**THE 2024 EUGUENE 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 STATE**

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**STATEMENT OF FACTS**

The Republic of Notusa is an independent unitary republic in North America and is a dominant force in local and global politics and trade. Notusa shares land borders with Notamala, Notanada, and Notexico. Notusa won its independence from Germany in 1704 and since then, it has grown in both size and power. The Republic of Notusa maintains a strong government and uses a bicameral legislature. It has large influence over the world economically and politically, with being recognized as a global leader in science and technology. Notusa and Notexico have had a very unstable relationship over the past two centuries. Notusan citizens in the South are targeted by Notexican terrorist organizations due to the unstable Notexican government.[[1]](#footnote-1)

The petitioner Geraldo Karlsson is a long-tenured investigative journalist, originally in the public radio arena. Karlsson was once very well known for reporting news and investigations regarding the government such as waste and campaign corruption. However, after being picked up for a new syndicated radio show in November of 2021, his messages took an extreme tone as Mr. Karlsson began trading his reputation as a respectable journalist for that of an extreme, conspiratorial dissident, and he began calling into direct question the integrity of the Notusan government and its leaders.[[2]](#footnote-2) Mr. Karlsson was able to attract a large number of listeners because of his earlier work, and because of his reputation, made them susceptible to radicalization. On December 15, 2021, just a few short weeks after Mr. Karlsson took over his new position, he claimed to "blow the lid off the conspiracy of government knowledge about alien technology."[[3]](#footnote-3) He discussed in his reports the area known as The Verboten Funfzig, a Notusan top-secret government facility supervised by the Department of Security.[[4]](#footnote-4) Throughout the subsequent weeks, Mr. Karlsson continued radicalizing his audience, suggesting to “storm the gates…and uncover the truth…hiding behind those walls”[[5]](#footnote-5), “do whatever is necessary to hold the government accountable”[[6]](#footnote-6), and even outright stating “I’m issuing a call to action. It’s time for us to take matters into our own hands…We may even need to break in there by force.”[[7]](#footnote-7) This came to a head, when on January 5, 2022, over nine thousand of Mr. Karlsson’s radicals arrived at The Verboten Funfzig gates. Many of them were armed with concealed weapons, including but not limited semi-automatic firearms,[[8]](#footnote-8) and holding signs with slogans from Mr. Karlsson’s radio show. When it was clear that Mr. Karlsson did not show up, the armed radicals forced their way into the laboratory facility and ransacked the contents before reinforcements could arrive.[[9]](#footnote-9) In the process, a "military policeman was shot by a crowd member who is currently on trial for capital murder."[[10]](#footnote-10)

After this, an international community outcry began, calling UN sanctions against Notusa. As a result, in a reactionary move, on March 5, 2022, the UN General Assembly voted to condemn Notusa's "illegal" research activities.[[11]](#footnote-11) After a thorough investigation, Geraldo Karlsson was arrested by the Notusan Federal Police on January 12, 2022 for charges with First Degree Sedition.[[12]](#footnote-12) Karlsson obviously defended himself by stating that it was just for entertainment. Four families brought civil suits against Mr. Karlsson in regards to "Mr. Karlsson used his media platform irresponsibly and created a situation in which people could be harmed, and that this negligence resulted in the death and injury of others."[[13]](#footnote-13) On February 20, 2022, the sentencing of a maximum of twenty years in a federal penitentiary was placed on Mr. Karlsson and he was convicted of seditious acts. Two appeals were filed and rejected by the Notusan Supreme Court.[[14]](#footnote-14)

