

13 September 2023

**Submission to the Global Alliance of National Human Rights Institutions (GANHRI)**

**Burundi's National Independent Human Rights Commission's lack of independence  
merits examination**

Dear Dr. Ammar Dweik,

The Burundi Human Rights Initiative (BHRI) and Human Rights Watch are deeply troubled by the lack of independence, credibility and effectiveness of Burundi's National Independent Human Rights Commission (*Commission nationale indépendante des droits de l'homme*, CNIDH).

In light of the concerns described in this submission, and additional expressions of concern by the UN Special Rapporteur on Burundi and the UN Human Rights Committee regarding the CNIDH's work and its lack of independence, we do not consider that the CNIDH complies fully with the Principles relating to the Status of National Institutions (the Paris Principles). We therefore recommend that the Sub-Committee on Accreditation (SCA) reconsider the CNIDH's A status ahead of its next review scheduled for 2026.

**1. Scope of this submission**

This submission focuses on the protection component of the CNIDH's mandate, relating primarily to violations of civil and political rights that BHRI and Human Rights Watch have worked on. It does not cover the CNIDH's promotional work, such as workshops, training and awareness-raising activities. The submission covers the CNIDH's work since the SCA awarded it A status in June 2021.<sup>1</sup> Further information on the work of the CNIDH under its current president prior to June 2021 is included in the annex.

**2. Background**

Having closely followed the work of the CNIDH since it was established in 2011, we have noticed a marked decline in its independence and ability to carry out its mandate impartially in recent years.

In its initial configuration, under the presidency of Frère Emmanuel Ntakirutimana (2011 to 2015), the CNIDH showed remarkable independence, courage and initiative and was granted A status. From 2015, following the outbreak of a major political and human rights crisis in

---

<sup>1</sup> Global Alliance of National Human Rights Institutions, "Report and Recommendations of the Virtual Session of the Sub-Committee on Accreditation (SCA)," <https://www.ohchr.org/sites/default/files/Documents/Countries/NHRI/GANHRI/EN-SCA-Report-June-2021.pdf>, 14-24 June 2021.

Burundi, the CNIDH's independence was undermined by the appointment of commissioners who were close to the Burundian government or ruling party and who lacked the human rights experience and civil society background of their predecessors. A new president, Jean-Baptiste Baribonekeza, took over in 2015; he demonstrated a weak grasp of human rights principles and prioritised defending the government's record over protecting the rights of Burundian citizens. Within a short time, the CNIDH had lost the independence and dynamism of its earlier years. These developments led the Global Alliance of National Human Rights Institutions (GANHRI) to downgrade its status from A to B in 2018.<sup>2</sup>

In 2019, a new president, Sixte Vigny Nimuraba, was appointed, and in 2021, the CNIDH's A status was restored. We believe this decision was hasty and unfounded. While the CNIDH may seem outwardly collaborative and responsive to certain audiences, it has continued to demonstrate a lack of independence and a close relationship with the Burundian government which call into question its credibility and undermine its effectiveness.

The terms of three of the CNIDH's five commissioners, including the president's, were renewed for another four years in 2023. One commissioner, who was the CNIDH's vice president from 2019 to 2023, was initially elected to the post of secretary with 96 votes, but a candidate who only received one vote was appointed in her place in a presidential decree, in violation of the procedure for the appointment of the commissioners.<sup>3</sup>

### **3. The CNIDH's publications and statements**

The CNIDH's main publications are its annual reports. It rarely publishes other documents, other than short statements on International Human Rights Day and other public occasions.

The CNIDH's annual reports, as illustrated below, demonstrate an overall lack of independence and a tendency to under-report or ignore politically motivated human rights violations, preferring to focus on less controversial issues. On the rare occasions when CNIDH has mentioned serious, politically motivated human rights violations, it has often reduced them to a few sentences which lacked detail on the incidents and information on those responsible.

The UN Special Rapporteur on Burundi also noted, in his August 2023 report: "While the reports of the (CNIDH) are a source of information on the human rights situation, it has to be said that they gloss over politically sensitive issues, such as cases of misappropriation of funds, enforced disappearances and arbitrary arrests, and cases of torture inflicted by National Intelligence Service agents on political opponents, media professionals or members of civil society organizations. In this way, the Commission selectively monitors cases of human rights violations and ignores those with a political connotation.... [W]hile an examination of

---

<sup>2</sup> For information on the CNIDH's work in its first seven years, see Human Rights Watch, "Burundi's National Human Rights Commission's Critical Work Has Ended", <https://www.hrw.org/news/2018/04/13/burundis-national-human-rights-commissions-critical-work-has-ended>, 13 April 2018.

<sup>3</sup> See "Décret No 100/122 du 03 avril 2023 portant nomination de certains membres de la Commission Nationale Indépendante des Droits de l'Homme", <https://www.presidence.gov.bi/2023/04/03/decret-no-100-122-du-03-avril-2023-portant-nomination-de-certains-membres-de-la-commission-nationale-independante-des-droits-de-lhomme/>, 3 April 2023; Iwacu, "Nominations à la CNIDH: une gifle pour l'Assemblée nationale", <https://www.iwacu-burundi.org/nominations-a-la-cnidh-une-gifle-pour-lassemblee-nationale/>, 7 April 2023; and "Loi N°1/04 du 05 janvier 2011 portant création de la Commission Nationale Indépendante des Droits de l'Homme", 5 January 2011.

its reports and public statements may suggest a return to normality in the country, it has to be said that the National Independent Human Rights Commission repeats the official line.”<sup>4</sup>

Based on its reports, it appears that most of the cases the CNIDH investigates are referred to it and that it rarely initiates investigations into politically sensitive cases itself. The CNIDH should proactively initiate investigations, including into politically sensitive cases, even when it has not received a referral.

