February 2016; the African Court was officially communicated of the withdrawal by the African Union on 3 March 2016.

122 See Joint Civil Society Statement on Rwanda's Withdrawal of its Article 34(6) Declaration from the Protocol on the African Court on Human and Peoples' Rights of 17 March 2016, available at <https://bit.ly/2KQVeEK>.

a platform to promote their agenda,¹²³ the NCHR has not made public its position on this crucial human rights issue.

Another important task that the NCHR undertakes in relation to international human rights instruments is to monitor the timely submission of periodic reports to treaty-monitoring bodies. The NCHR does not contribute to state reports; it has taken the approach of behaving as an independent institution and, as such, its role is limited to assessing if the state reports on time – an approach adopted by many other NHRIs.¹²⁴ Accordingly, the NCHR prepares a document on the status of reports,¹²⁵ conducts an assessment of the extent to which the concluding observations issued by monitoring bodies have been adhered to, and submits its findings to the concerned state institutions.¹²⁶ The NCHR also issues shadow reports expressing its views on the state report.¹²⁷

The NCHR often expresses its views on bills from the perspective of human rights promotion and protection. For example, it played a very active role in the debate that began in 2006 on the abolition of the death penalty¹²⁸ and that culminated, a year later in 2007, in the abolition of the penalty by Organic Law No 31/2007 of 25 July 2007.

The broad and unrestricted mandate bestowed on the NCHR is in line with what the Paris Principles expect of any NHRI. The NCHR has tried discharge its functions as effectively and efficiently as it can within the financial and human resource resources made available to it.

123 See Ministry of Justice, “Clarification”, available at <https://bit.ly/2YrCVcz>; see also E Kwibuka, “Why Rwanda Withdrew From AU Rights Court Declaration”, *The New Times* (13 October 2017), available at <https://www.newtimes.co.rw/section/read/221701>.

124 For a debate on the ambiguous role of NHRIs in state reporting, see F Viljoen, *International Human Rights Law in Africa*, 2nd edition, Oxford, Oxford University Press (2012), p 351.

125 See NCHR, Annual Report 2016-2017 (2017), P 117.

126 See NCHR, Annual Report 2015-2016 (2016), P 55.

127 See note 125, p 117; the same was also done by the NCHR when it submitted a report to the Human Rights Council during the 2nd Universal Periodic Review of the Republic of Rwanda in 2015; see note 118. For more detail on opportunities for NHRIs to provide valuable information when a country is reviewed through the UPR, see ED Redondo, “Role of the UN in the Promotion and Protection of Human Rights”, in AR Chowdhury and M Bhuiyan (eds), *An Introduction to International Human Rights Law*, Leiden, Brill (2010), p 141.

128 See NCHR letter No CRDH/2042/06 of 25 December 2006 sent to the Minister of justice outlining key points supporting the abolition the death penalty in NCHR, Annual Report 2006 (2006), pp 43-44.

5 Public accountability

The NCHR is accountable to the public through the issuance of its regular annual activity reports, special reports, public statements and regular consultation with stakeholders. According to Article 13 of the 2013 Law, the NCHR is under an obligation to present annual reports to both chambers of Parliament. These reports cover the various activities undertaken in line with its mandate.

The following aspects are highlighted in different sections: the state of affairs of human rights in the country; the state of examination and follow-up of complaints; achievements with regard to human rights promotion; recommendations made to state institutions to improve the human rights situation in Rwanda; and, in the financial report, how the budget was executed. The 2013 Law requires too that a copy of the annual report be submitted to other state institutions, such as the President of the Republic, the cabinet and the Supreme Court.¹²⁹ As the law requires that the annual reports should be made public,¹³⁰ the NCHR has diligently published almost all of them on its official website¹³¹ in the three official languages.¹³²

In addition to its annual reports, the NCHR also submits special reports to the abovementioned state institutions. The reports usually highlight the findings of investigations into specific kinds of rights violations.¹³³ The special reports make recommendations and purposely raise the concerned institution's awareness of them. There is no explicit obligation to publish these special reports, and the NCHR has made them public only on very few occasions. One example is the report on its investigation in Rutsiro and Rubavu districts on allegations in a Human Rights Watch report of July 2017 entitled *All Thieves must be Killed*.¹³⁴ Another example is the NCHR's investigation in Kiziba Refugee Camp

129 The 2013 Law, Article 13, paragraph 1.

130 The 2013 Law, Article 14.

131 At the time of writing, all annual reports in Kinyarwanda were available on the NCHR's website; for the English version, only three annual reports (namely, 2008, 2009-2010 and 2017-2018 reports) could not be found on the NCHR website, whereas for the French version, six reports (namely, 2009-2010, 2011-2012, 2012-2013, 2013-2014, 2016-2017, 2017-2018 reports) were not published on the website.

132 Under the Constitution, *Ikinyarwanda*, English and French are the official languages of Rwanda (Article 8).

133 The 2013 Law, Article 13 paragraph 2.

134 Report on Investigations Carried Out by the National Commission for Human Rights in Rutsiro and Rubavu Districts on the Human Rights Watch's Report of July 2017, available at <https://bit.ly/2XfCdxH>.

after several refugees were killed by the police force during protests against cuts in food assistance.¹³⁵ From time to time, the NCHR also issues public statements on events in which it participated in its role as a human rights monitor¹³⁶ or on its concerns about human rights violations reported in the media.¹³⁷

The NCHR has the duty to cooperate with various stakeholders, including human rights organisations at the national and international levels, to develop strategies for dealing with human rights matters.¹³⁸ One of the main outcomes of such collaboration was, as mentioned, the establishment in 2006 of the Children's Rights Observatory committees, which have proven to be highly effective mechanisms for reporting on child-rights violations. Since 2006, the NCHR, together with national human rights NGOs and international organisations operating in Rwanda, established a forum called the Consultative Meeting. Members of the forum convene regularly in meetings either of the executive committee or general assembly to strategise on how to promote human rights, how to work together on shared activities promoting human rights, and how to build the capacity of members.¹³⁹ The NCHR is also a member of a number of associations of NHRIs – these include the Network of African National Human Rights Institutions, whose current chairperson is the NCHR's chairperson.

6 Conclusion

A culture centred on the promotion and protection of human rights is one that needs to be nurtured into existence over time: no one institution can boast to have established it by itself overnight. In the case of an institution like the NCHR, created in the most difficult of times at a point when the country was dealing with the still-fresh consequences of one of the worst genocides of the 20th century, the expectations of it could not have been high, albeit that complacency would not have been an option. Nevertheless, various laws were enacted with a view to making it more effective than it was, with each new development marking a step forward in the effort to meet the standards of the Paris Principles. The result is that,

135 Summary of the NCHR Report on Kiziba Refugee Camp Incident, available at <https://bit.ly/2J2JIEd>.

136 See Press Release of the National Commission for Human Rights on Parliamentary Elections Held on 2-4 September 2018, available at <https://bit.ly/2J2KjWt>.

137 Press Release on Mugesera's Human Rights Concerns, available at <https://bit.ly/2RQ0wkL>.

138 The 2013 Law, Articles 5, 20 and 32, 30.

139 NHCR, Annual Report 2006 (2006), pp 156-157.

from its humble beginnings 20 years ago, the NCHR has taken shape slowly but surely in becoming what it is today. A legal entity with administrative and financial autonomy, it has a broad and unrestricted mandate, its commissioners are selected by an independent committee, and they enjoy immunity from prosecution for their views in the exercise of their duties.

Despite the evident progress made in its legal and institutional frameworks, the NCHR is not without its challenges. Although they are not insurmountable, problems such as insufficient numbers of staff and the lack of premises are very real. The key to resolving the challenges would seem to lie in greater collaboration with CSOs and state actors, as this would reduce the NCHR's workload and thus make it more efficient in carrying out its functions of promoting and protecting human rights in Rwanda.

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- Law No 37/2002 of 31 December 2002 Modifying and Supplementing Law No 04/99 of 12 March 1999 Establishing the National Human Rights Commission
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- Law No 61/2018 of 24 August 2018 Modifying Law No 19/2013 of 25 March 2013 Determining Missions, Organisation and Functioning of the National Commission for Human Rights
- Law No 83/2013 of 11 September 2013 Establishing the Bar Association in Rwanda and Determining its Organization and Functioning
- Presidential Order No 01/01 of 19 January 2015 Appointing Members of the Candidate Selection Committee to the Post of Commissioner of the National Commission for Human Rights
- Presidential Order No 72/01 of 12 March 2014 Establishing the Candidate Selection Committee to the Post of Commissioner of the National Commission for Human Rights and Determining its Mission, Organisation and Functioning
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PART B. SELECTED HUMAN RIGHTS DOCUMENTS AND MATERIALS

B.1 Constitutional framework

The constitutional framework is laid down in the 2003 Rwandan Constitution (revised in 2015).

The constitution of the Republic of Rwanda of 2003 revised in 2015 (Official Gazette no Special of 24/12/2015)

Article 42: Promotion of human rights

The promotion of human rights is a responsibility of the State. This responsibility is particularly exercised by the National Commission for Human Rights. This Commission is independent.

Article 139: National commissions, specialised organs, national councils and public institutions

The national commissions, specialised organs and national councils entrusted with the responsibility to help in resolving important issues facing the country are the following:

- 1) national commissions:
 - (a) National Commission for Human Rights;
 -

Specific laws determine the mission, organisation and functioning of these institutions.

A law may establish other national commissions, specialised organs and national councils when necessary. That law also determines their mission, organisation and functioning.

When deemed necessary, a law may also remove national commissions, specialised organs or national councils.

An organic law establishes general provisions governing public institutions

B.2 Legislative and regulatory instruments

The main instrument is Law No 61/2018, which modifies Law No 19/3013.

