**THE 2023 EUGENE SCASSA MOCK OAS PROGRAM INTER-AMERICAN COURT OF HUMAN RIGHTS MOOT COURT COMPETITION**

**IN THE INTER-AMERICAN COURT OF HUMAN RIGHTS**

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**April 2024**

**“GERALDO KARLSSON”**

*Petitioner*

**v.**

**“THE REPUBLIC OF NOTUSA”**

*State*

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**MEMORIAL FOR THE PETITIONER**

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**STATEMENT OF FACTS**

Located in North America, the Republic of Notusa stands as a significant force, boasting a population of around 225 million and an expansive territory spanning approximately 2.5 million mi². Notusa has a strong central government and a bicameral legislature. Additionally, Notusa is a member of NATO, the UN, and a founding member of the OAS. It is a global leader in science and technology and maintains significant political influence. For example, Its geopolitical importance is underscored by its shared borders with Notamala, Notanada, and Notexico, along with access to the Caribbean Sea, the Atlantic Ocean, and the Pacific Ocean.

There are no interviews that suggest riots were pre-planned regardless of Karlsson. The crowd definitely became more agitated because of his failure to appear, which led to increased tension between security and the crowd. Without Karlsson’s presence, ot her, less diplomatic crowd members took over speaking and leadership duties, which certainly also led to the confrontation. It is impossible, however, to determine the crowd’s collective intent before the riot.

At the heart of our narrative lies Geraldo Karlsson, a luminary in investigative journalism, celebrated for his incisive coverage of political malfeasance and a respected voice in the arena of political journalism, winning nearly every honor and award in the industry. For example, “he is especially known for hard-hitting investigative reporting on government waste and campaign corruption.” Nevertheless, “in retirement from the national public arena, Karlsson became the host of a radio show named, “*Fighting for the Truth,”* which garnered a large following.” Yet, it is paramount to note that “Karlsson’s radio station is keenly aware of his cult following*—*the listener base is the primary reason Karlsson was brought onto the station and the reason the show *“Fighting for the Truth”* became so popular.” For example, “after its debut in 2021, when the show was only carried on station Radio Five (based in Nopus Christi, Notusa), listenership grew exponentially.” Moreover, “by 2022, *“Fighting for the Truth”*became a syndicated program owned by a production company headed by a Board of Directors that includes Karlsson, original radio station owner Marius Bardo, and several members of the National Right to Freedom Party (NRFP), a political action committee that Karlsson endorses.”

As a result of Mr. Karlsson’s repeated radio hosting successes, underpinned largely by an impressively robust stream of consistent listeners that continued growing in popularity, “the syndicated program, he co-owns, brought in significant advertising income for local stations carrying it (and there are now dozens of local stations carrying the show).” However, it is also paramount to note that “a considerable portion of the income brought in by the production company is donated back to the NRFP to support candidates in local elections.” Additionally, holding equal or even superior importance to the aforementioned, clarification is warranted and is ungrudgingly and enthusiastically provided that, “the NRFP is a staunch opponent of the policies of the current administration” and Mr. Karlsson associates with them.

Moreover, “Mr. Karlsson has a long history of rallying support for various political and often anti-government causes; for example, his tenure as a respected international and human rights reporter early in his career has leant credibility to his more outlandish and “shock” reporting later in his career.” “He has also spoken at rallies of several thousand people, and his remote broadcasts often draw large crowds” However, it is important to note that “occurrences of public intoxication or disturbing the peace are not uncommon to be found at these events, but no violence on the scale seen on January 5, 2022 has occurred before.”( 11a hyp) all

Still, “during his time hosting “Fighting for the Truth,” Mr. Karlsson has received several warnings from the government through the National Communications Conference, the ruling body over broadcasting in Notusa.” Thus, the warnings have essentially been threats to fine or revoke the broadcasting license for “Fighting for the Truth” because of its “irresponsible and misleading treatment of facts” and its potential for “causing civil unrest based on inflammatory and false information presented as fact; yet prior to January 12, 2022, no fines or penalties have been assessed.”

On a fateful December 15, 2021, broadcast, Karlsson delved into the enigma surrounding The Verboten Funfzig, a secretive government facility rumored to harbor alien technology. “Mr. Karlsson began the show with a “call to arms,” as part of a larger publicity campaign in which he promised to “blow the lid off the conspiracy of government knowledge about alien technology”; yet, with each subsequent broadcast, Karlsson’s rhetoric intensified, morphing into a call to action for listeners to converge on The Verboten Funfzig on January 5, 2022, in a bid to unveil the truth concealed by the government's veil of secrecy.

