



# Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

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## Committee against Torture

### Decision adopted by the Committee under article 22 of the Convention, concerning communication No. 1141/2022\*, \*\*, \*\*\*

|                                      |                                                                                                                                                         |
|--------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------|
| <i>Communication submitted by:</i>   | Dieudonné Bashirahishize, Armel Niyongere, Vital Nshimirimana and Lambert Nigarura (represented by the International Service for Human Rights)          |
| <i>Alleged victims:</i>              | The complainants                                                                                                                                        |
| <i>State Party:</i>                  | Burundi                                                                                                                                                 |
| <i>Date of complaint:</i>            | 19 March 2020 (initial submission)                                                                                                                      |
| <i>Document references:</i>          | Decision taken pursuant to rule 115 of the Committee's rules of procedure, transmitted to the State Party on 25 July 2022 (not issued in document form) |
| <i>Date of adoption of decision:</i> | 21 November 2025                                                                                                                                        |
| <i>Subject matter:</i>               | Reprisals for cooperating with the Committee                                                                                                            |
| <i>Procedural issue:</i>             | State Party's failure to cooperate                                                                                                                      |
| <i>Substantive issue:</i>            | Protection against ill-treatment and intimidation                                                                                                       |
| <i>Article of the Convention:</i>    | 13                                                                                                                                                      |

1.1 The complainants are Dieudonné Bashirahishize, Armel Niyongere, Vital Nshimirimana and Lambert Nigarura, nationals of Burundi. They claim that the State Party has violated their right under article 13 of the Convention to be protected against reprisals for cooperating with the Committee. The State Party has made the declaration pursuant to article 22 (1), effective from 10 June 2003. The complainants are represented by counsel.

1.2 On 26 February 2024, pursuant to rule 115 (3) of its rules of procedure, the Committee, acting through its Rapporteur on new complaints and interim measures, rejected the State Party's request for the admissibility of the communication to be considered separately from the merits.

\* Adopted by the Committee at its eighty-third session (10–28 November 2025).

\*\* The following members of the Committee participated in the examination of the communication: Todd Buchwald, Jorge Contesse, Claude Heller, Erdogan Iscan, Peter Vedel Kessing, Liu Huawen, Maeda Naoko, Ana Racu, Abderrazak Rouwane and Bakhtiyar Tuzmukhamedov.

\*\*\* An individual opinion by Committee member Todd Buchwald (concurring) is annexed to the present decision.



**Facts as submitted by the complainants**

2.1 On 25 April 2015, the President of Burundi, Pierre Nkurunziza, announced his intention to run for a third term in office, which was contrary to the Constitution of Burundi at that time.<sup>1</sup> Many Burundian citizens, including the complainants, participated in peaceful, public demonstrations against this violation of the Constitution in April and May 2015. Government forces responded violently to the peaceful demonstrations by opening fire and killing some of the protesters. The Government also detained and attacked political dissidents and reportedly set up mass grave sites to conceal the number of extrajudicial killings. The complainants spoke out publicly and condemned this use of violence by the Government. Fearing for their safety, the complainants were forced to leave Burundi and went into exile in May/June 2015.

2.2 In the run-up to the consideration of the special report of Burundi at the fifty-eighth session of the Committee, the complainants contributed to the drafting of a joint shadow report submitted to the Committee. On 27 July 2016, Dieudonné Bashirahishize, Armel Niyongere and Lambert Nigarura attended an interactive dialogue with the Committee on behalf of the Burundian civil society organizations they represented.

2.3 On 28 July 2016, the State Party's delegation participated in the first of the two meetings scheduled for the consideration of the report. It declined, however, to participate in the second meeting, scheduled for 29 July 2016, asserting in a note verbale that it was surprised that the debate on the first day had been based on an alternative report submitted by Burundian civil society to the Committee. On that same day, the public prosecutor at the Court of Appeal of Bujumbura filed a letter requesting the President of the Bar Association to disbar the four complainants. The prosecutor alleged that the complainants had: (a) participated in a revolutionary/insurrectional movement; (b) attempted a coup d'état; and (c) trafficked images of a fabricated genocide in the city of Karuzi (in eastern Burundi) and broadcast them in France. In the prosecutor's complaint, each of these activities was associated with a reference number for a criminal file. Despite repeated requests, the complainants have never seen these criminal files and are not aware of any criminal proceedings having been initiated in relation to these charges.