Statements by the CNIDH president to UN human rights bodies have reflected the same bias as its reports. For example, during his intervention at the Human Rights Council on 6 July, the president of the CNIDH downplayed concerns about the situation in Burundi. He said “the political situation was satisfactory” and “political parties functioned normally.”<sup>5</sup> This statement was made only a month after the minister of interior, community development and public security interfered in the internal affairs of Burundi’s main opposition party, the National Congress for Freedom (*Congrès National pour la Liberté*, CNL) and suspended all the CNL’s activities because of internal divisions.

Similarly, in a statement to the UN Human Rights Committee on 3 July 2023, the president of the CNIDH gave a positive overview of the human rights situation, describing it as “generally good” throughout the country. He welcomed “remarkable progress” in the justice sector, highlighting what he called “a demonstration of independence” by judicial officials in cases such as those of human rights defenders – despite blatant violations of the right to a fair trial in several such cases, as mentioned below. Most surprisingly, he said that the CNIDH welcomed the extent to which freedom of assembly and association were enjoyed in Burundi and claimed the CNIDH had not recorded any allegation of violations of these rights since 2021.<sup>6</sup> Yet tight restrictions on political and civic space persist, and several human rights defenders and CNL members have been arbitrarily arrested since 2021.

CNIDH commissioners or staff members may sometimes act independently behind the scenes, but this information is not available to the general public. This absence of information and a perception of a lack of independence undermine public confidence in the CNIDH as an institution prepared to defend the rights of Burundian citizens. During its review of Burundi in July 2023, the UN Human Rights Committee noted that “[the Committee] is concerned by reports that the Commission is not independent, that it carries out selective monitoring of cases of human rights violations, and that it does not sufficiently include in its reports cases of violations committed by members of the police, the National Intelligence Service and the Imbonerakure (members of the ruling party's youth league).”<sup>7</sup>

---

<sup>4</sup> “Report of the Special Rapporteur on the situation of human rights in Burundi, Fortuné Gaetan Zongo” (A/HRC/54/56), <https://www.ohchr.org/en/hr-bodies/hrc/regular-sessions/session54/list-reports>, 11 August 2023.

<sup>5</sup> Statement by the CNIDH during the interactive dialogue with the Special Rapporteur on the human rights situation in Burundi, [https://hrcmeetings.ohchr.org/HRCSessions/HRCDocuments/68/OTH/OTH\\_3410\\_87\\_4d5a445d\\_2199\\_4ccf\\_ab27\\_e050ba42ac6e.docx](https://hrcmeetings.ohchr.org/HRCSessions/HRCDocuments/68/OTH/OTH_3410_87_4d5a445d_2199_4ccf_ab27_e050ba42ac6e.docx), 6 July 2023. See also “Report of the Special Rapporteur on the situation of human rights in Burundi, Fortuné Gaetan Zongo” (A/HRC/54/56), <https://www.ohchr.org/en/hr-bodies/hrc/regular-sessions/session54/list-reports>, 11 August 2023.

<sup>6</sup> Statement by the president of the CNIDH, Sixte Vigny Nimuraba, at the UN Human Rights Committee, 3 July 2023.

<sup>7</sup> United Nations Human Rights Committee, Concluding Observations on its Third Periodic Report on Burundi, [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FBDI%2FCO%2F3&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FBDI%2FCO%2F3&Lang=en), 26 July 2023

### 3.1 2021 annual report<sup>8</sup>

The overview of the political situation in the CNIDH's 2021 annual report reads like a promotion of President Ndayishimiye's activities. It states: "The President of the Republic is perceived as a real human rights defender thanks to his speeches and his works."<sup>9</sup> While President Ndayishimiye made verbal commitments to restoring respect for the rule of law, political tolerance, justice and accountability, his words were not matched by actions. Despite some initial positive gestures, patterns of human rights violations and harsh political repression remained entrenched. Several officials who committed or ordered serious crimes in previous years still held senior positions of responsibility in the government. Tight restrictions on freedom of expression and association persisted in 2021; Burundian and international human rights organisations documented numerous arbitrary arrests and dozens of cases of torture and enforced disappearances, including of real or suspected government opponents. The justice system continued to suffer from a lack of independence and was used by the government to prosecute and convict opponents.

As a point of comparison, the summary of the September 2021 report of the UN Commission of Inquiry on Burundi (COI) states: "Since President Ndayishimiye took power, the democratic space has remained closed and tolerance for criticism remains limited... Notwithstanding a few isolated symbolic gestures in the area of human rights, no structural reform has been undertaken to durably improve the situation. Serious human rights violations have continued to be committed by State officials and members of the Imbonerakure [members of the youth league of the ruling party] with the acquiescence of the authorities or even at their instigation."<sup>10</sup>

The CNIDH report's very brief section on the media and civil society refers only to the legal framework and theoretical commitments, and does not comment on tight government restrictions in these two sectors.<sup>11</sup> It does not mention the unjust imprisonment of lawyer and former human rights defender Tony Germain Nkina, arrested in October 2020 on baseless state security charges, or the cases of human rights defenders Germain Rukuki and Nestor Nibitanga, both of whom were released in 2021 after spending respectively more than four and three years in prison for their human rights work.

The 2021 report points out certain serious human rights violations, including torture, disappearances and abductions, arbitrary detentions and unfair trials, but does not reflect the true scale of these practices and provides very little detail. It records only seven cases of torture or cruel, inhuman or degrading treatment for the whole year. In contrast, BHRI (which does not have the same access or resources as the CNIDH) established the identity of more than 55 people tortured during this period.

Enforced disappearances were common in 2021, including of opposition party members and other perceived opponents who were abducted by state agents and never seen again. The

---

<sup>8</sup> CNIDH, "Rapport annuel d'activités : exercice 2021", <https://www.cnidh.bi/publicationsview.php?article=912>, February 2022.

<sup>9</sup> Ibid, page 68.

<sup>10</sup> "Report of the Commission of Inquiry on Burundi" (A/HRC/48/68), <https://www.ohchr.org/en/hr-bodies/hrc/co-i-burundi/co-i-burundi>, 12 August 2021.

