

**THE 2024 EUGENE SCASSA MOCK OAS PROGRAM INTER-AMERICAN COURT
OF HUMAN RIGHTS MOOT COURT COMPETITION**

IN THE INTER-AMERICAN COURT OF HUMAN RIGHTS

April 2024

GERALDO KARLSSON, PETITIONER

Petitioner

v.

“THE REPUBLIC OF NOTUSA”

State

MEMORIAL FOR THE PETITIONER

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STATEMENT OF FACTS

The Republic of Notusa is an independent unitary republic in North America and has a population of around 225 million in a surface area of 2.5 million square miles.¹ Notusa has had a pluralistic origin of Spanish, Dutch, and German colonists in the middle Sixteenth Century. Following its independence from Germany in 1704, it has grown in size and influence, handling the defense of much of its region. However, it has maintained a tense relationship with Notexico for the past two centuries.² This tension has largely been due to major cultural differences, as well as territorial annexations by Notusa during the Regional War of 1889. Southern Notusa has also been the site of Notexican terrorist attacks, one of which included an attack using ricin and other biological agents in 2020.³

The petitioner, Geraldo Karlsson, has had a storied background as a investigative journalist, originally working in the national public radio arena. He is well known for his hard-hitting investigative journalism, tackling corruption - winning nearly every honor and award in the industry for his efforts.⁴ Following his retirement from national public radio however, Karlsson has taken more of a fringe political standing – hosting a new syndicated radio show in November 2021, “Fighting for the Truth.” The show has developed a loyal following from the far-right National Right to Freedom Party. Additionally, while he has not called directly for an armed rebellion, he has questioned the integrity of the Notusan government.⁵ Because of claims of irresponsible treatment of facts or sparking of civil unrest by the use of inflammatory

¹Hypothetical ¶ I.1

² Ibid. ¶ I.2

³ Ibid. ¶ I.5, V.3

⁴ Ibid. ¶ II.1

⁵ Ibid. ¶ II.2

language, the Notusan National Communications Conference has given Mr. Karlsson several warnings. However, prior to January 12, 2022, Karlsson had not been fined.⁶

On December 15, 2021, Mr. Karlsson began his show with a “call to arms” to expose government secrets on alien technology at the top-secret Notusan research facility, The Verboten Funfzig. This area is under 24-hour surveillance and surrounded by layers of fences, razor wire, alarm systems, and armed soldiers.⁷ During following episodes of “Fighting for the Truth,” Karlsson announced that he had received information from an anonymous, respected government official who worked in the facility and claimed that it researched biological agents from alien DNA. Mr. Karlsson then encouraged a demonstration in front of The Verboten Funfzig on January 5th, 2022, where he would meet them and demand answers about alien conspiracies and do whatever was necessary to hold the government accountable.⁸

9,000 people arrived at The Verboten Funfzig on January 5th, and many brought concealed weapons and signs referencing the show. However, Karlsson did not appear at the protest – broadcasting live from a nearby hotel. This news sent some members of the crowd into a riot, with many of the armed members of the crowd overwhelming the guards, and eventually reaching the central laboratory facility at the Verboten Funfzig. In the chaos, three members of the crowd and one military policeman were killed by gunfire, and two citizens died by trampling. After ransacking the contents of the facility, several containers of a weaponized versions of a virus similar to the Bolivian hemorrhagic fever were compromised, infecting at least ten, and killing nine within a week of exposure. Additionally, at least two containers remain missing.⁹

⁶ Ibid. ¶ II.3

⁷ Ibid. ¶ III.1

⁸ Ibid. ¶ III.2

⁹ Ibid. ¶ III.3

In response to the revelation of Notusa’s research on the secret biological agent, there was a significant outcry from the international community as Notusa had violated the United Nations Biological Weapons Convention.¹⁰ While Notusa claimed that their research started because of the terrorist attack in 2020, the IACHR found that the research began in 2016.¹¹