2.4 On 5 August 2016, the Chair of the Committee and its Rapporteur on reprisals wrote to the Ambassador of Burundi to the United Nations Office and other international organizations in Geneva, stating their concern that the prosecutor's disbarment request was a form of reprisal against the complainants for their participation in the Committee's special review of Burundi. On 10 August 2016, the Government responded, denying the allegation that the disbarment proceedings were a reprisal for the complainants' participation in the session. They claimed that the request for disbarment had been made strictly within the framework of serious criminal investigations. That was the only time that the State Party responded in connection with the matter. Subsequent letters remained without response.

2.5 On 22 August 2016, after being informed by the Bar of the prosecutor's request, the complainants responded in a joint letter and denied all the allegations of criminal activities. The complainants further argued that if they were to be disbarred on the basis of those allegations, such action would be contrary to the principle of the presumption of innocence, enshrined in article 40 of the Constitution of Burundi.

2.6 On 27 September 2016, the Bar dismissed the prosecutor's request. It held that it would be contrary to the presumption of innocence to disbar the complainants on the basis of criminal allegations that had not been communicated to them, had not been considered by the relevant authorities and had not been decided upon. A copy of the decision was sent to the complainants.

2.7 The prosecutor appealed the Bar's decision before Bujumbura Court of Appeal. The complainants were thus summoned to appear for the first hearing before the Court of Appeal,

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<sup>1</sup> On 25 November 2021, the Appeal Chamber of the East African Court of Justice held that approval of President Pierre Nkurunziza's third term by the Burundian Constitutional Court in 2015 was illegal. See East African Court of Justice, Appeal Chamber, *East African Civil Society Organizations Form v. Attorney General of the Republic of Burundi and Others*, Appeal No.1 of 2020, 25 November 2021, para. 97.

due to take place on 24 November 2016. The summons was published in the legal gazette, *Le Renouveau du Burundi*, Issue No. 9480. As the complainants were living in exile abroad at the time, none of them received personal letters summoning them to appear before the Court of Appeal. Having learned about the hearing from the gazette, the complainants each wrote to the Court of Appeal explaining that, owing to their refugee status, they would not be able to attend the first hearing in Bujumbura and asking for a postponement. Although a first hearing was scheduled for 24 November 2016, it did not in fact take place until 19 December 2016. Despite the postponement, the complainants were unable to attend in person.

2.8 The complainants arranged for lawyers from Europe, from the International Association of Lawyers, to represent them at the first hearing. However, the lawyers were unable to attend the hearing because the Burundian immigration authorities rejected their visa applications. As the complainants could no longer be represented by those lawyers, a former president of the Bar Association of the Democratic Republic of the Congo stepped in. However, the prosecutor argued that, based on Burundian legislation, that lawyer could not represent the complainants at the first hearing. A second hearing was scheduled for 22 December 2016 to determine whether that lawyer could represent the complainants.

2.9 In advance of the second hearing, the complainants' lawyer submitted two legal briefs to the Court of Appeal that argued that the complainants had the right to legal representation. The second hearing took place on 22 December 2016, as scheduled, and the lawyer's request to represent the complainants was rejected by the Court of Appeal. The Court ruled that the lawyer did not have the capacity to represent the complainants without offering further explanation.

2.10 On 16 January 2017, Bujumbura Court of Appeal decided in favour of the prosecutor, ruling that the presumption of innocence did not prevent the imposition of sanctions against a lawyer who had acted unlawfully. It also found that the demonstrations that the complainants had attended in April and May 2015 were illegal and ordered the disbarment of Dieudonné Bashirahishize, Armel Niyongere and Vital Nshimirimana. The Court suspended Lambert Nigarura from practising law for one year and banned him from sitting on the Executive Committee of the Bar Association for five years. The complainants never received any formal notification of that decision, which has inhibited their ability to pursue further judicial remedies in Burundi or to bring a case before the East African Court of Justice.