B.2.1 LAW No 61/2018 OF 24/08/2018 MODIFYING LAW No 19/2013 OF 25/03/2013 DETERMINING MISSIONS, ORGANISATION AND FUNCTIONING OF THE NATIONAL COMMISSION FOR HUMAN RIGHTS (Official Gazette no 38 of 17/09/2018)

Article 1: Special responsibilities of the Commission as regards to the protection of Human Rights

Article 6 of Law no 19/2013 of 25/03/2013 determining missions, organization and functioning of the National Commission for Human Rights is modified as follows:

Regarding the protection of human rights, the Commission has the following special responsibilities:

- 1) to monitor the compliance with the human rights, in particular with the rights of child, woman, persons with disabilities, people living with HIV/AIDS, refugees, migrant workers and members of their families and elderly's rights;
- 2) to receive, examine and investigate complaints relating to human rights violations;
- 3) to examine human rights violations in Rwanda committed by public or private organs, associations, non-governmental organizations, persons abusing their powers, a group of persons or individuals;
- 4) to visit premises of detention with a view to monitor respect for the rights of detainees and to request the relevant institutions to solve identified problems with regard to the violations of the rights of detainees;
- 5) to monitor the respect for human rights throughout elections process and submit reports to relevant organs."

Article 2: Special responsibilities of the Commission as regards to the prevention of torture and other cruel, inhuman or degrading treatment or punishment

In Law no 19/2013 of 25/03/2013 determining missions, organization and functioning of the National Commission for Human Rights is inserted Article 6 bis worded as follows:

Article 6 bis: Special responsibilities of the Commission as regards to the prevention of torture and other cruel, inhuman or degrading treatment or punishment

Regarding prevention of torture and other cruel, inhuman or degrading treatment or punishment, the Commission has the following special responsibilities:

- 1) to carry out, with or without notice, regular visits at any time when deemed necessary to the following places:
 - (a) prisons;
 - (b) places of detention investigation measures;
 - (c) rehabilitation and transit centres;
 - (d) centres for mentally handicapped and psychiatric hospitals;
 - (e) elderly centres;
 - (f) transit centres for immigrants with problems;
 - (g) vehicles or any other means of detainees' transport;
 - (h) any other place where persons are or may be deprived of their liberty.
- 2) to regularly monitor the conditions of detention of persons deprived of their liberty and other rights with a view to their protection against torture or other cruel, inhuman or degrading treatment or punishment;
- 3) to issue recommendations to relevant authorities with the aim to improve the conditions of detention of the persons deprived of their liberty and to prevent torture and other cruel, inhuman or degrading treatment or punishment based on international, regional and national laws and ask them to solve identified problems;
- 4)° to follow up the implementation of its recommendations that the Commission submitted to other institutions;
- 5)° to provide views on existing laws and draft laws relating to the prevention and control of torture and other cruel inhuman or degrading treatment or punishment in place of detention;
- 6)° to receive complaints relating to detention, well-being and other rights of persons deprived of their liberty;
- 7) to carry out research and studies on detention, well-being and other rights of detainees with the aim of preventing or combating torture and other cruel, inhuman or degrading treatment or punishment;
- 8)° to promote good relationship and collaboration with other institutions with the same responsibilities as the Commission.

Article 3: Special powers of the Commission as regards to the prevention of torture and other cruel, inhuman or degrading treatment or punishment

In Law no 19/2013 of 25/03/2013 determining missions, organization and functioning of the National Commission for Human Rights is inserted Article 7 *bis* worded as follows:

Article 7 *bis*: Powers as regards to the prevention of torture and other cruel, inhuman or degrading treatment or punishment

Regarding prevention of torture and other cruel, inhuman or degrading treatment or punishment, the Commission has the following powers:

- 1) unrestricted access to all documents and all information owned by relevant institutions, relating to the number of persons deprived of their liberty, the number of detention places and their location;
- 2) unrestricted access to all information referring to the treatment of persons deprived of their liberty as well as their conditions of detention;
- 3) unrestricted access to all places of detention and their premises and facilities;
- 4) conduct talk in private at any time with persons deprived of their liberty or with any other person likely to provide useful information;
- 5) to make audio recording and take photos that can help the Commission in fulfilling its responsibilities and respecting the privacy of the person.

Article 4: Composition of the Council of Commissioners and requirements for the position

Article 17 of Law no 19/2013 of 25/03/2013 determining missions, organisation and functioning of the National Commission for Human Rights is modified as follows:

The Council of Commissioners is composed of seven (7) Commissioners including the Chairperson and the Vice Chairperson.

For a person to be a Commissioner, he/she must fulfil the following conditions:

- 1) to be a Rwandan national;
- 2) to be a person of integrity;
- 3) not to have been convicted of the crime of genocide, the crime of genocide ideology or crimes against humanity in a final judgment;
- 4) not to have been sentenced to imprisonment for a term equal to or exceeding six (6) months in a final judgment;

- 5) to have an experience in leadership positions in public or private institution.

Article 5: Origin of Commissioners

Article 18 of Law no 19/2013 of 25/03/2013 determining missions, organization and functioning of the National Commission for Human Rights is modified as follows:

Commissioners come from:

- 1) civil society including non-governmental organizations for the promotion and protection of human rights;
- 2) public and private universities and institutions of higher learning;
- 3) public institutions;
- 4) private sector.

At least thirty per cent (30%) of Commissioners selected from those bodies must be women.

Considering the independence of the Commission as provided for in Article 3 of this Law, Commissioners are selected on individual basis and do not represent their institutions of origin.

Article 6: Requirements for selection of candidate Commissioners

Article 20 of Law no 19/2013 of 25/03/2013 determining missions, organisation and functioning of the National Commission for Human Rights is modified as follows:

The Committee in charge of selecting candidate Commissioners is independent in the exercise of its duties.

“In selecting candidates, the Committee must consider at least the following:

- 1) comply with the principles of transparency and independence;
- 2) widely announce vacancies for Commissioners.

After selecting the candidates, the Committee submits to the Government a list of selected candidates, and the President of the Republic appoints the Chairperson and the Vice Chairperson if those posts are vacant.

At least thirty per cent (30%) of candidates selected by the Committee in charge of selecting candidate Commissioners must be women.

A Presidential Order establishes the Committee in charge of selecting candidate Commissioners and determines its responsibilities, organization and functioning.”

Article 7: Approval of Commissioners by the Senate

Article 21 of Law no 19/2013 of 25/03/2013 determining missions, organisation and functioning of the National Commission for Human Rights is modified as follows:

“The Cabinet submits to the Senate for approval candidate Commissioners before their appointment by a Presidential Order.

If the Senate does not approve one or several candidate Commissioners, the President of the Senate informs the Government within fifteen (15) days, and requests for the submission of another candidate to replace the candidate who was not approved.

The selection of a candidate to replace the one who was not approved is carried out by the Committee in charge of selecting candidate Commissioners in accordance with the provisions of Article 20 of this Law.

The Cabinet submits to the Senate other candidate Commissioners whose number is equivalent to the number of those not approved by the Senate.”

Article 8: Term of office for the Commissioners

Article 23 of Law no19/2013 of 25/03/2013 determining missions, organisation and functioning of the National Commission for Human Rights is modified as follows:

“The term of office for the Commissioners is five (5) years renewable only once. During that term, Commissioners hold office on a full-time basis.”

Article 9: Replacement of a Commissioner

Article 27 of Law no 19/2013 of 25/03/2013 determining missions, organisation and functioning of the National Commission for Human Rights is modified as follows:

“In case a Commissioner ceases to carry out his/her functions due to any reason, the Chairperson of the Commission or his/her replacement in case of his/her absence notifies the President of the Republic, with copy to the President of the Senate and the Prime Minister within thirty (30) days.

The replacement of a Commissioner is carried out in accordance with Articles 19, 20 and 21 of this Law.”

Article 10: Term of office of incumbent Commissioners

Article 43 of Law no 19/2013 of 25/03/2013 determining missions, organisation and functioning of the National Commission for Human Rights is modified as follows:

“Incumbent Commissioners complete the term of office for which they were appointed.

For Commissioners whose term may be renewed, Article 23 of this Law applies.”

Article 11: Drafting, consideration and adoption of this Law

This Law was drafted, considered and adopted in Ikiyarwanda.

Article 12: Repealing provision

All prior legal provisions contrary to this Law are repealed.

Article 13: Commencement

This Law comes into force on the date of its publication in the Official Gazette of the Republic of Rwanda.

Kigali, on 24/08/2018

KAGAME Paul

President of the Republic

B.2.2 LAW No19/2013 OF 25/03/2013 DETERMINING MISSIONS, ORGANISATION AND FUNCTIONING OF THE NATIONAL COMMISSION FOR HUMAN RIGHTS (Official Gazette no14bis of 08/04/2013)

CHAPTER ONE: GENERAL PROVISIONS

Article One: Purpose of this Law

This Law determines the mission, organisation and functioning of the National Commission for Human Rights, hereinafter referred to as the “Commission”.

Article 2: Head office and territorial jurisdiction of the Commission

The head office of the Commission shall be located in Kigali City, the Capital city of the Republic of Rwanda. It may be transferred elsewhere in Rwanda if deemed necessary.

The Commission shall operate throughout the country and may establish branches anywhere in the country.

Article 3: Independence and autonomy of the Commission

The Commission shall be independent and permanent. In fulfilling its mission, the Commission shall not be subject to any instructions from any other organ.

The Commission shall have legal personality and autonomy in administrative and financial matters.

CHAPTER II: MISSION AND POWERS OF THE COMMISSION

Section One: Missions of the Commission

Article 4: Overall mission of the Commission

The overall mission of the Commission shall be to promote and protect Human Rights.