<sup>11</sup> See Human Rights Watch, "Burundi: entrenched repression of civil society, media", <https://www.hrw.org/news/2021/05/26/burundi-entrenched-repression-civil-society-media>, 26 May 2021.

CNIDH's report devotes four brief sentences, with no detail or explanation, to allegations of enforced disappearances, noting that it received information about 35 cases. It claims that while it was working on these cases, 11 of the disappeared people were found. It does not specify which or how many cases were politically motivated. Its 2022 annual report did not provide any follow-up on the 24 pending cases from 2021. In contrast, the Burundian human rights organisation FOCODE documented at least 80 enforced disappearances between 18 June 2020 and 18 June 2022, including more than 50 in 2021.<sup>12</sup>

The CNIDH failed to include in its 2021 report the disappearance of Élie Ngomirakiza, a CNL representative from Bujumbura province who was abducted by men in military uniform on 9 July 2021, taken away in a military vehicle and never seen again.<sup>13</sup> This case received widespread media attention and several human rights organisations documented it, so there was ample information available for the CNIDH to launch its own investigations.

The report mentions two cases of detainees who died after being tortured. These are the cases of CNL members Augustin Matata and Innocent Barutwanayo that several human rights organisations documented; the CNIDH report refers to them by their initials MA and IB, and does not mention their political affiliation. The CNIDH report acknowledges that MA was tortured by an agent of the National Intelligence Service (*Service national de renseignement*, SNR) and died on 15 December 2021, but does not make a similar assertion about IB. Instead, it quotes a local administrator (local government official) who claimed IB was beaten by the population. BHRI and Human Rights Watch documented Barutwanayo's torture in SNR custody in Kayanza province. Barutwanayo was so badly injured that police took him to hospital where his condition slightly improved until a senior provincial SNR official, accompanied by four policemen, came to the hospital, took him away and drove him to the SNR headquarters in Bujumbura. He died between 29 November and 3 December 2021.<sup>14</sup> The CNIDH report mentions that an SNR agent took Barutwanayo out of the hospital "for further investigations" and that the victim died from the beatings a few days later, but does not attribute responsibility for the beatings and states that "investigations are proceeding as normal". At the time of writing, no one has been arrested or tried for the torture and death of Barutwanayo.

Human rights non-governmental organisations (NGOs) documented several other cases of torture in 2021, including of detainees suspected of collaborating with the armed opposition group RED-Tabara.<sup>15</sup> BHRI documented the torture of some RED-Tabara detainees during interrogation at the SNR headquarters where they were held for several months. None of these cases are mentioned in the CNIDH report.

---

<sup>12</sup> See Forum pour la conscience et le développement (FOCODE), "Lettre du FOCODE au Président Evariste Ndayishimiye", <https://focode.org/wp-content/uploads/2022/08/Lettre-du-FOCODE-au-President-Evariste-Ndayishimiye.-1.pdf>, 29 August 2022, and "Disparition forcée de Messieurs Dominique Nduwimana, Eric Ntunzwenimana, Gaspard Havyarimana, Lévis Ndayisaba, Thierry Ndiokubwayo et Désiré Maniragaba. Exécution extra-judiciaire de Ferdinand Nyandwi (Kambayingwe)", <https://ndondeza.org/kambayingwe/>, 16 February 2023; information from FOCODE representative, 20 June 2023.

<sup>13</sup> The Burundi Human Rights Initiative, "The road ahead: will Burundi bring its torturers to justice", [https://burundihri.org/english/march\\_2022.php](https://burundihri.org/english/march_2022.php), March 2022.

<sup>14</sup> The Burundi Human Rights Initiative, "The road ahead: will Burundi bring its torturers to justice", [https://burundihri.org/english/march\\_2022.php](https://burundihri.org/english/march_2022.php), March 2022; Human Rights Watch, "Burundi: suspected opponents killed, detained, torture", <https://www.hrw.org/news/2022/05/18/burundi-suspected-opponents-killed-detained-tortured>, 18 May 2022.

<sup>15</sup> Human Rights Watch, "Burundi: allegations of killings, disappearances, torture", <https://www.hrw.org/news/2021/09/17/burundi-allegations-killings-disappearances-torture>, 17 September 2021.

The report fails to address the lack of credible investigations by the authorities. For example, it does not make any reference to a major fire that broke out in the prison of Gitega, Burundi's political capital, on 7 December 2021. The authorities failed to conduct a transparent, credible and impartial investigation into the fire, which, according to Human Rights Watch's research at the time, led to the death of scores of prisoners, and possibly many more. Authorities did not communicate their findings clearly or transparently; nor did they publish the names of the dead and the injured or prosecute anyone who may have been responsible.<sup>16</sup>

### 3.2 2022 annual report<sup>17</sup>

Like the previous annual reports, the 2022 report downplays or remains silent on certain human rights violations and provides only vague information on a small number of cases. While some sections of the report highlight problems, particularly in the prison and justice system, serious violations of the rights to freedom of expression and association, for example, are ignored. The omission is all the more concerning because of the retribution civil society activists and journalists continue to face for expressing criticism of the government in Burundi. The fact that these violations have been well-documented by Burundian and international human rights organisations makes their omission even more striking.

The report does not mention any human rights violations against CNL members, even though many were arbitrarily arrested and detained, ill-treated, harassed and threatened throughout 2022.<sup>18</sup> For example, it fails to mention the case of five men from Rumonge province – one of whom, Jean Claude Niyomukunzi, was a CNL member – who were abducted by military intelligence officials on the night of 11 to 12 October 2021, according to a Burundian human rights organisation. The victims' families referred the case to the CNIDH which promised to investigate it, but did not follow up with the families.<sup>19</sup>

The report does not explicitly mention human rights abuses by *Imbonerakure* members. The only passing reference is a general statement in the conclusion, which claims that the fight against impunity extended to “youth affiliated to political parties responsible for abuses”; this fails to identify the perpetrators and ignores the fact that the vast majority of *Imbonerakure* members responsible for human rights abuses have not been brought to justice.