On January 12th of the same year, Mr. Karlsson was arrested by the Notusan Federal Police, and was charged with First Degree Sedition and Treason. The National Prosecutor charged him on the basis that he “willingly provided inaccurate information” about conspiracies that led to the loss of life and destabilization of national defense initiatives.¹² Additionally, four families of victims brought civil suits against Mr. Karlsson and the radio network that carries “Fighting for the Truth.” While two cases are still pending in civil court, Karlsson and the network settled the other two out of court by agreeing to pay a total of \$2 million in damages to the two families.¹³ On February 20th of 2022, Mr. Karlsson was convicted of seditious acts and sentenced to a maximum of twenty years in a federal penitentiary.¹⁴ Two appeals were filed in March 2022 and in October 2022. However, both appeals were rejected by the Notusan Supreme Court because there was no evidence to support a possible overturning of the original conviction.¹⁵ On January 8th of 2023, Karlsson filed an individual petition before the Inter-American Commission on Human Rights (IACHR) asserting that the Republic of Notusa was in violation of Articles 5.3, 5.6, 7.6, Article 13, 15, 16, and Article 22 of the American Convention on Human Rights.¹⁶ The State objected by claiming that this was an internal matter, and that Mr. Karlsson was in violation of Article 13.2 and Article 28 of the American Convention on Human

¹⁰ Ibid. ¶ IV.1

¹¹ Ibid. ¶ V.4.iii

¹² Ibid. ¶ IV.3

¹³ Ibid. ¶ IV.5

¹⁴ Ibid. ¶ IV.6

¹⁵ Ibid. ¶ IV.7

¹⁶ Ibid. ¶ V.1

Rights.¹⁷ In light of this response, the Inter-American Commission issued a report, requesting the State to reduce Karlsson's sentence, and to cooperate with the United Nations Biological Weapons Convention. However, since Notusa refused to implement these recommendations, the case was submitted to the IACHR, alleging the same violations.¹⁸

¹⁷ Ibid. ¶ V.3

¹⁸ Ibid. ¶ V.4-5

LEGAL ANALYSIS

I. ADMISSABILITY

A. Statement of Jurisdiction

Notusa was a founding member of the Organization of American States (OAS) in 1945 and has recognized the jurisdiction of the Inter-American Court of Human Rights (IACHR) since 1988.¹⁹ Additionally, Notusa signed the American Convention on Human Rights in 1969 and ratified the Biological Weapons Convention in 2002.²⁰

B. Exhaustion of Remedies

Mr. Karlsson filed appeals to the Notusan Supreme Court in both March 2022 and October 2022. However, these appeals were rejected due to “no new evidence to support a possible overturning of the original conviction.”²¹

II. ALLEGED VIOLATIONS

A. American Convention on Human Rights

Pursuant to the American Convention on Human Rights, Mr. Karlsson has found that the Republic of Notusa has breached Articles 5.3, 5.6, 7.6, 13, 15, 16, and 22 by convicting him of seditious acts and imprisoning him for a maximum of 20 years.

¹⁹ Ibid ¶ VI.2-3

²⁰ Ibid ¶ 6.1-3

²¹ Ibid ¶ 4.7

III. ARGUMENTS ON THE MERITS

A. Article 5.3: Punishment shall not be extended to any person other than the criminal.

Mr. Karlsson was not present at the raid at The Verboten Funfzig. Mr. Karlsson did not storm the gates of The Verboten Funfzig. Mr. Karlsson was not among the many who breached into the innermost recesses of the Verboten Funfzig, and while there, release the containers of the illicit virus being researched upon the crowd. Despite this, Karlsson bears the lengthiest sentence for such crimes, of which he committed none. As will be covered in Articles 13, 15, and 16 – Karlsson made every effort to maintain the lawfulness of the assembly, despite occasional incendiary language. Since Karlsson did not participate, aid, or incite this rally-turned-riot, Karlsson should not have to pay for the crimes that he did not commit.

B. Article 5.6: Punishments consisting of deprivation of liberty shall have as an essential aim the reform and social readaptation of the prisoners.

The punishment imposed upon Mr. Karlsson by Notusan courts did not aim to reform Mr. Karlsson. By sentencing him to a maximum of 20 years, there is likely very little chance that Karlsson would be able to return to work as a major investigative journalist as an 82-year-old. Additionally, their rulings made no reference to his broadcasting or the radio company of which he is a majority stakeholder of. If there was an attempt by the Notusan government to mend perceived ills by Mr. Karlsson, there should have been an effort made to address his broadcasting rights, or media ethics. However, as it stands, Notusa's sentencing of Geraldo Karlsson is a purely punitive measure with no effort to reform or socially readapt him.