Article 5: Special mission of the Commission regarding Human Rights promotion

The special mission of the Commission regarding Human Rights promotion shall be the following:

- 1) to educate and sensitize the population on matters relating to human rights and participate in the development of Human Rights educational programmes;
- 2) to collaborate with other organs in designing strategies to prevent violations of Human Rights;
- 3) to prepare and disseminate reports on the situation of Human Rights in Rwanda, annually and whenever necessary;
- 4) to provide views, upon request or at its own initiative on laws, regulations of public organs in force in the country and bills so as to ensure their conformity to fundamental principles of Human Rights;
- 5) to urge relevant government institutions to ratify international treaties related to Human Rights and incorporate them in the existing domestic laws;
- 6) to urge relevant government institutions to submit on time the reports related to international treaties on Human Rights conventions ratified by Rwanda;
- 7) to propose to relevant government authorities measures to be taken to address and punish in accordance with law any violation of Human Rights;
- 8) to collaborate with other foreign national Human Rights institutions, and international organisations in Human Rights promotion and protection activities.

Article 6: Special mission of the Commission as regards to the protection of Human Rights

Regarding the protection of Human Rights, the special mission of the Commission shall be the following:

Commission sont les suivantes:

- 1) to receive, examine and investigate complaints relating to Human Rights violations;
- 2) to examine Human Rights violations in Rwanda committed by State organs, those who work in the public service abusing their powers, associations and individuals;
- 3) to carry out visits to custodial places with the purpose of inspecting whether the rights of detainees are respected and urge relevant authorities to address identified cases of violation of the rights of detainees;

- 4) to particularly monitor respect for the rights of the child, women, persons with disabilities, people living with HIV/AIDS, refugees, migrant workers and members of their families and elderly;
- 5) to monitor respect for Human Rights throughout elections process and submit report to relevant organs.

Section 2: Powers of the Commission

Article 7: Ordinary powers of the

In order to fulfil its mission provided under Articles 4 to 6 of this Law, the Commission shall have the following powers:

- 1) to receive and consider testimonies on Human Rights violations;
- 2) to have access to any place where human rights violations are alleged or reported including places of detention for the purpose of investigations;
- 3) to contact, interrogate and seek explanations from any person likely to have testimony, information, responsibility and expertise deemed to enlighten the Commission on scrutinising and collecting Human Rights violation evidence;
- 4) to have access to documents, consult them on the spot or get their copies as well as any other document required by the Commission to be able to analyze and collect Human Rights violation evidence. Documents or items given to the Commission shall be returned to owners or organs of origin in a period not exceeding three (3) months;
- 5) to conduct mediation and conciliation between parties with Human Rights litigations where the mediation or conciliation does not contravene the law;
- 6) to request relevant organs to unconditionally restore the rights of any person where it appears that his/her rights have been violated;
- 7) to request relevant organs to bring to justice any person having committed offences related to the violation of Human Rights;
- 8) to carry out research on thematic issues and publish findings with the purpose of Human Rights.

Article 8: Judicial Police powers

Commissioners shall have permanent judicial police powers throughout the territory of Rwanda while discharging their duties.

If deemed necessary, a member of staff of the Commission may be given judicial police powers by competent authority upon request by the Chairperson of the Commission.

Persons summoned by the Commission must appear, failure of which they shall be prosecuted in accordance with law.

Article 9: Power to file legal actions

The Commission shall have powers to file legal proceedings in civil, commercial, labour and administrative matters for violation of human rights provided by the Constitution, international treaties ratified by Rwanda and other laws. In that regard, the Commission may be represented in courts by its employees authorized by relevant authority on the request of the Chairperson of the Commission. The Commission may also be represented by a council of its choice.

Article 10: Exercice de la qualité d'Officier

While exercising judicial police powers and power to file legal action, the Commission shall respect the national laws without prejudice to other organs' responsibilities, and apply such powers in case of violation of public, individual interests, or if other relevant organs fail to carry out their legal duties.

Article 11: Power to adopt the internal rules and regulations

Without prejudice to the provisions of this Law, the Commission shall establish its internal rules and regulations which shall be published in the Official Gazette of the Republic of Rwanda.

CHAPTER III: PROGRAM OF ACTIVITIES AND REPORT OF THE COMMISSION

Article 12: Commission's program of activities and organs to which it is submitted

The Commission shall submit to the Parliament, both Chambers, its program of activities within a period not exceeding three (3) months from the commencement of the fiscal year and reserve a copy thereof to the President of the Republic, the Cabinet and the Supreme Court.

Article 13: Commission's reports and organs to which they are submitted

The Commission shall submit to the Parliament, both Chambers, its activity report within a period not exceeding three (3) months from the end of the fiscal year, and reserve a copy thereof to the President of the Republic, the Cabinet and the Supreme Court.

The Commission shall also submit to the President of the Republic, the Parliament, both Chambers, the Cabinet and the Supreme Court thematic reports acknowledged through its investigations or researches on Human Rights violations and those with negative impact on such rights.

Article 14: Dissemination of the Commission's report Commission

The Commission shall disseminate its annual report subsequent to its submission to the Parliament.

CHAPTER IV: ORGANS OF THE COMMISSION

Article 15: Administrative organs

The administrative organs of the Commission shall be the following:

- 1) the Council of Commissioners;
- 2) the Bureau of the Commission;
- 3) the General Secretariat of the Commission.

Section One: Council of Commissioners

Article 16: Responsibilities of the Council of Commissioners

The Council of Commissioners shall be the following:

- 4) to adopt the agenda of its meeting;
- 5) to take all decisions related to the promotion and protection of Human Rights;
- 6) to approve the planning and the action plan of the Commission;
- 7) to approve the annual draft budget of the Commission before submitting it to relevant organs;
- 8) to approve the annual activity report of the Commission;
- 9) to approve thematic reports on acts acknowledged by the Commission on Human Rights violations;
- 10) to approve the internal rules and regulations of the Commission;
- 11) to approve subsidies, donations and bequests;
- 12) to prepare the organizational structure of the Commission;
- 13) to recruit and appoint the personnel of the Commission;
- 14) to take all decisions that could improve the effective functioning of the Commission.

Ingingo ya 17: Abagize Inama y'Abakomiseri n'ibyo bagomba kuba bujuje

Article 17: Composition of the Council of Commissioners and requirements for the position

The Council of Commissioners shall be composed of seven (7) Commissioners including the Chairperson and the Vice Chairperson.

For a person to be a Commissioner, he/she shall fulfil the following conditions:

- 1) to be a Rwandan;
- 2) to be a person of integrity;
- 3) not to have been convicted of the crime of genocide, crimes against humanity and crime of genocide ideology;
- 4) not to have been convicted to a sentence equal to or exceeding six (6) months of imprisonment;

In particular, the Chairperson of the Commission must hold a degree from an institution of higher learning and have experience and sufficient knowledge in the Human Rights field.

Article 18: Provenance of Commissioners

Commissioners shall come from the following:

- 1) non-governmental organisations for the promotion and protection of Human Rights;
- 2) public and private Universities and institutions of higher learning;
- 3) Civil Society;
- 4) public institutions;
- 5) private sector.

At least thirty per cent (30%) of Commissioners selected from those bodies must be females.

Considering the independence of the Commission as provided for in Article 3 of this Law, Commissioners shall be elected on individual basis and they do not represent their institutions of origin.

Article 19: Members of the Committee in charge of selecting candidate Commissioners and modalities for their appointment

The Committee in charge of selecting Candidate Commissioners shall be comprised of five (5) members from:

- 1) non-governmental organizations for the promotion and protection of human rights;
- 2) Public Service Commission;
- 3) Civil Society;
- 4) other relevant experts with expertise and skills in Human Rights issues.

A Presidential Order shall appoint members of the Committee in charge of selecting Candidate Commissioners.

Article 20: Requirements for selection of candidate Commissioners

The Committee in charge of selecting Candidate Commissioners shall function independently. In selecting the candidates, the Committee shall:

- 1) comply with the principles of transparency and independence;
- 2) widely announce vacancies for Commissioners;
- 3) submit to the Government a list of seven (7) selected candidates comprising the Chairperson and the Vice Chairperson.

At least thirty per cent (30%) of candidates selected by the Committee in charge of selecting Candidate Commissioners must be females.

A Presidential Order shall determine the establishment, responsibilities, organisation and functioning of the Committee in charge of selecting Candidate Commissioners.

Article 21: Approval of Commissioners

The Cabinet shall submit to the Senate for approval seven (7) candidate Commissioners before their appointment by a Presidential Order.

In case the Senate does not approve one or several candidate Commissioners, the President of the Senate shall inform the Government within a period not exceeding fifteen (15) days, and request for the submission of other candidates to replace those who are not approved.

The selection of candidates to replace those the Committee in charge of selecting Candidate Commissioners in accordance with the provisions of Article 20 of this Law.

The Cabinet shall submit to the Senate other candidate Commissioners whose number shall be equivalent to the number of those who are not approved by the Senate.

Article 22: Taking oath of the Commissioners

Before assuming their duties, Commissioners shall take oath before the Supreme Court as provided for by the Constitution.

Article 23: Term of office for the Article

The term of office for the Commissioners shall be four (4) years which may be renewable only once. Commissioners shall hold office on a full-time basis.

Article 24: Immunity of the Commissioners

During and after his/her term of office, a Commissioner shall not be prosecuted, wanted or arrested, detained or sentenced due to his/her views expressed or other acts committed in carrying out his/her duties.

A Commissioner shall not be provisionally detained unless he/she is caught red-handed committing an offence punishable by a penalty exceeding five (5) years of imprisonment. Such immunity shall cover only offences committed while carrying out his/her duties or those related to such duties.

Article 25: Incompatibilities with being a Commissioner

An appointed Commissioner shall not be allowed to perform any other remunerated work; he/she shall immediately resign from his/her previous post. However, he/she may perform research activities relating to his/her duties, literature and art provided they are not incompatible with the mission of the Commission and upon approval by the Council of Commissioners.