The CNIDH claims it was only informed of four cases of torture or ill-treatment and no cases of violations of the right to freedom of association. The latter particularly lacks credibility, as the government and the ruling party frequently targeted real or suspected members of opposition parties, independent civil society organisations and media. In contrast, Human Rights Watch's annual report covering 2022 stated that “killings, disappearances, torture, ill-treatment, arbitrary arrests, and detention of real or suspected opponents were documented by

---

<sup>16</sup> Human Rights Watch, “Burundi: Account for Dead in Gitega Prison Fire,” <https://www.hrw.org/news/2022/01/24/burundi-account-dead-gitega-prison-fire>, 24 January 2022.

<sup>17</sup> CNIDH, “Rapport annuel d'activités: exercice 2022”, <https://www.cnidh.bi/publicationsview.php?article=931>, February 2023.

<sup>18</sup> See The Burundi Human Rights Initiative, “An uneasy alliance: who holds the power in Burundi?”, [https://burundihri.org/english/february\\_2023.php](https://burundihri.org/english/february_2023.php), February 2023; Human Rights Watch, “Burundi: suspected opponents killed, detained, tortured”, <https://www.hrw.org/news/2022/05/18/burundi-suspected-opponents-killed-detained-tortured>, 18 May 2022.

<sup>19</sup> Disparition forcée de Messieurs Alexis Nimubona, Eric Nduwamungu, Gabriel Nsabayumva, Firmin Ntirandekura et Jean-Claude Niyomukunzi, <https://ndondeza.org/disparus-midodo/>, 20 December 2022.

international and Burundian rights groups throughout 2022. Unidentified bodies, often mutilated or tied up, were regularly found in different parts of the country, often buried by local authorities, *Imbonerakure* members, or police, without investigation.”<sup>20</sup>

### Torture

The section on torture is particularly weak. It states, on page 84, that the CNIDH noted only two cases of ill-treatment and one case of torture in 2022. The first is that of two detainees who were handcuffed. The second is that of three men who were ill-treated by the population, in complicity with local officials. The third is the only case of torture by state agents, but the nature of the torture is not specified.

The CNIDH says it conducted planned and impromptu visits to detention centres, but does not mention if those included detention centres run by the SNR (where torture has been prevalent) or if it otherwise investigated the treatment of detainees in SNR custody. While the number of torture cases reported to BHRI and Human Rights Watch in 2022 was lower than in previous years, it would be illusory to believe that this practice, that has been entrenched in Burundi for decades, has been entirely eliminated, especially given the lack of accountability for the vast majority of cases and the fact that known perpetrators of torture continue to work for the SNR; several cases of torture were noted during the year.<sup>21</sup>

The report states, on page 36, that prisoners suffering from serious health conditions or requiring specialised treatment are referred to hospitals. However, BHRI documented cases in which prisoners suffering from serious health problems as a result of torture were not referred to specialised doctors or hospitals and were unable to receive the treatment they needed.<sup>22</sup>

### Freedom of expression, association and assembly

The sections on freedom of expression, association and assembly are among the most concerning parts of the report. The report asserts, on page 71, that “generally, the political situation was very satisfactory” and that “political parties functioned normally and most of them organised activities and meetings with their members throughout the country”. It concludes that “significant progress was noted in terms of the enjoyment of civil and political rights”. This ignores the fact that in some areas, opposition parties, particularly the CNL, were obstructed and prevented from carrying out their activities, for example when local officials refused to grant them permission to hold meetings.

The report does not mention that CNL members were threatened by members of the ruling National Council for the Defence of Democracy-Forces for the Defence of Democracy (*Conseil national pour la défense de la démocratie-Forces pour la défense de la démocratie*, CNDD-FDD), if they didn’t join the ruling party. In Bururi province, for example, often perceived as an opposition stronghold, *Imbonerakure* members warned CNL members that

---

<sup>20</sup> Human Rights Watch World Report 2023: Burundi, <https://www.hrw.org/world-report/2023/country-chapters/burundi>.

<sup>21</sup> See, for example, Human Rights Watch, “Burundi: suspected opponents killed, detained, tortured”, <https://www.hrw.org/news/2022/05/18/burundi-suspected-opponents-killed-detained-tortured>, 18 May 2022.

<sup>22</sup> BHRI interviews with confidential sources, January, February and December 2022.

they should join the CNDD-FDD and that if they didn't, they could be imprisoned or killed in 2023.<sup>23</sup>

In another sentence that lacks credibility, the CNIDH “welcomes the situation with regard to respect and implementation of the right to freedom of assembly and association in Burundi.” The report says that the CNIDH did not record any allegations of violations of the right to freedom of association and was only informed of one allegation of a violation of freedom of opinion (the example given on page 86 appears not to be particularly relevant: it refers to two people who expressed an opinion on a private dispute). There is no mention of the well-known cases of lawyer and former human rights defender Tony Germain Nkina (arrested in October 2020, convicted and sentenced to five years' imprisonment on the basis of unfounded security-related charges, and eventually released in December 2022)<sup>24</sup> and journalist Floriane Irangabiye (arrested in August 2022 and convicted to 10 years' imprisonment in violation of her right to freedom of expression).<sup>25</sup> The UN Special Rapporteur on Burundi also noted that the report made no mention of these and other “emblematic cases that have been denounced by human rights organizations and have mobilized national and international actors.”<sup>26</sup>

The report does not mention that on 14 March 2022, police interrupted and suspended a joint press conference by two civil society organisations, OLUCOME and PARCEM, who were planning to call for the temporary suspension of a government measure restricting the movement of bicycles, motorbikes and “tuktuks” in Bujumbura.<sup>27</sup>

The section on the media (pages 85-86) is very cursory and gives no indication of the restrictions on independent reporting. It simply comments on the number of media outlets registered in Burundi, which is not a measure of media freedom since almost all journalists operating in Burundi exercise self-censorship and avoid politically sensitive topics.