However, Mr. Karlsson clearly states, “now I’m not advocating for violence or anything illegal.”(vII appendix ). Additionally, Mr. Karlsson, after the closing theme music played for his radio show, he provided the entirety of his listeners with the following disclaimer: “The views expressed on this show are those of the host and guests, and do not reflect the views of the station or its owners.” “Breaking into government facilities is illegal, and dangerous, so this station encourages its listeners to use critical thinking and research before taking any action.” “Hence, “Fighting for the Truth” is informational and entertainment programming.”

The events of January 5 unfolded into chaos as thousands congregated at The Verboten Funfzig gates,9,000 as requested, driven by Mr. Karlsson's impassioned opinions. Conversely, “there are no interviews that suggest riots were pre-planned regardless of Karlsson.” Furthermore, “the crowd definitely became more agitated because of his failure to appear, which led to increased tension between security and the crowd.” Therefore, “without Karlsson’s presence, other, less diplomatic crowd members took over speaking and leadership duties, which certainly also led to the confrontation.” Unfortunately, “it is impossible, however, to determine the crowd’s collective intent before the riot.”(12a)

In the ensuing fracas, breaches in security, led to casualties and the revelation of a weaponized virus stored within the facility, triggering international condemnation and UN sanctions. Subsequently, legal ramifications swiftly followed, with Karlsson arrested on first degree Sedition and Treason charges for his role in inciting the riot. Despite mounting a defense that portrayed his actions as an attempt to expose government malfeasance, Karlsson was convicted of Seditious Acts and sentenced to twenty years in prison.

In parallel, civil suits were filed against Karlsson and his network, resulting in a settlement incurring Mr. Karlsson two million in U.S. dollars given to one family, while others opted to pursue litigation.

# **LEGAL ANALYSIS**

## **I.** **Admissibility**

### *1.1 Statement of Jurisdiction*

The Republic of Notusa, in 1948, became a founding member of the Organization of American States (OAS) and has ratified several human rights and international humanitarian law treaties, including: the American Convention on Human Rights (adopted in 1969 and entered into force in 1970); the Geneva Conventions (since 1949), as well as the three additional protocols of 1977 and 2005; the Biological Weapons Convention (2002) and has recognized the jurisdiction of the Inter-American Court of Human Rights since 1988.

*1.2 Exhaustion of Domestic Remedies*

**Exhaustion of Remedies**

In the months following his February 20th conviction, Mr. Karlsson has proceeded to appeal his case on two separate occasions: successfully filing his first appeal in March of 2022 and his second in October of 2022. However, both of Mr. Karlsson’s filed appeal attempts were rejected and ultimately unheard by the Notusan Supreme Court on the grounds that there was no new evidence to overturn his original conviction.[[1]](#footnote-1) On January 8, 2023, Mr. Karlsson filed an individual petition before the Inter-American Commission of Human Rights (IACHR), claiming that the government of Notusa had violated numerous rights specified in the American Convention on Human Rights (ACHR).[[2]](#footnote-2) The petition was received by the IACHR and began formal processing on January 15, 2023; subsequently, the IACHR stipulated that the Republic of Notusa was allowed a period of 45 days to submit a formal response on the merits of the case.[[3]](#footnote-3) After the State’s reply, on June 8, 2023, the IACHR compiled and issued a report of the merits of the case, including recommendations for the Republic of Notusa to implement. These recommendations included: the reduction of Mr. Karlsson’s sentence to no more than five years, the revocation of his broadcasting license, the decommissioning of biochemical weapon laboratories and storage facilities at Verboten Funfzig, and to further cooperate with the United Nations regarding potential violations of the Biochemical Weapons Convention (BWC).[[4]](#footnote-4) Nevertheless, Notusa proceeded to blatantly disregarded the recommendations made by the American Convention of Human Rights, failing to implement a single recommendation that was posited by the Commission. Therefore, due to the Republic of Notusa refusing to implement any of the recommendations mentioned above, the successful completion of the requirements and the Rules of Procedure of the Commission, and the expiration of the deadline set forth in the American Convention, the case was submitted to the Inter-American Court of Human Rights for adjudication on October 15, 2023.[[5]](#footnote-5)

## **II.** **Violations**

### *American Convention on Human Rights*

The Petitioner asserts that the Republic of Notusa was in violation of the American Convention on Human Rights, Articles 5.3, 7.6, 13, 15, 16. Additionally, in accordance to the report on the merits of the case compiled by the IACHR, the commission alleged that there was evidence that possible violations of articles 13, 15, and 16 of the American Convention on Human Rights (ACHR) occurred, but withheld commenting on any of the remaining Articles. [[6]](#footnote-6)

*2.2 American Declaration on the Rights and Duties of Man*

The Petitioner asserts that the Republic of Notusa was in violation of the American Declaration on the Rights and Duties of Man, Articles IV, X, XXI, XXII.