Article 26: Removal from office of a Commissioner

A Commissioner may be removed from office if:

- 1) his/her term of office expires;
- 2) he/she resigns through a written notice;
- 3) he/she is no longer able to perform his/her duties due to illness or disability certified by a panel of medical doctors nominated by the Minister in charge of health upon the request of the la Commission;
- 4) he/she demonstrates behavior contrary to his/her duties;
- 5) he/she abuses Human Rights;
- 6) he/she jeopardizes the interests of the Commission;

- 7) he/she has been definitively sentenced to at least six (6) months of imprisonment without suspension of sentence;
- 8) he/she dies.

The resignation of a Commissioner shall be submitted to the President of the Republic through a registered mail or hand-delivery letter with acknowledgment of receipt, with a copy to the Senate and the Commission's authorities. If a period of thirty (30) days elapses without a response, the resignation shall be considered approved.

A Presidential Order shall approve the removal of a Commissioner from his/her office in the circumstances provided for in Paragraph One of this Article.

Article 27: Replacement of a Commissioner Article

In case a Commissioner ceases to carry out his/her functions due to any reason, the Chairperson of the Commission or his/her representative in case of his/her absence shall notify the President of the Republic, the Senate and the Cabinet in a period not exceeding eight (8) days.

The replacement of a Commissioner shall be conducted in accordance with Articles 19, 20 and 21 of this Law.

The new Commissioner shall have a four- (4) year term of office renewable only once.

Article 28: Convening and holding meetings

The Council of Commissioners shall be convened in writing by the Chairperson of the Commission or his/her representative in case of his/her absence.

The Council of Commissioners shall meet if at least four (4) of its members are present. Its decisions shall be taken by consensus. Failure to obtain such consensus, the decisions shall be taken on the absolute majority vote of its

In case the absolute majority is not reached and in case of a tie, the Chairperson or his/her representative shall have a casting vote.

However, decisions relating to reports of the Commission and other decisions to be submitted to other institutions shall be taken by consensus.

The Secretary General shall attend the meetings of the Council of Commissioners and serve as the Rapporteur but shall not have the right to vote during the decision-making process.

Article 29: Functioning of the Council of Commissioners

Without prejudice to Article 28 of this Law, the functioning of the Council of Commissioners shall be determined by the internal rules and regulations of the Commission.

Article 30: Benefits granted to Commissaires

A Presidential Order shall determine the benefits entitled to Commissioners in office and those whose term of office has expired.

Section 2: Bureau of the Commission

Article 31: Members of the Bureau of the Commission

The Bureau of the Commission shall be composed of the Chairperson and the Vice Chairperson.

In absence of the Chairperson and the Vice Chairperson or if they are no longer able to perform their functions and are not yet replaced in accordance with this Law, the senior Commissioner shall convene a meeting of the Council of Commissioners to elect among them their representative. If the senior Commissioner fails to do so, at least three (3) Commissioners shall meet and elect the chair to preside over the meeting. Such meeting shall discuss only the item related to the acting bureau.

The Bureau of the Commission shall have the following responsibilities:

- 1) to ensure the execution of the programme of the Commission and its budget;
- 2) to monitor activities of the Commission General Secretariat;
- 3) to promote cooperation with stakeholders, national or international non-governmental organizations for the promotion and protection of Human Rights.

Article 33: Responsibilities of the Chairperson of the Commission

The Chairperson of the Commission shall have the following responsibilities:

- 1) to lead the Commission and coordinate its activities;

- 2) to convene and chair the meeting of Commissioners;
- 3) to represent the Commission inside and outside the country;
- 4) to serve as the spokesperson of the Commission;
- 5) to submit reports of the Commission to relevant institutions;
- 6) to communicate to Commissioners relevant decisions and information;
- 7) to perform any other duties related to the mission of the Commission as may be assigned to him/her by the Council of Commissioners.

Article 34: Responsibilities of the Vice Chairperson of the Commission

The Vice Chairperson of the Commission shall have the following responsibilities:

- 1) to assist and deputize the Chairperson in case of his/her absence;
- 2) to supervise the implementation of decisions of the Council of Commissioners;
- 3) to supervise the activities of the General Secretariat;
- 4) to supervise in particular the smooth running of overall activities of promotion and protection of Human Rights;
- 5) to supervise administrative and financial activities;
- 6) to perform any other duties related to the missions of the Commission as may be assigned to him/her by the Council of Commissioners.

Section 3: General Secretariat of the Commission

Article 35: Head of the General Secretariat of the Commission

The General Secretariat of the Commission shall be headed by the Secretary General.

Article 36: Appointment of the Secretary General

A Presidential Order shall appoint the Secretary General upon request by the Commission.

In his/her duties, the Secretary General shall be under the supervision of the Bureau to which he/she shall submit the report of activities.

Article 37: Responsibilities of the Secretary General

The Secretary General shall have the following responsibilities:

- 1) to attend meetings of the Council of Commissioners and serve as rapporteur;

- 2) to coordinate and supervise the technical activities; property and finances of the Commission;
- 3) to submit to the Bureau of the Commission a report on implementation of the decisions of the Council of Commissioners;
- 4) to prepare the plan of action of the Commission, to submit it to the Bureau of the Commission and to supervise its implementation;
- 5) to prepare the programme of activities and the draft budget proposal of the Commission;
- 6) to perform any other duties related to the missions of the Commission as may be assigned to him/her by the Bureau of the Commission or the Council of Commissioners.

Article 38: Recruitment of the staff of the Commission

The Commission shall have autonomy in recruiting its staff. The recruitment shall be made on a competitive basis.

Article 39: Statute governing the personnel of the Commission

The personnel of the Commission shall be governed by the General Statute for Rwanda Public Service.

Regarding their daily management of the staff, the internal rules and regulations of Commission shall apply.

CHAPTER VI: PROPERTY OF THE COMMISSION

Article 40: Source and management of the property of the Commission

The property of the Commission shall comprise of movable and immovable assets.

The main source of the property of the Commission shall be the State budget.

It may also come from partners? grants, donations and bequests.

The Commission shall have autonomy in managing its property. The use, management and audit of the property of the Commission shall be carried out in accordance with relevant legal provisions.

Article 41: Preparation of the budget proposal of the Commission

The Commission shall prepare its budget proposal and submit it to the Minister in charge of finance.

The Commission shall table its budget proposal to the relevant Committee of the Parliament, Chamber of Deputies, before the adoption of the State budget.

Article 42: Audit du patrimoine de la Commission

The property of the Commission shall be subjected to the audit by the Auditor General of State Finances at the end of the fiscal year and whenever necessary.

CHAPTER VII: TRANSITIONAL AND FINAL PROVISIONS

Article 43: Term of office of incumbent Commissioners

The term of office of incumbent Commissioners shall run from the date mentioned in the Presidential Order appointing every Commissioner in conformity with Law no30/2007 of 30/2007 of 16/07/2007 that was determining the organization and functioning of the National Commission for Human Rights.

Article 44: Drafting, consideration and adoption of this Law

This Law was drafted, considered and adopted in Kinyarwanda

Article 45: Repealing provision

Law no 30/2007 of 06/07/2007 determining the organization and functioning of the National Commission for Human Rights as well as all other prior legal provisions contrary to this Law, are hereby repealed.

Article 46: Commencement

This Law shall come into force on the date of its publication in the Official Gazette of the Republic of Rwanda.

Kigali, on 25/03/2013

(sé)

KAGAME Paul

President of the Republic

**B.3.3 PRESIDENTIAL ORDER No72/01 OF 12/03/2014
ESTABLISHING THE CANDIDATE SELECTION
COMMITTEE TO THE POST OF COMMISSIONER OF
THE NATIONAL COMMISSION FOR HUMAN
RIGHTS AND DETERMINING ITS MISSION,
ORGANISATION AND FUNCTIONING (Official
Gazette no 13 of 31/03/2014)**

CHAPTER ONE: GENERAL PROVISIONS

Article 1: Purpose of this Order

This Order establishes the selection Committee of candidates to the post of Commissioner of the National Commission for Human Rights hereinafter referred to as “Committee” and determines its mission, organisation and functioning.

Article 2: Independence of the Committee

The Committee shall function independently. In selecting the candidates to the post of Commissioners, the Committee shall comply with the principles of transparency and objectivity.

CHAPTER II: MISSION OF THE COMMITTEE

Article 3: Mission of the Committee

The Committee shall have the mission of selecting candidates to the post of Commissioner and submit to the Government the list of seven (7) selected candidates through the Minister in charge of Justice.

In case there is a vacancy of a Commissioner, the Committee shall widely advertise by means of newspapers, radio, television, internet on the

National Commission for Human Rights? website and at least two (2) other websites recognised as better in publishing job opportunities.

The advertisement shall highlight the core requirements to the vacant post, the content of the application file and the deadline for submission of applications to the Committee.

CHAPTER III: ORGANISATION OF THE COMMITTEE AND ITS ORGANS

Section One: Organisation of the Committee

Article 4: Members of the Committee

The Committee shall be comprised of five (5) members as follows:

- 1) one (1) member from national non-governmental organizations for the promotion and protection of human rights;
- 2) one (1) member from the Public Service Commission;
- 3) two (2) members from the Civil Society except those mentioned under item 1° of this Paragraph;
- 4) one (1) member from experts of the University of Rwanda and the private Universities and the Higher Institutes with expertise and skills in human rights issues.

Article 5: Requirements for a person to be a member of the Committee

To be a member of the Committee, a person shall fulfil the following conditions:

- 1) to be a Rwandan;
- 2) to be a person of integrity;
- 3) to have experience in human rights matters;
- 4) not to have been convicted by a final decision of the crime of genocide, crimes against humanity and crime of genocide ideology;
- 5) not to have been convicted to a sentence of at least six (6) months of imprisonment;

Article 6: Term of office for members of the Committee

The term of office for members of the Committee shall be five (5) years renewable.

A member of the Committee who leaves his/her post shall be replaced within a period not exceeding one (1) month of the occurrence of the vacancy.