2.11 On 21 February 2017, the Chair of the Committee and its Rapporteur on reprisals wrote to the Ambassador of Burundi in Geneva to reiterate their concern that the complainants' disbarment was a form of reprisal for their participation in the Committee's review of the State Party and to seek clarifications on the disbarment of Dieudonné Bashirahishize, Armel Niyongere and Vital Nshimirimana and the suspension of Lambert Nigarura. No reply was provided.

2.12 On 15 May 2019, the President of the Supreme Court and the Attorney General ordered the seizure of the complainants' property.

## **Complaint**

3.1 The complainants claim a violation of article 13 of the Convention, which has been interpreted as affording protection against reprisals, intimidation or retaliation. In addition, in accordance with the provisions of the guidelines on the receipt and handling of allegations of reprisals against individuals cooperating with the Committee, reprisals constitute a form of cruel treatment or punishment under article 16 of the Convention and may amount to torture in certain circumstances.<sup>2</sup> In its statement on reprisals, the Committee reminded all States Parties that they shall refrain from reprisals against individuals who seek to cooperate with or otherwise assist the Committee, whether by providing it with information or by communicating about the findings or actions of the Committee.<sup>3</sup> This is also reflected

<sup>2</sup> CAT/C/55/2, para. 4.

<sup>3</sup> CAT/C/51/3, para. 4.

in the General Assembly's resolution on strengthening and enhancing the effective functioning of the human rights treaty body system.<sup>4</sup>

3.2 The complainants consider that they were disbarred or suspended in reprisal for their denunciation to the Committee of the human rights violations in Burundi. Among other things, in accordance with article 14 of the Convention and the Committee's general comment No. 3 (2012) on the implementation of article 14, the complainants seek to have the State Party quash the disbarment decisions.

### **State Party's observations on admissibility and the merits**

4.1 On 3 October 2022 and 8 May 2024, the State Party submitted its observations. It requested the Committee to first examine the admissibility of the communication, but did not provide any further argument on the issue of admissibility.

4.2 On the merits, the State Party contends that it is very difficult to define the scope of the communication because the complainants refer to two decisions that have affected them without mentioning their reference numbers. It notes that the complainants refer to a decision of a court of appeal of which they do not specify the locality and to a decision of the Bar Association. The State Party contends that it cannot know to which of the seven courts of appeal in its territory the complainants refer, and that it cannot answer for decisions taken by bar associations.

4.3 The State Party then refers to the text of article 13 of the Convention and notes that the complainants have never suffered torture in its territory and are not witnesses in any proceedings. According to the State Party, the plain meaning of article 13 excludes the complainants.

4.4 The State Party submits that, in their communication, the complainants take pride in having actively participated in the subversive movements launched on 26 April 2015. As a result, they have in effect called on the population to attack anyone with a different political conviction, especially to kill them – as they burned alive a young man accused of being a member of Imbonerakure<sup>5</sup> – and to kill police officers and destroy public infrastructure. The State Party submits photographs, describes this behaviour as irresponsible and mentions that it is this behaviour that triggered the Minister of Home Affairs to issue a ministerial order on 23 November 2015 to ban the activities of five non-governmental organizations. These organizations then complained before the East African Court of Justice, which both in the first instance and on appeal upheld the Minister's decision.<sup>6</sup>

4.5 With regard to the complainants' allegation of a delay in being notified of the decision of the court of appeal, the State Party explains that it cannot comment because the complainants have not specified the case number. If they had mentioned the case number, proof of timely notification would have been given, because the Burundian law provides for several means of notification, especially when the residence of the person to be notified is not known.<sup>7</sup>

4.6 The State Party concludes that the complainants' communication constitutes a typical abuse of the Committee's procedure.

### **Complainants' comments on the State Party's observations**

5.1 On 19 December 2022 and 9 December 2024, the complainants submitted comments in response to the State Party's observations. They first consider that the State Party's request

<sup>4</sup> General Assembly resolution 68/268 of 9 April 2014, para. 8. See also the Guidelines against Intimidation or Reprisals (San José Guidelines), para. 5.

<sup>5</sup> Members of the youth movement affiliated with the National Council for the Defence of Democracy-Forces for the Defence of Democracy.