# **III.** **ARGUMENTS ON THE MERITS**

### *3.3 American Convention on Human Rights*

*a. Article 13.1 Freedom of Thought and Expression.*

Article 13.1 asserts the following: “everyone has the right to freedom of thought and expression.” “This right includes freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one’s choice.” However, (II 3) Mr. Geraldo Karlsson’s freedom of thought and expression was not only threated by the Republic of Notusa but was taken away from him in totality by receiving a twenty-year prison sentence for merely exercising his human rights. For example, “during his time hosting “*Fighting for the Truth*,” Mr. Karlsson has received several warnings from the government through the National Communications Conference, the ruling body over broadcasting in Notusa.” However, “the warnings have essentially been threats to fine or revoke the broadcasting license for “*Fighting for the Truth*” because of its “irresponsible and misleading treatment of facts” and its potential for “causing civil unrest based on inflammatory and false information presented as fact”. Yet, “prior to January 12, 2022, no fines or penalties have been assessed.”(II 3 Gerlrdo karlsson).

*3.3a. American Declaration on the Rights and Duties of Man*

*a.1. Article IV. Right to freedom of investigation, opinion, expression, and dissemination.*

The American Declaration on the Rights and Duties of Man asserts that “all men are born free and equal, in dignity and in rights, and, being endowed by nature with reason and conscience, they should conduct themselves as brothers one to another.” “The fulfillment of duty by each individual is a prerequisite to the rights of all. Rights and duties are interrelated in every social and political activity of man. While rights exalt individual liberty, duties express the dignity of that liberty.” “Duties of a juridical nature presuppose others of a moral nature which support them in principle and constitute their basis.” … “Since culture is the highest social and historical expression of that spiritual development, it is the duty of man to preserve, practice and foster culture by every means within his power.” “And, since moral conduct constitutes the noblest flowering of culture, it is the duty of every man always to hold it in high respect.”

Therefore, in accordance with Article IV, which states, “every person has the right to freedom of investigation, of opinion, and of the expression and dissemination of ideas, by any medium whatsoever,” The Republic of Notusa violated Mr. Karlson’s Rights and Duties of Man by not allowing Mr. Karlsson his human right to express his opinion and disseminate it through whichever medium he saw fit, by subjecting Mr. Karlson to the threat of fine or radio license revocation. As a result, Mr. Karlsson was unable to attend the January 5, 2022 democratically organized protest out fear for his safety; specifically, due to the fact that Mr. Karlson had been threatened by the Republic of Notusa, subject to prior and indirect censorship by threat, “effectively felt it was appropriate to broadcast from a safer and more secure location during the event.”(6a) However, ultimately, Mr. Karlsson did not make an appearance at the January 5, 2022 democratic protest he had planned.

*b. Article 13.2 Freedom of Thought and Expression.*

Nevertheless, the mere fact that the Republic of Notusa issued “several” “warnings” and “Censures” to Mr. Karlson is a violation of Article 13.2. Thus, Article 13.2 states, “the exercise of the right provided for in the foregoing paragraph shall not be subject to prior censorship but shall be subject to subsequent imposition of liability, which shall be expressly established by law to the extent necessary to ensure:

a. respect for the rights or reputations of others; or

b. the protection of national security, public order, or public health or morals.”

So, Mr. Karlsson was indeed subject to prior censorship by the Republic of Notusa regarding the several “warnings”, “censures”, and “threats” levied by them, even though they were never implemented; thus, the Republic of Notusa has violated Mr. Karlsson’s article 13.2 human right of thought and expression.

*c. Article 13.3 Freedom of Thought and Expression.*

In persistence, Mr. Karlsson’s Article 13.3 human right was also violated by the Republic of Notusa. Article 13.3 states, “the right of expression may not be restricted by indirect methods or means, such as the abuse of government or private controls over newsprint, radio broadcasting frequencies, or equipment used in the dissemination of information, or by any other means tending to impede the communication and circulation of ideas and opinions”. Therefore, by the Republic of Notusa warning and threating the imposition of a fine and the revocation of Mr. Karlsson’s radio broadcasting license by citing reasoning such as: “irresponsible and misleading treatment of facts” and its potential for “causing civil unrest based on inflammatory and false information presented as fact”, the Republic of Notusa utilized indirect methods to try and prevent Mr. Karlsson from his human right of expression and is guiltily of violating Article 13.3 (II 3)