Article 7: Cessation of the duty of one member of the Committee

A person ceases to be a member of the Committee due to the following reasons:

- 1) his/her term of office expires;

- 2) he/she resigns through a written notice;
- 3) he/she is no longer able to perform his/her duties due to illness or disability certified by a physician approved by the State;
- 4) he/she demonstrates behaviour contrary to his/her duties;
- 5) he/she abuses human rights;
- 6) he/she is definitively sentenced to an imprisonment of a period equal to six (6) months or above;
- 7) he/she dies.

The resignation of a member of the Committee shall be submitted to the President of the Republic through a registered letter or hand-delivery with acknowledgment of receipt. If a period of thirty (30) days elapses without a response, the resignation shall be considered approved.

Article 8: Replacement of a member of the Committee

If a person ceases to be a member of the Committee, the Chairperson of the Committee or his/her substitutes when he/she is absent shall inform the Government through the Minister in charge of justice within a period not exceeding eight (8) working days.

Replacement of a member of the Committee shall comply with the provisions of Articles 4, 5 and 6 of this Order.

The new member freshly appointed shall have a five (5) year-term renewable.

Section 2: Organization and responsibilities of organs of the Committee

Article 9: Organs of the Committee

The Committee shall be composed by the following organs:

- 1) the Council of the Committee;
- 2) the Bureau of the Committee.

Article 10: Members of the Council of the Committee

The Council of the Committee shall be composed by all members of the Committee and is the supreme decision-making organ.

Article 11: Responsibilities of the Council of the Committee

The Council of the Committee shall have the following responsibilities:

- 1) approve the action plan of the Committee as prepared by the Bureau;
- 2) approve the draft budget proposal prepared by the Bureau;
- 3) approve all required documents related to the Commissioner's replacement and announcements calling individuals who meet requirements to submit their applications;
- 4) approve rules governing interviews aiming at selecting candidates to the post of Commissioner;
- 5) widely advertise vacant posts;
- 6) approve documents informing especially institutions of Commissioners' provenience of vacant posts;
- 7) analyse candidates' files;
- 8) draw up a list of candidates that meet requirements for the post of Commissioner and take into consideration gender principle;
- 9) conduct interview aiming at selecting candidates to the post of Commissioner;
- 10) make a report of interviews and draw up a list of seven (7) selected candidates and submit both to the Government through the Ministry in charge of Justice;
- 11) approve internal rules and regulations of the Committee.

Article 12: Members of the Bureau of the Committee

The Bureau of the Committee shall be comprised of the Chairperson and the Rapporteur who shall be elected by their fellows in the first meeting of the Committee.

Article 13: Responsibilities of the Bureau of the Committee

The Bureau of the Committee shall have the following responsibilities:

- 1) prepare the action plan of the Committee and submit it to the Council of the Committee;
- 2) prepare a draft budget proposal and submit it to the Council of the Committee;
- 3) prepare rules governing the conduct of interviews aiming at selecting candidates to the post of Commissioner and submit it to the Council of the Committee;
- 4) prepare draft internal rules and regulations of the Committee;
- 5) follow up implementation of decisions of the Council of the Committee.

Article 14: Responsibilities of the Chairperson

The Chairperson of the Committee shall have the following attributions:

- 1) to lead the Committee and coordinate its activities; in case of absence he/she shall be replaced by the eldest member of the Committee;
- 2) to submit to the Minister in charge of justice the Committee's action plan for submission to the Government;
- 3) to submit to the Chairperson of the National Commission for Human Rights a draft budget proposal for its incorporation in the budget of the Commission;
- 4) to inform institutions of Commissioners' provenience of vacant post for a Commissioner;
- 5) to convene the meetings within the time provided for by law and chair them;
- 6) to serve as spokesperson of the Committee;
- 7) to provide the reports of the Committee to relevant institutions;
- 8) to communicate to members of the Committee relevant decisions and information.

Article 15: Responsibilities of the Rapporteur of the Committee

The Rapporteur of the Committee shall have the following attributions:

- 1) to prepare the Committee meetings documents and transmit them to members of the Committee;
- 2) to be the Rapporteur of the Committee Council meetings;
- 3) to prepare all required document in relation with the replacement of a Commissioner and announcements calling individuals who meet requirements to submit their applications;
- 4) to perform all activities related to the wide publication of vacant posts;
- 5) to receive applications of candidates to the post of Commissioner and transmit them to the Committee;
- 6) to perform any other duty as may be assigned to him/her by the Committee.

CHAPTER IV: FUNCTIONING OF THE COMMITTEE

Article 16: Functioning of the Committee

The Committee is not permanent. The members of the Committee shall continue performing their ordinary activities. They only meet when they assume their responsibilities.

Article 17: Working place of the Committee, means and office equipment

The National Commission for Human Rights shall provide to the Committee a working place and a place where to keep files.

It also provides to the Committee all necessary needed means and office equipment so as to perform its responsibilities.

Article 18: Budget of the Committee

The budget of the Committee shall be provided for in the budget of the National Commission for Human Rights.

Article 19: Convening and chairing of the meetings of the Committee

The Council of the Committee shall be convened in writing and chaired by the Chairperson of the Committee or the eldest member of the Committee in case of absence.

The invitation letters shall be submitted to members of the Committee at least eight (8) working days before the meeting is held.

The support documents related to the agenda of the meeting shall be submitted at least three (3) working days before the meeting is held.

In case there is a vacant post for a Commissioner, the Committee shall meet in a period not exceeding fifteen (15) working days starting when this vacancy was announced so as to select the candidate who shall replace a Commissioner removed from office.

Article 20: Holding meetings of the Council of the Committee

The Council of the Committee shall hold its meetings if at least three-fifth (3/5) of members of the Committee are present.

If the quorum is not reached, the meeting is postponed; it is convened for the second time within eight (8) days from the day of its postponement.

Article 21: Decision-making of the Council of the Committee

The decisions of the Council of the Committee shall be taken by consensus. Failure to obtain such consensus, the decisions shall be taken on the absolute majority of the members present.

In case the absolute majority is not reached once again and in case of a tie, the Chairperson or his/her representative shall have a casting vote.

Article 22: Submission of the report of the selection of candidates

After interviewing the candidate to the post of Commissioner, the Committee shall submit to the Government through the Ministry in charge of Justice a detailed report comprising the following elements:

- 1) a list of posts announced and the number of applicants;
- 2) a list of candidates who were selected, those who were not selected and the motivation as to the non selection;
- 3) names of interviewed candidates;
- 4) names and signatures of persons who conducted interviews;
- 5) minutes of the Committee members confirming that they have approved selected candidate to the post of Commissioners.

The report mentioned in Paragraph One of this Article shall be submitted in a period not exceeding five (5) working days as from the day following the closing of interview.

Article 23: Sitting allowance for members of the Committee

Members of the Committee present in the meetings of the Committee shall be entitled to the same amount of sitting allowance allocated to members of Boards of National Commissions.

CHAPTER V: FINAL PROVISIONS

Article 24: Authorities responsible for the implementation of this Order

The Prime Minister, the Minister of Justice/Attorney General and the Minister of Finance and Economic Planning are entrusted with the implementation of this Order.

Article 25: Repealing provision

All prior provisions contrary to this Order are hereby repealed.

Article 26: Commencement

This Order shall come into force on the date of its publication in the Official Gazette of the Republic of Rwanda.

Kigali, on 12/03/2014

KAGAME Paul

President of the Republic

B.3 Internal rules and regulations

B.3.1 INTERNAL RULES AND REGULATIONS OF THE NATIONAL COMMISSION FOR HUMAN RIGHTS (Official Gazette no special of 14/10/2010)

PART ONE: ORGANIZATION AND FUNCTIONING OF THE NATIONAL COMMISSION FOR HUMAN RIGHTS

CHAPTER ONE: GENERAL PROVISIONS

Article One: Scope of this law

These internal rules and regulations of the National Commission for Human Rights determine the organisation and functioning of the Commission and its directives relating to the procedure of human rights complaints management.

Article 2: Establishment of the Commission

The National Commission for Human Rights, hereinafter referred to as “Commission” is provided by the Constitution of the Republic of Rwanda of 4 June 2003 as amended to date.

The Commission began its activities in 1999, it was established by the Law no 04/99 of 12 March 1999 as modified and complemented by Law no 37/2002 of 31/12/2002. This law was replaced by Law no 30/2007 of 06/07/2007 determining the organisation and functioning of the National Commission for Human Rights.

Article 3: Components of the Logo of the Commission

The Commission has the Seal consisting of the following:

- 1) A ring which is white on the bottom and blue on the top;
- 2) On the bottom of the ring are the prints “CNDP – NCHR”, on the top are the prints “Komisiyo y’Igihugu y’Uburenganzira bwa Muntu” or National Commission for Human Rights” in English;
- 3) In the middle of the ring is the weighing scale comprising two plates coloured green on the bottom and white on the top; between the plates of the balance is a candle with a yellow flame; on the bottom of the scale is a broken chain.

Article 4: Definitions of the components of the Commission's Logo

- 1) The circle with white and blue colours symbolises the unity of the Rwandan population;
- 2) The set of weighing scale with green and white colours symbolises justice, giving hope to the Rwandan population;
- 3) The broken chain symbolises the protection of victims of human rights violations;
- 4) The candle lighting yellow colour symbolises the light for all people on the way of human rights.

Article 5: Independence and Autonomy of the Commission

The Commission is an independent institution as provided for by Article 177 of the Constitution of the Republic of Rwanda of 4 June 2003 as amended to date.

The Commission has the autonomy in the management of its budget and its financial support from donors.

The Commission is independent in its operation and works without interference for government bodies towards promotion and protection.