### Impunity

On the question of impunity for perpetrators of human rights violations, the report not only denies that this is an ongoing problem but claims that perpetrators are punished, despite evidence to the contrary. In its conclusion, it states: “Initiatives were undertaken by the Head of State (and) the ministry of justice to prosecute and punish perpetrators of crimes without any distinction” and “the fight against impunity was noted across the different decisions of the justice system which did not spare youth affiliated to political parties responsible for abuses.” To our knowledge, very few state agents and *Imbonerakure* were prosecuted for serious human rights violations and abuses in 2022, even if some were prosecuted for

---

<sup>23</sup> See The Burundi Human Rights Initiative, “An uneasy alliance: who holds the power in Burundi?”, [https://burundihri.org/english/february\\_2023.php](https://burundihri.org/english/february_2023.php), February 2023.

<sup>24</sup> See joint statements by six international human rights organisations: “Burundi: release lawyer Tony Germain Nkina”, <https://www.hrw.org/news/2021/08/10/burundi-release-lawyer-tony-germain-nkina>, 10 August 2021, and “Burundi: lawyer’s conviction a travesty of justice”, <https://www.hrw.org/news/2021/10/08/burundi-lawyers-conviction-travesty-justice>, 8 October 2021.

<sup>25</sup> See The Burundi Human Rights Initiative, “Another victim of politicised justice”, [https://burundihri.org/english/february\\_2023\\_2.php](https://burundihri.org/english/february_2023_2.php), February 2023.

<sup>26</sup> “Report of the Special Rapporteur on the situation of human rights in Burundi, Fortuné Gaetan Zongo” (A/HRC/54/56), <https://www.ohchr.org/en/hr-bodies/hrc/regular-sessions/session54/list-reports>, 11 August 2023.

<sup>27</sup> Iwacu, “Olucome/Parcem: La police suspend leur conférence de presse”, <https://www.iwacu-burundi.org/olucome-parcem-la-police-suspend-leur-conference-de-presse/>, 15 March 2022.



common crimes. The report fails to address the lack of independence of the judiciary, political manipulation of the justice system by the CNDD-FDD and the obstacle this presents to ending impunity.

### 3.3 Other publications and media comments

On 10 December 2021, the CNIDH published a short statement on two detainees who were tortured by the SNR in 2021 (the same cases mentioned in its 2021 annual report). The statement does not mention that the two detainees died. It claims that SNR officials “had not only taken these cases seriously” but that judicial investigations had been launched.<sup>28</sup> There was no follow-up to these cases in the CNIDH’s 2022 report. At the time of writing, no one has been brought to justice for these cases of torture and deaths in custody. An intelligence official who committed numerous other serious human rights violations in the past was arrested in connection with one of these cases in December 2021 and is still awaiting trial. At the time of writing, he is not in prison; he is receiving medical treatment in a hospital.

Most strikingly, the CNIDH has not issued statements on any of the prominent cases of human rights defenders and journalists imprisoned in Burundi between 2019 and 2023 or publicly called for their release. These include human rights defenders Germain Rukuki and Nestor Nibitanga;<sup>29</sup> lawyer and former human rights defender Tony German Nkina;<sup>30</sup> five human rights defenders arrested in February 2023;<sup>31</sup> four journalists working for the independent Iwacu newspaper;<sup>32</sup> and journalist Floriane Irangabiye.<sup>33</sup>

The CNIDH followed all the above cases closely, but did not comment publicly on the arbitrary nature of these arrests or the violations of the right to freedom of expression and freedom of association. The president of the CNIDH even worked against the release of some of these defenders by spreading rumours that some of them may be guilty of the trumped-up charges against them and discouraging international actors from calling for their release.<sup>34</sup> In an interview published in Iwacu newspaper, the president of the CNIDH was asked about the journalist Floriane Irangabiye. He replied that she was “among the detainees that we visit in the same way as other prisoners. Nothing abnormal... Her case is following the normal

---

<sup>28</sup> CNIDH, “Communiqué relatif à deux cas de torture signalés au SNR”, <https://www.cnidh.bi/publicationsview.php?article=892>, 10 December 2021.

<sup>29</sup> See Front Line Defenders, “Human rights defender Germain Rukuki finally released”, <https://www.frontlinedefenders.org/en/case/human-rights-defender-germain-rukuki-finally-released>, 6 July 2021, and “Human rights defender Nestor Nibitanga released from prison”, <https://www.frontlinedefenders.org/en/case/human-rights-defender-nestor-nibitanga-released-prison>, 27 August 2021.

<sup>30</sup> See joint statements by six international human rights organisations: “Burundi: release lawyer Tony Germain Nkina”, <https://www.hrw.org/news/2021/08/10/burundi-release-lawyer-tony-germain-nkina>, 10 August 2021, and “Burundi: lawyer’s conviction a travesty of justice”, <https://www.hrw.org/news/2021/10/08/burundi-lawyers-conviction-travesty-justice>, 8 October 2021.

<sup>31</sup> See Amnesty International, The Burundi Human Rights Initiative and Human Rights Watch, “Burundi: free five rights defenders, drop charges; end civil society crackdown”, <https://www.amnesty.org/en/latest/news/2023/03/burundi-release-detained-human-rights-defenders/>, 14 March 2023.

<sup>32</sup> See statement by 65 organisations, “Burundi: 65 organizations call immediate release of Iwacu journalists”, <https://www.hrw.org/news/2020/10/22/burundi-65-organizations-call-immediate-release-iwacu-journalists>, 22 October 2020.

<sup>33</sup> See The Burundi Human Rights Initiative, “Another victim of politicised justice”, [https://burundihri.org/english/february\\_2023\\_2.php](https://burundihri.org/english/february_2023_2.php), February 2023.