<sup>6</sup> East African Court of Justice, *Le Forum pour le Renforcement de la Société Civile (FORSC) and Others v. Attorney General of the Republic of Burundi and Another*, Reference 12 of 2016, 4 December 2019, and *Le Forum pour le Renforcement de la Société Civile and Others v. Attorney General of the Republic of Burundi and Another*, Appeal No. 2 of 2020, 19 November 2021.

<sup>7</sup> No further details were provided.

to declare the communication inadmissible is unsubstantiated. They then note that the State Party has not denied their factual allegations regarding the acts of retaliation they suffered as a result of participating in the interactive dialogue with the Committee. Furthermore, the State Party has not proven that the complainants – or any of the organizations of which they were members – committed or encouraged violent, subversive acts against the State or pro-Government individuals. Neither of the two decisions of the East African Court of Justice relied upon by the State Party bears on the issues raised in the communication.

5.2 The complainants reiterate that the substantive protections of article 13 of the Convention encompass both the right to complain and testify, and the protection against reprisal, intimidation or retaliation for such complaints or testimony. As such, no evidence of physical torture is necessary to sustain a finding of a violation of article 13, and the fact that the complainants have not directly suffered physical torture is irrelevant.

5.3 The complainants submit that the seizure of their personal and real property by decision of the President of the Supreme Court in 2019 constitutes a further violation of article 13. The seizure of their assets was another transparent effort to disincentivize the complainants – and any other potential witnesses – from cooperating with the Committee regarding human rights violations committed by the State Party.

5.4 Finally, as regards the photographs produced by the State Party that show violence or harassment apparently committed against pro-Government supporters and police personnel, which it claims was encouraged by the complainants or the organizations of which they were members, the complainants firmly deny any involvement and note that the State Party has provided no information that would establish that those alleged violent acts were caused, or even encouraged, by the complainants or those organizations. In particular, none of the photographs submitted by the State Party are authenticated or substantiated by any evidence and, even if authentic, they do not connect the events depicted to the complainants or any civil society organizations of which they were members.

## **Issues and proceedings before the Committee**

### *Consideration of admissibility*

6.1 Before considering any complaint submitted in a communication, the Committee must decide whether it is admissible under article 22 of the Convention. The Committee has ascertained, as it is required to do under article 22 (5) (a) of the Convention, that the same matter has not been and is not being examined under another procedure of international investigation or settlement.

6.2 In accordance with article 22 (5) (b) of the Convention, the Committee shall not consider any communication from an individual unless it has ascertained that the individual has exhausted all available domestic remedies, except in cases in which the application of the remedies would be exceptionally prolonged or unlikely to bring effective relief to the victim. The Committee notes that, in the present case, the State Party has not contested that the complainants have satisfied the requirement to exhaust available domestic remedies.

6.3 The Committee notes that, although the State Party has contested the admissibility of the complaint, it has not provided any specific arguments in support of that contention. Consequently, the Committee considers that the State Party's challenge to admissibility is unsubstantiated.

6.4 In the absence of any other obstacle to the admissibility of the communication, the Committee proceeds with its consideration of the merits of the claims submitted by the complainants under article 13 of the Convention.

### *State Party's failure to cooperate*

7. The Committee notes that, in its observations on the merits of the communication, the State Party does not provide any clarification as to the complainants' specific allegations. In particular, the Committee considers implausible the State Party's argument that it cannot identify the specific domestic decisions referred to by the complainants in the absence of reference numbers and the name of the court of appeal, when the complainants have clearly

mentioned in their communication that the contested decision was issued by Bujumbura Court of Appeal and when copies of that decision and that of the Bar Association were transmitted to the State Party along with the communication. It therefore regrets the State Party's failure to provide information on the substance of the complainants' claims.<sup>8</sup> The Committee further regrets that the failure to provide such information fits into a pattern of consistent lack of cooperation with the Committee regarding the complainants' allegations of reprisals, particularly when considered in the light of the absence of responses by the State Party to the Committee's letters of 12 August 2016 and 21 February 2017 expressing concern that the effort to disbar the complainants was an act of reprisal for their provision of information to the Committee during the examination of the State Party's report.<sup>9</sup> The Committee recalls the need for the State Party to submit to the Committee written explanations or statements clarifying the matter and indicating the steps, if any, that the State Party may have taken to remedy the situation.