CHAPTER II: RESPONSIBILITIES AND POWERS OF THE COMMISSION

Section One: Responsibilities of the Commission

Article 6: Responsibilities provided by Law no30/2007 of 06/07/2007 determining the organisation and functioning of the Commission

The responsibilities entrusted to the Commission by Law no 30/2007 of 06/07/2007 determining its organisation and functioning under Article 4 are as follows:

- 1) Educating and sensitizing the population on matters relating to human rights;
- 2) Examining the violations of human rights committed within the territory of the Republic of Rwanda by State organs, public officials abusing their powers, organisations and individuals;
- 3) Carrying out investigations of human rights abuses in Rwanda and filing cases with competent courts;
- 4) Collaborating with other organs in designing strategies to prevent violations of human rights;
- 5) Reacting to reports on human rights in Rwanda with out compromising the independence of the Commission;

- 6) Preparing and disseminating reports on human rights conditions in Rwanda on a yearly basis and any time as deemed necessary;
- 7) Providing views on bills relating to human rights upon request or at its own initiative;
- 8) Sensitizing relevant Government Institutions in regards with ratification of International Conventions relating to human rights and integrating them in existing internal laws;
- 9) Carrying out visits to places of detention to check whether the rights of detainees are being respected;
- 10) Providing relevant Government Institutions with suggestions as to action which may be taken in case of human rights violations for their rectification and punishment in accordance with the law;
- 11) Collaborating with Human Rights Commissions of other countries, national associations and International Organisations as regards activities aiming at respecting and promoting human rights;
- 12) Sensitizing relevant Government Institutions as regards submission on time the reports relating to International Conventions on human rights ratified by Rwanda.

Article 7: Responsibilities endowed with the Commission by other laws

The Commission is endowed with additional responsibilities by the following laws:

- 1) The Law no 27/2007 of 28 April 2001 relating to the rights and protection of the child against violence, under its Article 24, provides that the National Commission for Human Rights shall set up specifications on how to follow up the protection of the rights of the child;
- 2) The Law no 38/2006 of 25/09/2006 establishing and determining the organisation of the National Prisons Service, under its Article 58, provides that the National Commission for Human Rights shall carry out inspection and visit to places of detention to check whether the rights of detainees are being respected;
- 3) The Law no 01/2007 of 20/10/2007 relating to the protection of disabled persons in general, under its Article 10, stipulates that the National Commission for Human Rights shall provide special procedures of monitoring how rights of a disabled person are respected.

Section 2: Powers of the Commission

Article 8: Power of carrying out investigation on human rights violations

The National Commission for Human Rights has the following powers:

- 1) To receive and analyse testimonies relating to human rights violations;

- 2) To get to any place where human rights violations are reported and alleged including detention premises for investigations;
- 3) To reach, question and seek explanations from anybody likely to have testimony, information, responsibility and technicality likely to enlighten the Commission in analysing and collecting human rights violation acts;
- 4) To carry out research on extraordinary issues and disseminate the finding for the promotion of human rights.

CHAPTER III: MEMBERS OF THE COMMISSION

Section One: General Provisions

Article 9: Taking oath

Before assuming their duties, Commissioners shall, before the Supreme Court, take oath which is prescribed by Article 61 of the Constitution of the Republic of Rwanda of 4 June 2003 as amended to date.

Article 10: Incompatibilities

Commissioners are not allowed to perform any other remunerated work. However, they may perform research activities, literature and art provided they are not incompatible with the activities of the Commission and upon approval by the Council of Commissioners.

Article 11: Benefits granted to Commissioners

A Presidential Order shall determine the benefits to be given to the Commissioners who are on duty and those who have completed their term of office.

Commissioners shall be remunerated in accordance with the law determining the remunerations of the persons who are in the same scale.

Article 12: Appointment, Replacement and removal of a Commissioner

Appointment, replacement and removal of a Commissioner are provided by the Law determining the organisation and functioning of the National Commission for Human Rights.

Section 2: Powers of Commissioners

Article 13: Powers of the Judicial Police

Powers of the judicial police of Commissioners shall be determined by the law. Members of staff of the Commission shall be given judicial police powers by the Minister having Justice in his/her attributions upon request of by the Chairperson of the Commission

Article 14: Functions of Judicial Police Officer

The Commissioners and members of staff of the Commission who are granted the judicial police powers shall exercise the following duties of Judicial Police Officers provided for by Law no13/2004 of 17/5/2004 relating to the Code of Criminal procedure as modified and complemented to date.

These functions are:

- 1) Carrying out preliminary investigations;
- 2) Visiting the scene of the crime and searching for material evidences;
- 3) Collecting evidences or clues for prosecution or defence;
- 4) Identification of criminals, their accomplices and accessories so that they are brought before the prosecution for the compilation of their case file;
- 5) Interrogating the suspects who can give essential information;
- 6) Interrogating the suspects so that they explain themselves;
- 7) Issuing the summons bounding the suspects to appear;
- 8) Recording in a statement the nature and circumstances under which offences were committed;
- 9) Enlisting the assistance of the expert qualified on a given matter if deemed necessary to carry out investigation on issues requiring special technical or scientific expertise;
- 10) Compiling and submitting the case file to the Prosecution Service after the preliminary investigation;
- 11) Requesting the Prosecution Service to take legal action against any person accused of human rights violations.

Article 15: Cases investigated

While fulfilling their judicial police duties, Commissioners and members of staff of the Commission who were given judicial police powers, shall only exercise this duty on cases relating to human rights violations committed within the territory of the Republic of Rwanda.

While exercising this duty, particularly they should be bound by laws governing the functions of Police Officer.

Article 16: Card of the Judicial Police Officer

Commissioners and Members of staff of the Commission who were granted Judicial Police powers shall have a card of Judicial Police Officer signed by the Commission's Chairperson.

Article 17: Immunity of the Commissioners

Commissioners shall have immunity. They shall not be prosecuted before courts due to their views expressed or published on the basis of their responsibilities.

Commissioners shall not be provisionally detained, unless they are caught red handed committing an offence whose penalty exceeds a five (5) year imprisonment, or under other serious causes upon approval by a competent court.

They shall have immunity card bearing the signature of the Chairperson of the Commission.

CHAPTER IV: ORGANS AND SERVICES OF THE COMMISSION

Section One: The Council of Commissioners

Article 18: Members of the Council of Commissioners

The Council of Commissioners is the supreme Organ of the Commission, composes of seven (7) Commissioners including the Chairperson and the Vice Chairperson of the Commission.

Article 19: The Meetings of the Council of the Commissioners

The Council of Commissioners shall meet in ordinary session once a week to approve the minutes of the previous meeting, after that, it shall examine the agenda of the meeting. The Commissioners shall meet in an extraordinary session at any time deemed necessary.

Article 20: Preparation of the agenda of the Commissioners' meetings

The Chairperson of the Commission prepares the agenda of the meeting of the Commissioners' Council. The Commissioners shall submit to the

Chairperson of the Commission the items for the agenda of the meeting at least 3 working days before the meeting of Commissioners; this does not concern matters with the utmost urgency.

Article 21: Convening of the meeting of the Council of the Commissioners

The meeting of the Council of the Commissioners shall be convened by the Chairperson of the Commission by letter forwarded to Commissioners at least 2 working days before the meeting. They shall be convened by the Vice Chairperson in the absence of the Chairperson.

In case of absence of both the Chairperson and the Vice Chairperson, the most senior member shall invite a meeting of the Council of Commissioners to elect among themselves their provisional acting.

The invitation letter shall include the agenda of the meeting.

Article 22: Procedure by which the Council of Commissioners holds meetings

The Council of Commissioners shall only meet in the presence of at least four (4) out of its seven (7) members. In case of absence of one of the

Commissioners in a meeting, he or she shall notify the Chairperson of the Commission or the Vice Chairperson about it before the meeting commences.

In case of urgent or unforeseen reason, if a Commissioner fails to notify the Chairperson of the Commission or the Vice Chairperson, he or she shall immediately inform another member of the Commission about it, who in turn informs the Chair of the meeting. What is said in the present paragraph doesn't concern a member of the Commission who is in a mission or another task entrusted to him/her by the Commission.

Article 23: Presiding over the meeting of the Council of Commissioners

The meeting of Council of Commissioners shall be chaired by the Chairperson of the Commission. In case of his/her absence it shall be chaired by the Vice Chairperson.

In the absence of both the Chairperson and the Vice Chairperson or if they fail to avail themselves at the same time, the eldest Commissioner shall convene the meeting of Council of Commissioners to elect among them the person to chair the meeting and the rapporteur.

Article 24: Agenda of the meeting

Members of the Commission shall examine the agenda transmitted to them by the Chairperson of the Commission.

Without prejudice to provision of the first paragraph of this Article, given the urgency and significance of the items to be examined, an other item can be included on the agenda and communicated to participants of the meeting.

The miscellaneous items shall be put on the agenda and approved by the Council of the Commission before the examination of the items on the agenda.

The items on the agenda which are not exhausted shall be postponed for the following meeting.

The Chairperson of the meeting shall read the items on the agenda, members of the Commission shall approve them before the beginning of the meeting.

Article 25: Smooth running of the Meeting of the Council of Commissioners

The chairperson of the meeting of Council of Commissioners shall ensure its smooth running. He/she shall allow taking the floor upon request.

Irrelevant and controversial interventions, interruptions and other behaviour that can affect the smooth running of the meeting of the Council are prohibited.

The chairperson of the meeting has powers not to allow taking the floor to anyone who may affect the smooth running of the meeting of the Commissioners? Council.

When is the Chairperson of the meeting who affects its smooth running, the Council shall ask him or her to focus on the agenda and to continue meeting

Article 26: Rapporteur of meetings

The Vice Chairperson of the Commission shall serve as the Rapporteur for the meetings of the Council of Commissioners. In the absence of the Vice-Chairperson, the most junior member of the Commission shall be the rapporteur for the meeting. In his/her duties of rapporteur, the Vice Chairperson or his/her substitute, shall be assisted by the Commission's

officer appointed to the post of rapporteur for the meeting of the Council of Commissioners.