<sup>34</sup> Meeting between the president of the CNIDH and BHRI representatives in Geneva, 28 June 2022, and private conversations between BHRI or Human Rights Watch and diplomats based in Bujumbura.

procedure.” In his evaluation of the human rights situation, he talked about “positive developments” and “a strong commitment to fight impunity on the part of state and non-state institutions. We also notice progress in terms of freedom of expression.”<sup>35</sup>

The CNIDH has also remained silent on the case of six former Burundian refugees, part of a group of eight who were detained incommunicado and tortured in Tanzania before being forcibly returned to Burundi in August 2020.<sup>36</sup> Burundi’s authorities transferred them to prison and put them on trial for participation in armed groups. Although a Burundian judge stated that the case was political and the court acquitted them of all charges in August 2021 – a decision upheld by the appeal court in March 2022 – prison and judicial authorities did not release them until March 2023.<sup>37</sup> The CNIDH followed the case, but did not publicly call for the release of the former refugees and did not mention the case in its 2021 or 2022 annual reports.

#### **4. Reluctance to engage with human rights NGOs and with the UN Special Rapporteur on Burundi**

According to the Paris Principles, a national human rights institution has the responsibility “to cooperate with the United Nations and any other organization in the United Nations system”. In its June 2021 report, the SCA encouraged the CNIDH to engage with regional and international human rights systems, including by “supporting, facilitating and contributing to country visits by United Nations experts, including special procedures mandate holders.”<sup>38</sup>

The CNIDH has not cooperated with the UN Special Rapporteur on Burundi.<sup>39</sup> The UN Special Rapporteur on Burundi contacted the CNIDH during his first term, but the CNIDH did not respond to his questions.<sup>40</sup>

In an oral update delivered during an Interactive Dialogue at the 53<sup>rd</sup> session of the UN Human Rights Council, the Special Rapporteur on Burundi expressed concern over the CNIDH’s lack of independence and reporting on human rights violations: “The national human rights institution, re-accredited with A status in June 2021, struggles to demonstrate its independence and impartiality. In addition, an examination of its reports reveals the selective nature of cases handled by the CNIDH.”<sup>41</sup>

---

<sup>35</sup> Iwacu (printed version), “Interview exclusive avec Sixte Vigny Nimuraba: ‘Si les gens perdent confiance en la justice, ils vont commencer à se faire justice’”, 8 September 2023.

<sup>36</sup> Human Rights Watch, “Tanzania: Burundian Refugees ‘Disappeared,’ Tortured,” <https://www.hrw.org/news/2020/11/30/tanzania-burundian-refugees-disappeared-tortured>, 30 November 2020.

<sup>37</sup> Human Rights Watch World Report 2023: Burundi, <https://www.hrw.org/world-report/2023/country-chapters/burundi>.

<sup>38</sup> GANHRI, Sub-Committee Accreditation Report, page 12, <https://www.ohchr.org/sites/default/files/Documents/Countries/NHRI/GANHRI/EN-SCA-Report-June-2021.pdf>, June 2021.

<sup>39</sup> The Burundian government has also refused to cooperate with the Special Rapporteur since his appointment and has not granted him access to the country.

<sup>40</sup> Communications between the Special Rapporteur and BHRI, 2022 and 2023.

<sup>41</sup> Oral statement by Mr. Fortuné Gaetan Zongo, UN Special Rapporteur on the human rights situation in Burundi, 53<sup>rd</sup> session of the UN Human Rights Council, [https://hrcmeetings.ohchr.org/HRCSessions/HRCDocuments/68/OTH/OTH\\_3409\\_87\\_471869bb\\_52ea\\_4345\\_b5e9\\_9841159cdab2.docx](https://hrcmeetings.ohchr.org/HRCSessions/HRCDocuments/68/OTH/OTH_3409_87_471869bb_52ea_4345_b5e9_9841159cdab2.docx), 6 July 2023.

The Paris Principles also state that a national human rights institution shall “develop relations with the non-governmental organizations devoted to promoting and protecting human rights.”

In its 2022 annual report (page 9), the CNIDH mentions its positive collaboration with, among others, civil society organisations, media and international human rights organisations. In practice, however, in the case of the organisations making this submission, there has been very little substantial collaboration. When BHRI met the president of the CNIDH in June 2022, he said he did not read and would never read BHRI’s reports or those of other NGOs, although this did not stop him from criticising their work. A foreign diplomat informed Human Rights Watch that the president of the CNIDH had told him he never reads the publications of international human rights organisations, including Human Rights Watch.

Until the 2015 political and human rights crisis, Burundi had a dynamic independent civil society movement and strong, outspoken media. In 2015, many members of the most active Burundian human rights organisations and media outlets were forced into exile, where they remain until today. However, their organisations continue to document and campaign on the human rights situation in their country and they remain an important voice, particularly as very few independent human rights groups and media are able to operate freely in Burundi.

Some of the CNIDH commissioners, including the president, maintain personal contacts with some Burundian human rights defenders in exile. The president of the CNIDH promised some leaders of Burundian human rights organisations in exile that he would look into cases they submitted to him, but didn’t provide them with information about actions he or his colleagues had taken or the results of their actions.<sup>42</sup>

BHRI sends all its publications to the CNIDH and has tried to engage with its president several times, including by sharing information. It rarely received a substantive response. On the two occasions when the president of the CNIDH met or spoke with BHRI, he was either evasive or hostile (see below). Human Rights Watch researchers have spoken to the president of the CNIDH on several occasions, but found that he often refused to share information, was obstructive in his responses, and, in one case, failed to respond to a letter sharing information and seeking input.

In a meeting with BHRI on 28 June 2022, the president of the CNIDH made disturbing comments which appeared to attempt to justify violations of human rights and illegal practices. For example:

- He justified the illegal detention of Dr Christophe Sahabo, director of Kira Hospital, at the headquarters of the SNR. Dr Sahabo was arrested on 1 April 2022 and illegally detained for six weeks at the SNR without access to his lawyers or family; he was subsequently transferred to prison and charged with economic crimes.<sup>43</sup> With reference to this case, the president of the CNIDH told BHRI that human rights should be adapted to the local context and implied that the seriousness of some of the accusations against Dr Sahabo justified his illegal detention at the SNR.
- He denied that there were continuing human rights concerns at the SNR and denied the involvement of a former head of internal intelligence at the SNR in human rights

---

<sup>42</sup> Information from Burundian human rights defender in exile, 12 July 2023.