*3.3b. American Declaration on the Rights and Duties of Man*

*a.2. Article X. Right to Right to the inviolability and transmission of correspondence.*

In accordance with article X of the American Declaration on the Rights and Duties of Man, which states, “Every person has the right to the inviolability and transmission of his correspondence.” Therefore, due to Articles 13.2 and 13.3 being violating by the Republic of Notusa, Mr. Karlsson’s right and duty of man become violated in Article X. For example, due to his right to inviolability and transmission of his correspondence, Mr. Karlsson should not be the subject by either threat of fine, revocation of radio broadcast license, or threat of right to expression and correspondence created an environment adverse to Mr. Karlsson’s rights unacknowledging and breaching Article X. Moreover, an example of Mr. Karlsson’s actions would be that he entered into a detailed correspondence with audience ( act of sending receiving communications), yet was threaten for his actions.

*d. Article 13.4 Freedom of Thought and Expression.*

In continuation, due to Mr. Karlsson being subject to prior indirect method or subject to prior means of censorship by the Republic of Notusa, by proxy designation, the Republic of Notusa has classified Mr. Karlsson and his subsequent talk show as “public entertainment”. Therefore, as designated as “public entertainment” by the Republic of Notusa, it can now be strongly implied that specifically the word “entertainment” holds meanings such as “to hold interest of an audience or captivate their imagination” by the usage of “dramatical elements”, “storytelling”, and “often produced for the sole purpose of “amusement” of other persons.

### *3.3 American Convention on Human Rights*

*a. Article 15 Right of Assembly*

When approaching and analyzing Article 15 for a potential violation it is paramount to directly ascertain how the Republic of Notusa deprived Mr. Karlson of his human rights. Thus, Article 15, which states, “The right of peaceful assembly, without arms, is recognized; “no restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and necessary in a democratic society in the interest of national security, public safety or public order, or to protect public health or morals or the rights or freedom of others”. So, when acknowledging that Mr. Karlsson was charged with Seditious Acts, it is important to closely analyze the Republic of Notusa’s Sedition law.

Firstly, Notusa Title 18 Chapter 115 Article 204- Seditious Conspiracy, “If two or more persons in Notusan territory or any place subject to its jurisdiction conspire to overthrow, put down, or destroy by force the Government of Notusa or levy war against it, or to oppose by force the authority thereof, or by force to prevent, hinder, or delay the execution of any national law, or by force to seize, take, or possess any property of Notusa contrary to the authority thereof, they shall each be fined under this title or imprisoned not more than twenty years.” Therefore, Mr. Karlsson clear stated that he does not advocate for violence or anything illegal specifying it on air. Furthermore, Mr. Karlsson attached a disclaimer at the end of his show educating his audience and urging them not to do anything violent or illegal for a second time. Lasty, given Mr. Karlsson radio show being designated as public entertainment further show the unserious and non-violent Mr. Karlsson’s claims really are.

Secondly, Notusa Title 18 Chapter 115 Article 205- Advocating Government Overthrow Whoever knowingly or willfully advocates, abets, advises, or teaches the duty, necessity, desirability, or propriety of overthrowing or destroying the government of Notusa or the government of any State, Territory, District or Possession thereof, or the government of any political subdivision therein, by force or violence, or by the assassination of any officer of any such government; or whoever, with intent to cause the overthrow or destruction of any such government, prints, publishes, edits, issues, circulates, sells, distributes, or publicly displays any written or printed matter advocating, advising, or teaching the duty, necessity, desirability, or propriety of overthrowing or destroying any government in Notusa by force or violence, or attempts to do so; or whoever organizes or helps or attempts to organize any society, group, or assembly of persons who teach, advocate, or encourage the overthrow or destruction of any such government by force or violence; or becomes or is a member of, or affiliates with, any such society, group, or assembly of persons, knowing the purposes thereof — shall be fined under this title or imprisoned not more than twenty.

Therefore, Mr. Karlson did not advocate for violence, however, he did organize a protest and it was just that. For example, Mr. Karlsson never advocates for violence, or government overthrown, and he even sates to his audience not to do anything illegal. Additionally, the above Notusan law is in violation of Mr. Karlsson’s human right to

### *3.3 American Convention on Human Rights*

*a. Article 16 Right of Association*

*This article states that every person has a right to association as follows: “Everyone has the right to associate freely for ideological, religious, political, economic, labor, social, cultural, sports, or other purposes.*

*2. The exercise of this right shall be subject only to such restrictions established by law as may be necessary in a democratic society, in the interest of national security, public safety or public order, or to protect public health or morals or the rights and freedoms of others.*

*3. The provisions of this article do not bar the imposition of legal restrictions, including even deprivation of the exercise of the right of association, on members of the armed forces and the police.*

Therefore, the republic of Notusa has asserted through it 418 sedition law that Mr. Karlsson human right to association is being violated and abused to prove sedition

*Request for relief*

*That the petitioner be absolved of all crimes, given 2 million dollars of lost funds, and radio license be reinstated*

x

### **3.1 American Convention on Human Rights**

#### **a. Article 5**

**Article 5. Right to Humane Treatment**

6. Punishments consisting of deprivation of liberty shall have as an essential aim the reform and social readaptation of the prisoners.