Article 27: Persons invited to the meetings of the Council

Members of the Council of Commissioners can decide to invite to their meetings one or several staff members of the Commission or an expert. Guests shall not participate in decision-making.

Article 28: Decisions of the Council

The Decisions of Council of Commissioners shall be taken by consensus. Failure to this, the decisions shall be taken by the majority vote of members.

However; where the decision to be taken concerns the approval of the Commission's report or the decisions to be submitted to other organs, these shall be taken by total consensus.

Article 29: Follow-up of the implementation of decisions

The follow-up on the implementation of the Commission's decisions shall be ensured by the Chairperson of the Commission.

Where a decision taken particularly concerns a Commissariat or another Unit, then the Commissioner supervising the Commissariat or that particular Unit Director, shall guarantee its implementation. In case there is a reason of failure to its implementation, they shall inform the Chairperson of the Commission about that.

The decisions of the Commission shall be implemented in agreed timeframe. Where there is no determined deadline, the Chairperson of the Commission shall do everything possible to ensure the implementation of the decision.

The causes of not implementing of the Council's decisions shall be presented to the Council of Commissioners by the Chairperson of the Commission or one of those mentioned in Article 30, paragraph 2.

Section 2: The Bureau of the Commission

Article 30: Members of the Bureau

The Bureau of the Commission is made up of the Chairperson of the Commission and the Vice Chairperson; both shall be chosen by the

Cabinet among the members of the Commission and approved by the Senate.

Article 31: Duties of the Bureau

Duties of the bureau are as the following:

- 1) Ensuring the smooth execution of the Commission's programme and its budget;
- 2) Following up the implementation of recommendations made on evaluation and auditing;
- 3) Presenting to the Council of Commissioners the plan of action's proposal, semester and annual activity plans as well as the budget thereon;
- 4) Following up the elaboration of annual activity reports, reports on the situation of human rights in Rwanda, financial reports of the Commission before the submission to relevant institutions provided by law;
- 5) Ensuring that different reports, particularly internal and external auditing reports are regularly well elaborated;
- 6) Initiate all required reforms for the smooth running of the Commission and submit them for Council's Commissioners for approval;
- 7) Ensuring the respect for laws, orders and other rules which have an impact on human rights and good function of the Commission issued by relevant organs;
- 8) Ensuring the implementation of any other decision taken by the Council of Commissioners;
- 9) Close cooperation with stakeholders.

Article 32: The Chairperson's duties

The Chairperson of the Commission shall execute the following tasks:

- 1) Heading the Commission and coordinating its activities;
- 2) Convening and presiding over the Commission's meetings;
- 3) Representing the Commission inside and outside the country as well as representing it before any other national or international institutions;
- 4) Serving as the spokesperson of the Commission;
- 5) Submitting the Commission's reports to the relevant institutions.
- 6) Making the evaluation in the second degree of the Unit's Directors and the staff under her supervision.

Article 33: The Vice Chairperson's duties

The Vice Chairperson of the Commission is responsible for:

- 1) Assisting and acting on behalf of the Chairperson in case he/she is absent;
- 2) Serving as the Rapporteur for the Council of Commissioners' meeting;
- 3) Carrying out follow-up on daily basis particularly on administrative and financial matters;
- 4) Making the evaluation in the first degree of Unit's Directors and staff under his supervision and those under the Chairperson's supervision; making evaluation in second degree of staff of the Commissariat as well as those of other units of the Commission.

Section 3: Commissariat

Article 34: Duties of Commissioners

A Commissioner heads the Commissariat and coordinates all activities of the Commissariat. He or she can be appointed as a supervisor for activities relating to the monitoring of the rights of specific categories of people as well as all other activities determined by the Council of Commissioners.

Making the evaluation in the first degree of staff of the Commissariat under his/her supervision.

Article 35: Structure of a Commissariat

The Commissariat is an organ of the Commission, made up of a Commissioner and the Commission's staff members charged with the promotion and protection of human rights.

The Council of Commissioners shall determine the Districts in which the Commissariat shall conduct the follow-up of promotion and protection of human rights.

Article 36: Duties of the Commissariat

The Commissariat shall have the following duties:

- 1) Contributing to the preparation of the Commission's plan of action;
- 2) Developing a Commissariat's programme of activities basing on the Commission's plan of actions;
- 3) Receiving, examining and following up reported cases from respective Districts and Kigali City depending on the number of Districts under the Commissariat's supervision;
- 4) Conduct investigations on complaints;
- 5) Educating and rise awareness of the population on human rights matters upon the Commission's approval;
- 6) Monitoring the rights of detainees in prisons and cells;

- 7) Carrying out all essential activities relating to received complaints upon the Commission has decided to be filed with courts and monitoring related their court's trials;
- 8) Preparing the activity report of the Commissariat to be included in the annual activity report of the Commission;
- 9) Monitoring the respect for human rights in all activities determined by the Commission (courts proceeding , elections, community services,...);
- 10) Assuming all duties provided by laws or determined by Council of Commissioners.

Article 37: Functioning of the Commissariat

The Commissariat functions under strict observance of the programme and decisions of the Commission.

Article 38: Report of the Commissariat

The Commissariat shall submit its reports to the Council of Commissioners so as to make appropriate recommendations or for approval.

Section IV: Support Services of the Commission

Article 39: Administration and Finance Unit

Duties of that Unit are as the follow:

- 1) Putting in place systems and mechanisms of efficient organisation of services;
- 2) Following up the management of the organic structure and preparing a plan for the capacity building of the Commission's personnel;
- 3) Following up the administrative and financial files of the Commission's personnel;
- 4) Establishing working relations with the Ministry having the management of human resources in its attributions;
- 5) Making the evaluation in the first degree of the personnel of the Unit;
- 6) Coordinating the assessment of performances of the Commission's personnel;
- 7) Supervising the activities of the Central Secretariat of the Commission;
- 8) Coordinating the activities of procurement's officer of the Commission;
- 9) Supervising the management of human and material resources of the Commission;
- 10) Coordinating the activities relating to the preparation of the Commission's Budget and its implementation;

- 11) Following up the management of funds and ensuring the submission of timely report on their expenditure.

Article 40: Education, Sensitization of the population on Human Rights, Research, Publication and Planning Unit

The attributions of that Unit are as the follow:

- 1) Analysing the needs, planning and coordinating the activities relating to the follow:
 - a) Promotion of human rights;
 - b) Research on human rights which are the most violated;
 - c) Following up publication activities of the Commission;
 - d) Preparing the necessary Projects for the implementation of policies and programmes of the Commission;
- 2) Preparing projects proposal to be submitted to donars and make follow up and evaluating the projects under execution;
- 3) Preparing programmes of the activities of the Commission and participate to the preparation of the Commission's Budget;
- 4) Preparing and coordinating the activities relating to the commemoration of International days of human rights conventions;
- 5) Coordinating and following up the activities of the Commission's Consultative Meeting with Associations for the promotion and protection of human rights;
- 6) Ensuing the submission of timely narrative and financial projet?s reports and submitted to the donors;
- 7) Follow-up and evaluation of activities of the Unit;
- 8) Making the evaluation in the first degree of staff of the Unit;
- 9) Preparing the evaluation of the activities of the Commission.

Article 41: Service of legislation

The activities of that service are as the follow:

- 1) Providing views and ideas which the Commission uses in fulfilling its responsibility of giving views on bills relating to the promotion and protection of human rights;
- 2) Following up the examination of bills relating to human rights and their voting within the Parliament;
- 3) Monitoring the compliance of national laws with the International Conventions relating to human rights;
- 4) Analysing and giving views on judgements falsely rendered or executed violated human rights;
- 5) Providing views and ideas which the Commission uses in fulfilling its responsibility of sensitizing relevant Government Institutions as regards

ratification of International Conventions relating to human rights and integrating them in internal laws;

- 6) Providing views and ideas which the Commission uses in fulfilling its responsibility of sensitizing relevant Government Institutions as regards submission on time the reports relating to International Conventions on Human Rights ratified by Rwanda
- 7) Collaborating with organs responsible to prepare reports provided by International Conventions relating to Human Rights;
- 8) Preparing the annual activity report of the service to be integrated in the draft annual activity report of the Commission;
- 9) Performing any other activity determined by the Council of Commissioners.

Section V: Specific activities of the Commission

Article 42: Specific activities of Commissioners

The Commission can entrust one of its Commissioners with the coordination and supervision of the following specific activities:

- 1) Activities relating to the follow-up of children's rights respect;
- 2) Activities relating to the follow-up of the respect for rights of persons with disability;
- 3) Activities relating to the follow-up of the respect for the rights of persons living with HIV/AIDS;
- 4) Activities relating to the follow-up of the respect for the rights of women and gender;
- 5) Other activities approved by the council of the Commissioners.

Article 43: Specific activities of the personnel

The Commission can entrust one of its staff with activities enumerated on Article 43, 1, 2, 3, 4, 5.°

Article 44: Activities relating to the follow-up of the respect for children's rights

These activities are as follows:

- 1) Monitoring the respect for children's rights;
- 2) Giving views on strategies towards better respect for children's rights;
- 3) Contributing to activities relating to children's rights promotion;
- 4) Ensuring good functions of Observatory of children's rights;
- 5) Preparing report on the respect of children's rights in Rwanda for submission to the Commission

Article 45: Activities relating to the follow-up of the respect for the rights of persons with disability

These activities are as follows:

- 1) Monitoring the respect for the rights of persons with disability as provided in national laws and International Conventions ratified by Rwanda;
- 2) Giving views on strategies towards better respect for the rights of persons with disability;
- 3) Contributing to the activities relating to the promotion of the rights of persons with disability;
- 4) Ensuring good functions of monitoring mechanism of the rights of persons with disability;
- 5) Preparing report on the respect of persons with disability's rights in Rwanda for submission to the Commission

Article 46: Activities relating to respect for the rights of persons living with HIV/AIDS

These activities are as follows:

- 1) Monitoring with particular attention the respect for the rights of children living with HIV/AIDS;
- 2) Giving views on strategies towards better respect for the rights of persons living with HIV/AIDS;
- 3) Contributing to the activities relating to the promotion of the rights of persons living with HIV/AIDS;
- 4) Ensuring good function of monitoring mechanism of the rights of persons living with HIV/AIDS;
- 5) Preparing report on the respect for the rights of persons living with HIV/AIDS in Rwanda for submission to the Commission

Article 47: Activities relating to the follow-up of the rights of women and gender

These activities are as follows:

- 1) Monitoring the respect for the rights of women and gender;
- 2) Giving views on strategies towards better respect for the rights of women and gender;
- 3) Taking part in activities relating to the promotion of the rights of women and gender;
- 4) Ensuring good function of monitoring mechanism of the rights of women and gender;
- 5) Preparing report on the respect of the rights of women and gender in Rwanda for submission to the Commission.