### *Consideration of the merits*

8.1 The Committee has considered the communication in the light of all the information made available to it by the parties, in accordance with article 22 (4) of the Convention. In the light of the lack of information provided by the State Party on the merits, due weight must be given to the complainants' allegations, which have been properly substantiated.<sup>10</sup>

8.2 The Committee notes the complainants' allegation that they were disbarred or suspended from the Bar Association in reprisal for the submissions to the Committee regarding the human rights violations in Burundi during the Committee's fifty-eighth session.

8.3 The Committee recalls that, pursuant to article 13 of the Convention, each State Party shall take steps to ensure that a complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his or her complaint or any evidence given.<sup>11</sup> In that connection, the Committee recalls its view that reprisals constitute a form of cruel treatment or punishment under article 16 of the Convention and may amount to torture in certain circumstances.<sup>12</sup> For its part, the General Assembly has strongly condemned all acts of intimidation and reprisals against individuals and groups for their contribution to the work of the human rights treaty bodies.<sup>13</sup> The Committee also recalls the obligation of all States Parties to participate in good faith in the reporting and review process under article 19 of the Convention. In this regard, the Committee recalls its statement on reprisals, in which it reminded all States Parties that, in accordance with their obligations under the Convention, they shall refrain from reprisals against individuals, groups and institutions that seek to cooperate with or otherwise assist the Committee, whether by providing information to it, or by communicating about the findings or actions of the Committee, advancing compliance with reporting obligations or assisting the Committee in the pursuit of any of its functions.<sup>14</sup>

8.4 In the present case, the Committee notes that the complainants were actively involved in the Committee's fifty-eighth session in Geneva from 25 July to 12 August 2016, in connection with which they provided information to the Committee about the human rights situation in the State Party. Three of them were present in Geneva on 27–29 July 2016 to

<sup>8</sup> *Ndagijimana v. Burundi* (CAT/C/62/D/496/2012 and CAT/C/62/D/496/2012/Corr.1), para. 7; *Ndarisigaranye v. Burundi* (CAT/C/62/D/493/2012 and CAT/C/62/D/493/2012/Corr.1), para. 7; and *Ntikarahera v. Burundi* (CAT/C/52/D/503/2012), para. 4.

<sup>9</sup> In its reply of 11 August 2016 to the Committee's letter on reprisal of 5 August 2016, the State Party simply denied the allegation of reprisals, arguing that the complainants were the object of domestic criminal proceedings. The Committee's subsequent letters on reprisal of 12 August 2016 and 21 February 2017 remained unanswered. See the Committee's letters regarding the reprisals and the State Party's response, available at [https://tbinternet.ohchr.org/\\_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=1084&Lang=en](https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/SessionDetails1.aspx?SessionID=1084&Lang=en). See also Office of the United Nations High Commissioner for Human Rights, "Burundi torture review: UN experts concerned at reported reprisals", press release, 8 August 2016.

<sup>10</sup> See, inter alia, *N.N. v. Burundi* (CAT/C/74/D/795/2017), para. 6.1.

<sup>11</sup> CAT/C/55/2, para. 3.

<sup>12</sup> Ibid., para. 4.

<sup>13</sup> General Assembly resolution 68/268, para. 8.

<sup>14</sup> CAT/C/51/3, para. 4.

attend the interactive dialogue and the Committee's examination of the special report of Burundi requested under article 19 (1) of the Convention. However, the delegation of Burundi did not appear before the Committee at its meeting held on 29 July 2016 to continue the constructive dialogue and objected because, in its view, the dialogue centred on a report submitted by civil society to the Committee, but not to the Government of Burundi.<sup>15</sup> The Committee notes that, on the very same day – 29 July 2016, the public prosecutor at Bujumbura Court of Appeal requested the complainants' disbarment. The State Party has not offered any clarification as to the timing of the prosecutor's action, either in the context of the present communication or in response to the letters on reprisal sent by the Committee within the framework of the fifty-eighth session. In the absence of relevant information to the contrary from the State Party, the Committee considers that it has been sufficiently established that the prosecutor's action was undertaken in reprisal for the complainants' involvement with the Committee's fifty-eighth session.