<sup>43</sup> For details, see The Burundi Human Rights Initiative, “The Kira Hospital saga”, [https://burundihri.org/english/october\\_2022.php](https://burundihri.org/english/october_2022.php), October 2022.


violations. Burundian and international human rights organisations have documented this official's participation in serious human rights violations over several years, as well as torture by SNR agents whom he supervised.<sup>44</sup>

- He denied that impunity was still a problem in Burundi. When BHRI raised the absence of justice for the killings of several political opponents in 2020, he dismissed these as old cases.
- He claimed that lawyer and former human rights defender Tony Germain Nkina, who was arbitrarily arrested in 2020 and convicted in an unfair trial, was guilty of collaborating with armed groups, even if no evidence was presented by the prosecutor to support this accusation. He said he believed Nkina should remain in prison and had conveyed this point of view to the Burundian president. He repeated the list of accusations formulated against Nkina by the prosecution and denied that he had been convicted in an unfair trial. He said he would not be happy if Nkina was released.

Human Rights Watch and BHRI were informed by foreign diplomats in Bujumbura that the president of the CNIDH had also told diplomats that he believed Nkina to be guilty and claimed to have seen evidence to support such claims. No credible evidence of Nkina's guilt was presented in court, and Nkina was eventually acquitted after a re-trial in December 2022.

In light of the many concerns described in this submission, we urge the SCA to reconsider the CNIDH's A status before it comes up for its regular review in 2026. We believe it is important to address these concerns without delay to rectify the failings of the CNIDH and ensure that it performs its role as an independent institution working for the effective protection and promotion of human rights in Burundi.

Yours sincerely,



Clémentine de Montjoye  
Researcher in the Africa division at Human Rights Watch



Carina Tertsakian                      Lane Hartill  
The Burundi Human Rights Initiative

---

<sup>44</sup> See, for example, The Burundi Human Rights Initiative, "A stranglehold on Burundi's future", [https://burundihri.org/english/december\\_2020.php](https://burundihri.org/english/december_2020.php), December 2020.

## Annex

### The CNIDH's 2020 annual report<sup>45</sup>

*This annex includes information on the CNIDH's 2020 annual report, even though this pre-dates the last review by the SCA. As the 2020 report was written and published under the leadership of the current president of the CNIDH, we believe it is important for the SCA to take it into account. There is also a clear continuity between concerns about the CNIDH's 2020 annual report and its subsequent reports described in this submission.*

The CNIDH's 2020 report, which covered the critical period of the elections that brought current President Évariste Ndayishimiye to power, was a test of its independence. Unfortunately, it failed to live up to that challenge. There were several glaring omissions, relating, for example, to killings, torture, ill-treatment and arbitrary arrests of opposition members, long-term political detentions and restrictions to public freedoms, particularly during the pre-election period.

Instead, the report emphasised positive initiatives by the government, echoing some of the government's language. For example, it praised the security situation and the smooth running of elections, and played down incidents of violence. A desire to avoid antagonising the government was visible in the recommendations, all of which were uncontroversial and avoided politically sensitive issues.

A paragraph on the Maputo Protocol on the Rights of Women in Africa, which was in the version of the report presented to the National Assembly, was deleted from the final version after the president of the National Assembly, Gélase Ndabirabe, told the CNIDH to remove it, even though he has no legal authority to do so.<sup>46</sup> It is not known whether other parts of the report were also deleted or amended.

#### i) Elections and political violence

The CNDD-FDD was declared the overall winner of the 2020 elections, amidst widespread allegations of fraud and months of political violence against the opposition. None of this is explained in the 2020 report, which skates over, or ignores completely, some of the most serious human rights violations committed in this context.

The report's assertion that the electoral process "went well overall from the point of view of respect of civil and political rights for political party candidates and activists, although some minor violations were observed and noted here and there by the CNIDH teams" (page 76) is a blatant misrepresentation of what took place. Expressions such as "some minor violations" and "here and there" minimise serious and widespread abuses. They also contradict the independent assessment of the electoral observation mission of the Catholic Church, which, among other things, deplored "many irregularities with regard to the freedom and transparency of the electoral process as well as the fairness in the treatment of candidates and voters".<sup>47</sup>

---

<sup>45</sup> CNIDH, "Rapport annuel édition 2020", <https://www.cnidh.bi/publicationsview.php?article=870>, April 2021.

<sup>46</sup> Assemblée nationale du Burundi, "La Commission Nationale Indépendante des Droits de l'Homme, CNIDH, présente son rapport annuel, édition 2020", <https://www.assemblee.bi/spip.php?article2325>, 14 April 2021.

<sup>47</sup> Communiqué de la conférence des évêques catholiques du Burundi sur le scrutin du 20 mai 2020, <https://eglisecatholique.bi/index.php/fr/vie-de-l-eglise1/communiqués/communiqué-de-la-conférence-des->

A separate statement issued by the CNIDH on the elections reflected the same pro-government stance. It asserted that the elections took place smoothly and “at a time when peace, security and the human rights situation were good”.<sup>48</sup>

The 2020 report fails to denounce political killings and severe ill-treatment of members of the CNL in the weeks and months before the elections. Yet the CNIDH could not have been unaware of these cases which had been building up since 2019 and were widely reported by international and Burundian human rights organisations and by the media.<sup>49</sup>

The CNIDH report describes clashes between CNL members and *Imbonerakure*, who often provoked such incidents and were responsible for most of them; yet the report apportions no blame to *Imbonerakure*. In some of these cases, *Imbonerakure* acted in collusion with – or with the apparent support of – CNDD-FDD representatives or local government officials.