CHAPTER VI: REPORT OF THE COMMISSION AND ITS DISSEMINATION

Article 48: Organs to which the Commission submits the report

The Commission shall submit its activity report in a period not exceeding the first three (3) months of the following year and reserve a copy to the President of the Republic, the Cabinet and the Supreme Court.

The Commission presents its report before the Parliament, two Chambers together and answers to questions asked to this effect.

Article 49: Special reports

The Commission shall also submit to the President of the Republic, the Parliament, the Cabinet and the Supreme Court special reports and/or thematic reports on specific human rights violation after investigations and /or research relating to the promotion or protection of human rights.

Article 50: Publication of the report of the Commission

The Commission shall disseminate its reports through different media channels including the internet after presenting them to organs provided by the law. A press conference can be envisaged to make the report public.

CHAPTER VII: Patrimony of the Commission

Article 51: Patrimony of the Commission and its source

The patrimony of the Commission shall comprise movables and immovables.

It shall come from the following sources:

- 1) State budget;
- 2) Government or donor grants;
- 3) Proceeds from its services;
- 4) Interest from its investment;
- 5) Donation and bequest.

Article 52: Preparation of the draft budget

The Commission shall elaborate its draft budget proposal to be transmitted to the Minister in charge of finance for its approval by a Cabinet meeting.

The Commission shall follow up the examination of budget proposal at the level of the Committee of Parliament, the Chamber of Deputies charged with its examination and provide explanations thereon.

Article 53: Management of the Commission's budget

The management of the budget of the Commission shall be carried out in accordance with laws and on the management of State budget.

The specific activities related to the management of the Commission's budget must respect the instructions contained in the Manual of Administrative and Financial Procedures of the Commission.

CHAPTER VIII: PROGRAMME OF ACTIVITIES OF THE COMMISSION

Article 54: Plan of action and programme of activities

The Commission prepares and approves the long term plan of action. It prepares an annual programme of activities. Every year, the Commission presents to the Parliament its programme of activities before the session meant for examination of the budget begins and reserves a copy thereof to the President of the Republic, the Cabinet and the Supreme Court.

Article 55: Evaluation of the Commission's programme of activities

The Commission carries out at least once a year an evaluation of its programme of activities.

PART II: DIRECTIVES OF THE NATIONAL COMMISSION FOR HUMAN RIGHTS RELATING TO THE PROCEDURE OF HUMAN RIGHTS COMPLAINTS MANAGEMENT

Article 56: Complaints which are investigated

The Commission examines and pursues acts and other aspects, which violated or may violate human rights on the territory of Rwanda so as to let the truth prevail and, in accordance with the law, punish those who have violated human rights either in past or present time and pay compensation to the victims of these violations.

Article 57: Persons who can lodge complaints with the Commission

The persons who can lodge complaints with the Commission are as follows:

- (a) Any person who is victim of human rights violation;
- (b) Any other person who is acting for the public interest or on behalf of the victim of an alleged human rights violation if he or she cannot personally make the complaint, or who is the recognised legal counsel of the alleged victim;
- (c) A Non governmental organisation in case the victim of an alleged human rights violation cannot personally make the complaint;
- (d) A person or a non governmental organisation when there is a violation of rights of a cross section of people based on discrimination;
- (e) Any person who is victim of human rights violation complaining on his/her behalf or on behalf of others who are similarly affected by the violation of human rights;
- (f) An Organisation or Association in their respective names or on behalf of one of their representatives.

Article 58: Admissible Complaints

The Commission receives all complaints relating to human rights free of charges.

The following complaints are admissible:

- (a) Complaints which were presented to competent authorities so as to resolve them but these have not been resolved or were not resolved within the period provided by law;
- (b) Judgements which were definitely delivered by judicial authorities, but it is obvious that the principles of human rights were not adhered to;
- (c) Complaints which were resolved by competent organs, but whose decisions were not executed.

Article 59: Complaints on which investigation is carried out immediately

The Commission, being seized or not, carries out investigation on the following complaints relating to human rights:

- (a) Right to life;
- (b) Freedom from torture and cruel, inhuman or degrading treatment or punishment;
- (c) Freedom from slavery, servitude or forced labour;

- (d) Right not to be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international laws, at the time when it was committed;
- (e) Right to recognition everywhere as a person before law;
- (f) Freedom of thought, conscience and religion;
- (g) Right not to be imprisoned merely on the ground of inability to fulfil a contractual obligation;
- (h) Rights of the child;
- (i) Right not to be raped or sexually abused;
- (j) Right to the protection from domestic violence.

The Commission neither replaces other government institutions nor revises court decisions; but where it is clear that there has been violation of human rights or where these decisions contravene with the principles of human rights, the Commission analyses them and makes recommendations to concerned organs.

Article 60: Complaints which are rejected by the Commission

The complaints which are rejected by the Commission are as follows:

- (a) The complaints which don't constitute violation of human rights;
- (b) The complaints based on insults, hearsay, rumours, ...;
- (c) The Complaints which don't bear the address of the author;
- (d) The Complaints which are not signed or don't have fingerprints of their authors.

Except the complaints referred to under Article 62, all other complaints which don't fulfil the requirements are not admissible.

Article 61: Procedure for lodging complaints

The complaint may be submitted verbally, in writing, by phone, by fax or by e-mail.

Article 62: Complaint presented by the disabled persons

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

Article 63: Scrutiny of complaints

The Commissariat analyses received complaints and takes temporary decisions.

A report on all decisions taken on that level is drawn up and submitted to the Commission; the final decision is taken during the meeting of the council of the Commissioners.

Article 64: Investigations

An investigation is carried out on complaints for which the Commissariat in charge of the Districts or the Kigali City has decided to seek basic information.

Invitations, letters requesting for testimonies, evidences, documents giving basic information, letters acknowledging the admissibility or rejection of a complaint must be signed by the Chairperson of the Commission.

When the respondent accepts the allegations, investigations stop. Then, the Commission tries to help both parties to settle their dispute through conciliation, except for the complaints which must be handled with the utmost concern.

Where the respondent has been informed about the allegations against him/her and does not agree with them, he or she is requested to provide explanations.

The explanations are communicated to the complainant and if he or she does not accept that explanation, broad investigations are carried out.

The Commission can invite or go to see and listen to both the complainant and the respondent.

The Commission can invite witnesses of both parties.

When the respondent does not appear before the Commission after a second invitation and does not provide reasons acceptable to the Commission, it applies legal provisions entrusted to it through its mandate.

Article 65: Procedure for interview the summoned persons

The summoned parties may be interviewed in public or in camera. The complainant, the respondent and people who want to testify can ask to be

interviewed in camera. But this must be confirmed by the Commissioner or the member of staff of the Commission who follow up the complaint.

Before answering or giving testimony, the person summoned by the Commission first must swear before one of members of the Commissariat by pronouncing the following words:

“I.....swear to tell the truth. Should I fail to honour this oath, may I face the rigours of the law”.

After the interview or giving testimony, the minutes are drawn up, the interviewee or the witness must sign them or place their fingerprints on them as well as the representative of the Commission.

Article 66: Procedure for solving complaints

Solving of complaints can be done in two ways:

- (a) Through conciliation of both parties;
- (b) By applying ways provided by Law.

The Commission follows up every complaint until the decision is taken on it.

Article 67: Completion of investigations and conclusion on complaints

At the end of investigations, when there has been violation of human rights, the Commission requests the relevant authorities to solve the problem. Where there was no violation, the Commission closes the file and informs the complainant about it.

Article 68: General investigations at national level

Depending on the nature of a complaint, whether initiated by the Commission or brought to it, the Commission may carry out general investigation at national level so that the truth may prevail, and solutions to those complaints are found.

Depending on the nature of a complaint, the Commission can seek help from various experts.

At the end of investigations, the conclusions are communicated to concerned authorities or provided by law so as to undertake strategies or decisions on basis of the recommendations made by the Commission.

Article 69: Refund of transportation

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

CHAPTER XI: FINAL AND TRANSITIONAL PROVISIONS

Article 70: Transitional provisions

While awaiting the publication of these Internal Rules and Regulations in the Official Gazette of the Republic of Rwanda, the Commission shall continue to apply National legal provisions concerning it directives relating to the procedure of human rights complaints management adopted by the Council of Commissioners on September 12, 2005.

Article 71: Modification of Internal Rules and Regulations

The proposal to modify these Internal Rules and Regulations can be initiated by the Bureau or one of the Commissioners.

The Internal Rules and Regulations can be modified on decision of at least 6 members of the 7 members of the Commission.

Article 72: Other binding laws

For other matters not specified in these Internal Rules and Regulations, reference shall be made on Law determining the organisation and functioning of the Commission and other existing laws and rules of the Country.

Article 73: Commencement

These Internal Rules and Regulations shall come into force on the date of its publication in the Official Gazette of the Republic of Rwanda.

Done at Kigali, on 29/12/2009