8.5 The Committee further notes that – although the Burundian Bar Association initially denied the prosecutor's request to disbar the complainants on the grounds that it would be contrary to the presumption of innocence to disbar the complainants on the basis of criminal allegations that had not been communicated to them, had not been considered by the relevant authorities and had not been decided upon – the Bar's decision was overturned by Bujumbura Court of Appeal. As to the proceedings before the Court of Appeal, the Committee notes the complainants' statements that the presence of their representatives was denied by the court and that the court's decision was never communicated to them so as to enable them to pursue further judicial remedies in Burundi or bring a case before the East African Court of Justice.

8.6 Lastly, the Committee recalls its concluding observations regarding the second periodic report of Burundi, adopted in 2016, and the concluding observations regarding the third periodic report of Burundi, adopted in 2023, in which it urged the State Party to put an end to all reprisals against the complainants.<sup>16</sup> The Committee notes that, in both sets of concluding observations, the Committee considered that the disbarment of the complainants and the criminal conviction of Armel Niyongere, Dieudonné Bashirahishize and Vital Nshimirimana could constitute reprisals against the four lawyers for providing it with information for its review of the special report of Burundi.<sup>17</sup>

8.7 On the basis of the above, and in the light of the material before it, the Committee considers that the State Party has failed to fulfil its responsibility under article 13 of the Convention to refrain from reprisals against individuals who have cooperated with the Committee.

9. The Committee, acting under article 22 (7) of the Convention, concludes that the facts before it reveal a violation by the State Party of article 13 of the Convention.

10. The Committee deeply regrets that the State Party has failed to respond to its request to comment on the merits of the present communication and to its previous reprisal letters sent within the framework of the complainants' participation in the Committee's fifty-eighth session, thereby impeding the Committee from considering the case and resolving the issues raised in the communication under the Convention. As the State Party has failed to respond to the Committee's requests for substantive observations on the merits and to two reprisal letters, thereby refusing to cooperate with it and preventing it from effectively considering the elements of the complaint, the Committee, acting under article 22 (7) of the Convention, is of the view that the State Party's refusal to cooperate with it also constitutes a violation by the State Party of article 22 (3) of the Convention. The Committee remains deeply concerned about the State Party's failure to cooperate with the individual complaints procedure<sup>18</sup>

<sup>15</sup> CAT/C/BDI/CO/2/Add.1, para. 6.

<sup>16</sup> CAT/C/BDI/CO/2/Add.1, para. 34; and CAT/C/BDI/CO/3, para. 21 (e).

<sup>17</sup> CAT/C/BDI/CO/3, para. 20.

<sup>18</sup> CAT/C/BDI/CO/3, para. 47. See also *Ndarisigaranye v. Burundi*, para. 7; *Ndagijimana v. Burundi*, para. 7; *Ntikarahera v. Burundi*, para. 4; *O.N. v. Burundi* (CAT/C/71/D/843/2017), para. 4; *R.M. v. Burundi* (CAT/C/72/D/793/2017), para. 4; *M.D. v. Burundi* (CAT/C/73/D/921/2019), para. 4; and *Ndayirukiye v. Burundi* (CAT/C/73/D/952/2019), para. 7.

and urges the State Party to re-establish full dialogue and cooperation with the Committee in the examination of individual communications.<sup>19</sup>

11. The Committee urges the State Party: (a) to restore the complainants' law licences, reverse any bans imposed and restore their property rights; (b) to provide the complainants with appropriate redress, including compensation for material and non-material damages, restitution, rehabilitation, satisfaction and guarantees of non-repetition; and (c) to ensure that no similar violations occur in the future.

12. Pursuant to rule 118 (5) of its rules of procedure, the Committee invites the State Party to inform it, within 90 days of the date of transmittal of the present decision, of the steps it has taken to respond to the above observations.

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<sup>19</sup> [CAT/C/BDI/CO/3](#), para. 48. See also *Nshimirimana v. Burundi* ([CAT/C/79/D/1039/2020](#)), para. 10.