**Article 7. Right to Personal Liberty**

6.    Anyone who is deprived of his liberty shall be entitled to recourse to a competent court, in order that the court may decide without delay on the lawfulness of his arrest or detention and order his release if the arrest or detention is unlawful. In States Parties whose laws provide that anyone who believes himself to be threatened with deprivation of his liberty is entitled to recourse to a competent court in order that it may decide on the lawfulness of such threat, this remedy may not be restricted or abolished. The interested party or another person in his behalf is entitled to seek these remedies.

**Article 13. Freedom of Thought and Expression**

1.    Everyone has the right to freedom of thought and expression. This right includes freedom to seek, receive, and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing, in print, in the form of art, or through any other medium of one's choice.

2.    The exercise of the right provided for in the foregoing paragraph shall not be subject to prior censorship but shall be subject to subsequent imposition of liability, which shall be expressly established by law to the extent necessary to ensure:

a.    respect for the rights or reputations of others; or

b.    the protection of national security, public order, or public health or morals.

3.    The right of expression may not be restricted by indirect methods or means, such as the abuse of government or private controls over newsprint, radio broadcasting frequencies, or equipment used in the dissemination of information, or by any other means tending to impede the communication and circulation of ideas and opinions.

4.    Notwithstanding the provisions of paragraph 2 above, public entertainments may be subject by law to prior censorship for the sole purpose of regulating access to them for the moral protection of childhood and adolescence.

5.    Any propaganda for war and any advocacy of national, racial, or religious hatred that constitute incitements to lawless violence or to any other similar action against any person or group of persons on any grounds including those of race, color, religion, language, or national origin shall be considered as offenses punishable by law

**Article 15. Right of Assembly**

The right of peaceful assembly, without arms, is recognized. No restrictions may be placed on the exercise of this right other than those imposed in conformity with the law and necessary in a democratic society in the interest of national security, public safety or public order, or to protect public health or morals or the rights or freedom of others.

**Article 16. Freedom of Association**

1.    Everyone has the right to associate freely for ideological, religious, political, economic, labor, social, cultural, sports, or other purposes.

2.    The exercise of this right shall be subject only to such restrictions established by law as may be necessary in a democratic society, in the interest of national security, public safety or public order, or to protect public health or morals or the rights and freedoms of others.

3.    The provisions of this article do not bar the imposition of legal restrictions, including even deprivation of the exercise of the right of association, on members of the armed forces and the police.

**Article 22. Freedom of Movement and Residence**

1.    Every person lawfully in the territory of a State Party has the right to move about in it, and to reside in it subject to the provisions of the law.

2.    Every person has the right to leave any country freely, including his own.

3.    The exercise of the foregoing rights may be restricted only pursuant to a law to the extent necessary in a democratic society to prevent crime or to protect national security, public safety, public order, public morals, public health, or the rights or freedoms of others.

4.    The exercise of the rights recognized in paragraph 1 may also be restricted by law in designated zones for reasons of public interest.

5.    No one can be expelled from the territory of the state of which he is a national or be deprived of the right to enter it.

6.    An alien lawfully in the territory of a State Party to this Convention may be expelled from it only pursuant to a decision reached in accordance with law.

7.    Every person has the right to seek and be granted asylum in a foreign territory, in accordance with the legislation of the state and international conventions, in the event he is being pursued for political offenses or related common crimes.

8.    In no case may an alien be deported or returned to a country, regardless of whether or not it is his country of origin, if in that country his right to life or personal freedom is in danger of being violated because of his race, nationality, religion, social status, or political opinions.

9.    The collective expulsion of aliens is prohibited.

1. Hypothetical IV.7 [↑](#footnote-ref-1)
2. Hypothetical V.1 [↑](#footnote-ref-2)
3. Hypothetical V.2 [↑](#footnote-ref-3)
4. Hypothetical V.4 [↑](#footnote-ref-4)
5. Hypothetical V.5 [↑](#footnote-ref-5)
6. Clarification 23 [↑](#footnote-ref-6)