C. Article 7.6: Entitlement to recourse to a competent court

Among the main arguments that the State has made against this case is that it is out of the court's jurisdiction. This is supported by their claim that this is just a third instance of appeal.²² However, the IACHR has proven to have an extensive history in ruling in similar cases. This can be seen in cases such as *Baena Ricardo et al. v. Panama*, where 270 government employees were accused of being complicit in perpetuating a military coup and ruled on Articles 15 and 16.²³ Next, in *Granier et al. (Radio Caracas Television) v. Venezuela*, where RCTV was suspended from operations due to bringing publicity to a coup against Hugo Chavez.²⁴ Finally, *Norín Catrimán et al. (Leaders, Members and Activist of the Mapuche Indigenous People) v. Chile* was a case where members of the Mapuche group started a number of demonstrations against the encroachment and misuse of their land. However, a number of protests began to get out of control leading to lawless action. In reaction, certain Mapuche leaders due to alleged connections with these actions.²⁵ In all of these cases, the Court ruled in favor of the petitioner. In connection with all of these rulings, Mr. Karlsson should be given this same right to a competent court.

D. Article 13: Freedom of Thought and Expression

Mr. Karlsson's Article 13 rights were among the most severely abridged by Notusa as a result of the January 5th incident. Karlsson has had a long history of exposing government corruption, and as such, has drawn the ire of the Notusan government far before the events of Jan. 5. Despite his more emotional language on niche topics, he

²² Hypothetical ¶ V.4-5

²³ *Baena Ricardo et al. v. Panama* (2001).

²⁴ *Granier et al. (Radio Caracas Television) v. Venezuela* (2015).

²⁵ *Norín Catrimán et al. (Leaders, Members and Activist of the Mapuche Indigenous People) v. Chile* (2014).

had every right to disseminate information via his entertainment focused radio show. Court cases from other American countries such as the United States have ruled on similar issues, and could support Karlsson's right to speak, even in the case of the words in both of his announcements.

E. Article 15: Right of Assembly

By way of this article, Mr. Karlsson had the right to call for a peaceable assembly. Even though incendiary speech was used during his broadcast, he made every effort to warn the potential protestors not to commit any lawless action by both his own words and by way of the radio station. In this case, it would seem that the encouragement to lawfully protest far outweighs any speech which could be misconstrued as advocating for lawless action.

F. Article 16: Freedom of Association

Karlsson's freedom of association is also being tested in this case, as he is being convicted for the lawless action of protestors who had no direct orders from him, and who committed illegal actions. The IACHR has released a report in 2023 in Karlsson's favor in which states that, "The State has a duty to respect, protect, facilitate, and enable social protest, considering that the fact that some people engage in acts of violence during a protest does not in itself make the whole protest illegitimate or justify moves by law enforcement forces to dissolve that protest using force. When certain individuals engage in acts of violence during a protest, they must be identified, but the right to peaceful assembly of all other protesters must be enforced."²⁶ Even though he was connected to the violent protestors, Karlsson made

²⁶ IACHR Press Release "The IACHR and Its Special Rapporteurship for Freedom of Expression Call on the State of Panama to Protect the Right to Peaceful Protest" No. 261/23

every attempt to remain lawful and peaceful, and thus he should not be convicted of the crime that the other lawless protestors perpetrated.

G. Article 22: Freedom of Movement and Residence

Karlsson had no obligation to present himself in person at the Jan. 5 rally. While he did mention that he would be reporting live, he never mentioned that he would be marching alongside the other protestors.²⁷ Article 22 supports Karlsson in that despite being the main journalistic leader connected to the Jan 5. protestors, he had no obligation to be personally present at any location other than his hotel room.

²⁷ Hypothetical ¶ VII.2

REQUEST FOR RELIEF

For the above stated reasons, the petitioner respectfully asks that the Court:

I. Find the Republic of Notusa in violation of Articles 5.3, 5.6, 7.6, 13, 15, 16, and 22 in relation to Article 1.1 of the American Convention on Human Rights.

II. Acquit Mr. Karlsson of all charges.

III. Require the Republic of Notusa to cooperate more fully with the United Nations Biological Weapons Convention, primarily through decommissioning portions of The Verboten Funfzig designated as a biochemical weapons laboratory or storage facility.