## Annex

### Individual opinion of Committee member Todd Buchwald (concurring)

1. I concur with this decision but write separately to underscore one point: that whatever questions one may have about whether article 13 of the Convention covers the kind of reprisals alleged to have been undertaken in this case, there is no question that such reprisals nevertheless constitute violations of the Convention.

2. In the present communication, the State Party argued that the Committee should find the case inadmissible because it falls outside article 13 of the Convention. Article 13 provides:

“Each State Party shall ensure that any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities. Steps shall be taken to ensure that the complainant and witnesses are protected against all ill-treatment or intimidation as a consequence of his complaint or any evidence given.”

3. In the view of the State Party, the Committee should have found the communication inadmissible because none of the claimants in fact even claim to have been tortured and, in the State Party’s view, it therefore falls outside the terms of article 13 (see para. 4.3 of the Committee’s decision). As an extension of this argument, it might plausibly be contended that the “right to complain” – addressed in first sentence of article 13 – refers only to the right to complain to the domestic authorities of the State Party, and has nothing to do with any right a person might have to bring information or views to the attention of the Committee in connection with the consideration of State Party reports under article 19 of the Convention. Under this argument, an individual’s right to be protected from reprisals under the second sentence of article 13 extends only to reprisals imposed “as a consequence of his complaint” – meaning his complaint to domestic authorities – or as a consequence of his or her giving evidence in connection with a complaint to domestic authorities. The bottom line of the argument is that article 13 simply does not apply to reprisals against persons for information or views that they provide to the Committee in connection with the review process under article 19 of the Convention.

4. On its face, such an argument overlooks a broader understanding of article 13 dating back many years.<sup>1</sup> My point here, however, is that – even if one accepted *arguendo* this narrow reading of article 13 – reprisals like those alleged to have occurred in this case would still violate the Convention. First, any such reprisals against persons for providing – or seeking to provide – information and views to the Committee compromise the Committee’s ability to assess the situation in the State Party and to carry out its mandate under article 19 of the Convention. A State Party that engages in such reprisals thus acts fundamentally inconsistently with its obligation under international law to cooperate in good faith with the Committee in the implementation of the Convention.<sup>2</sup> Second, such reprisals are inconsistent with – indeed they are the exact opposite of – the fundamental obligations of States Parties under articles 2 and 16 to take effective measures to prevent acts of torture or ill-treatment and indeed can serve to frustrate the objective of preventing torture and ill-treatment. Third, the imposition of such reprisals against persons because they have provided information or

<sup>1</sup> See, e.g., statement of the Committee on reprisals ([CAT/C/51/3](#)), paras. 3–5; and [CAT/C/55/2](#), paras. 3–5.

<sup>2</sup> Vienna Convention on the Law of Treaties, art. 26 (“Every treaty in force is binding upon the parties to it and must be performed by them in good faith”); and guidelines against Intimidation or Reprisals (San José Guidelines), para. 2.

views to the Committee itself constitutes a form of ill-treatment, as the Committee has previously pointed out.<sup>3</sup>

5. The Committee has long emphasized – and rightly so – that protection of individuals and organizations from the risk of reprisals is indispensable for the Committee’s ability to carry out its work effectively. Thus, the very premise of the San José Guidelines is that the free engagement of individuals and groups with the treaty bodies is critical to their efficiency and effectiveness.<sup>4</sup> It is equally true that all persons have the right to have unhindered access to and to communicate with the human rights treaty bodies, without any fear of intimidation or reprisal.<sup>5</sup> The risk of reprisals is a scourge against which the Committee must remain diligent, and any technical arguments about the nature or scope of article 13 should not be allowed to obscure that fact.

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<sup>3</sup> [CAT/C/55/2](#), para. 4.

<sup>4</sup> San José Guidelines, preamble; see also [HRI/MC/2025/2](#), para. 2 (“Civil society organizations and victims bring information and testimonies that are indispensable to the work of the treaty bodies and that allow the latter to carry out their work on the basis of an overall view of the situations concerned, the specific country context and what is at stake”).

<sup>5</sup> San José Guidelines, para. 5.