There is no indication that the CNIDH looked into cases or events documented by NGOs or the COI. The COI published a detailed report in September 2020 which included a section on human rights violations in the context of the electoral process. It described these incidents as “not isolated or (occurring) by chance, but the result of a strategy put in place by the ruling party and officials at various levels to ensure they stay in power... The numerous human rights violations... clearly take place within a strategy: weaken the political opposition that is considered a threat by the ruling party, silence independent observers such as the press and civil society so that they don’t report what is happening in the country, and tightly control the population, including by intimidating it so that it supports the ruling party.”<sup>50</sup>

## ii) Detention, torture and justice

The CNIDH report notes several concerns, particularly on conditions in prisons and official detention centres, and legal irregularities and delays affecting detention, but does not mention torture and ill-treatment by the SNR. With regard to torture, the focus of the report is almost entirely on awareness-raising activities and formal frameworks, even though it mentions that “some detainees denounced to the CNIDH the violent and brutal treatment that was inflicted on them during their arrest” and “rope marks were still visible on their arms” (page 28). The report mentions only three torture cases, none of which are politically motivated, even though torture of real or suspected government opponents was widespread in 2020, as documented by NGOs and by the COI.<sup>51</sup>

---

[eveques-catholiques-du-burundi-sur-le-scrutin-du-20-mai-2020](#), 26 May 2020. See also Human Rights Watch, “Burundi: intimidation, arrests during elections”, <https://www.hrw.org/news/2020/06/01/burundi-intimidation-arrests-during-elections>, 1 June 2020.

<sup>48</sup> CNIDH, “Déclaration de la CNIDH sur le déroulement des élections de 2020,” <https://www.cnidh.bi/publicationsview.php?article=851>, 23 May 2020.

<sup>49</sup> See, for example, the Burundi Human Rights Initiative, “The Deadly Price of Opposition”, <https://burundihri.org/english/opposition.php>, July 2020; SOS-Torture/Burundi, Report No. 223, <https://sostortureburundi.org/wp-content/uploads/2020/08/SOS-Torture-Burundi-N0-223-English-Version.pdf>, 21 March 2020; and Iwacu, “Elections 2020 : la campagne sur fond de violences”, <https://www.iwacu-burundi.org/elections-2020-la-campagne-sur-fond-de-violences/>, 8 May 2020.

<sup>50</sup> “Conclusions détaillées de la Commission d’enquête sur le Burundi” (A/HRC/45/CRP.1), 17 September 2020. For a shorter version of the report, available in English and French, see “Report of the Commission of Inquiry on Burundi 2020” (A/HRC/45/32), 17 September 2020. Both are available at <https://www.ohchr.org/en/hr-bodies/hrc/co-i-burundi/co-i-burundi>

<sup>51</sup> “Conclusions détaillées de la Commission d’enquête sur le Burundi” (A/HRC/45/CRP.1), <https://www.ohchr.org/en/hr-bodies/hrc/co-i-burundi/co-i-burundi>, 17 September 2020.

In its conclusion, the report states that the perpetrators of beatings, injuries and arrests during clashes between party members were brought to justice. In most of the cases BHRI and Human Rights Watch documented during this period, the perpetrators of beatings and arbitrary arrests (usually *Imbonerakure*) were not arrested; others were released soon after their arrest. Very few were prosecuted, even though some committed serious acts of violence, some of them fatal.

iii) Under-reporting of human rights violations

The figures in the chart on pages 12-13 of the report do not come close to reflecting the true scale of human rights violations, for example: torture cases (3), freedom of association cases (1), arbitrary arrests and detentions (66) and abduction followed by enforced disappearances (1). As a point of comparison, BHRI and Human Rights Watch documented many more cases in each of these categories. Likewise, Burundian media and civil society organisations reported, for example, that more than 260 CNL members were rounded up during the electoral campaign period alone (between 27 April and 17 May) and many more in the preceding months. The figure of just one freedom of association case is astounding, given the frequency of arrests and ill-treatment, as well as constant threats and harassment, of CNL members and suspected government opponents throughout 2020.

iv) Attacks by armed groups and their aftermath

In the section on incursions by armed groups, no questions are asked about the fact that “around 20 combatants were killed and others apprehended” (page 78). BHRI received credible information that several combatants were killed outside active combat and others were tortured<sup>52</sup> – all serious violations of international law; the report makes no mention of this.

Neither does the report mention killings or abductions of civilians by armed groups, or the wave of arbitrary arrests and other human rights violations committed by government officials, aided by *Imbonerakure*, after these attacks. BHRI compiled a list of 83 people arrested in this context, including many political opponents; this is not a comprehensive figure. BHRI also documented several cases of torture in the aftermath of the attacks.

The report’s language mirrors the government’s hostile attitude to sections of the media, blaming “the irresponsible attitude of certain organisations and media who fuel the fire by encouraging these suicidal acts” (by armed groups) (page 78) – without substantiating this serious accusation.

v) Restrictions on freedom of expression and association

The sections of the report on public liberties, civil society and media are very weak, even though persistent restrictions in these areas were a dominant concern in 2020.

The report echoes the government’s claims of “plurality of media” (page 93) and “political plurality” (page 95), but does not question whether media or political parties were truly

---

<sup>52</sup> The Burundi Human Rights Initiative, “A stranglehold on Burundi’s future”, [https://burundihri.org/english/december\\_2020.php](https://burundihri.org/english/december_2020.php), December 2020.

independent of the government or able to operate freely and safely. In practice, there is a concerning lack of plurality and freedom in these areas in Burundi. The report does not mention well-known cases, such as the imprisonment of four journalists from the independent newspaper Iwacu, human rights defenders Germain Rukuki and Nestor Nibitanga, or former member of parliament Fabien Banciryanino.<sup>53</sup>

---

<sup>53</sup> Human Rights Watch, “Burundi: entrenched repression of civil society, media”, <https://www.hrw.org/news/2021/05/26/burundi-entrenched-repression-civil-society-media>, 26 May 2021; “Prosecution of former MP casts doubt on reform in Burundi”, <https://www.hrw.org/news/2020/10/12/prosecution-former-mp-casts-doubt-reform-burundi>, 12 October 2020; and “Burundi: journalists convicted in flawed trial”, <https://www.hrw.org/news/2020/02/04/burundi-journalists-convicted-flawed-trial>, 4 February 2020.