Mr. Karlsson filed an individual petition on January 8, 2023 before the Inter-American Commission on Human Rights ("the IACHR") asserting that the Republic of Notusa was in direct violation of Articles 5.3, 5.6, 7.6, 13, 15, 16, and 22 of the American Convention on Human Rights.[[15]](#footnote-15) An IACHR petition began processing on January 15, 2023, forwarding the pertinent parts to the Republic of Notusa and granting it forty-five days for the submission of its reply.[[16]](#footnote-16) On February 28, 2023, the Republic of Notusa filed its reply by objecting to the admissibility of the petition altogether.[[17]](#footnote-17) The Republic of Notusa claims that Mr. Karlsson violated Articles 13.2 and 28 of the American Convention on Human Rights.[[18]](#footnote-18) Notusa claims that the collection and research on biochemical agents dramatically increased after a terrorist attack by the Notexican organizations who were using unnamed biological agents.[[19]](#footnote-19) Two containers after the January 5th riot went missing, and intelligence reports claim that "a high likelihood that these samples are currently in the hands of the Notexican People's Liberation Front (NPLF)."[[20]](#footnote-20) A concern about the virus samples being at Verboten was raised, but Notusa claims "they were not used as weapons…, rather, the containment system was breached, and people were exposed to the biological agents as a result" and that in military purposes it was studied for "national defense," to make citizens less worried.[[21]](#footnote-21)

One June 8, 2023, the Inter-American Commission issued its report on admissibility and merits asking the State to implement its recommendations.[[22]](#footnote-22) These recommendations included, the reduction in the already generous sentence for Mr. Karlsson to no more than five years and to revoke his broadcasting license. They also bizarrely demanded that going forward, the Republic of Notusa would cooperate fully with the UN with reference to the alleged violation of the Biological Weapons Convention, and that the remaining biochemical “weapons,” laboratories, and storage facilities of The Verboten Funfzig be decommissioned. Finally, they suggested that because research had actually begun in 2016, and not in direct response to the terrorist attack of 2020, that the state’s arguments were invalid.[[23]](#footnote-23) The Republic of Notusa rightfully refused to implement these recommendations and therefore the case was submitted to the Inter-American Court of Human Rights (IACHR) for adjudication on October 15, 2023.[[24]](#footnote-24) The hearing date for this case is on April 19-20, 2024, which will be during an Extraordinary Session in Austin, TX, to hear the arguments between the petitioners and the state.[[25]](#footnote-25)

**LEGAL ANALYSIS**

1. **ADMISSIBILITY**
   1. **Statement of Jurisdiction**

Notusa is a member in good standing of the international community, the United Nations (UN), and holds seats on the Economic Commission for Latin America and the Caribbean (ECLAC). Notusa is a participating member of the North Atlantic Treaty Organization (NATO) and a founding member of the Pan American Union. It was also a founding member of the OAS in 1945.[[26]](#footnote-26) Several human rights and international humanitarian law treaties are ratified by Notusa, including but not limited to the American Convention on Human Rights (1969/1970), the Geneva Conventions (since 1949), the Biological Weapons Convention (2002) and has recognized the jurisdiction of the Inter-American Court of Human Rights since 1988.[[27]](#footnote-27) Therefore, Notusa is bound to abide by the American Convention on Human Rights and its court.

* 1. **Exhaustion of Remedies**

Two appeals were filed in March and October 2022, which were both eventually rejected by the Notusan Supreme Court. The court justified this decision by claiming that there was no new evidence to support a possible overturning of the original conviction.[[28]](#footnote-28)

1. **ARGUMENTS ON THE MERITS**
   1. **The State Did Not Violate Article 5**

The state did not violate Article 5.3, 5.6, and any of the subsequent sections of the American Convention on Human Rights. Article 5.3 states that "punishment shall not be extended to any person other than the criminal."[[29]](#footnote-29) The Republic of Notusa did not punish any persons with unreasonable measures. Mr. Geraldo Karlsson himself is a criminal because in his Radio Show "Fighting for the Truth," he says "We may even need to break in there by force....sometimes, the only way to uncover the truth is to take bold action....I'm calling for all listeners to gather up, gear up, and meet at the gates of The Verboten Funfzig."[[30]](#footnote-30) It should be noted that this language by itself does signal for violence. Breaking in by force, bold action, and gear up together indicates for the listeners to take up certain tools to take any necessary actions to storm the laboratory facility on the campus of The Verboten Funfzig. In addition, the armed rioters were "holding signs with slogans from the radio show." The argument of him not being there physically is not just nor enough to indicate that he did not partake in any of it. His words from his Radio Show indicate that he encourages any action to be taken to make sure the secrets are uncovered. Moreover, Mr. Karlsson himself is *directly* responsible for the rioters who showed up that day, as they were all inspired by his show.

His imprisonment was already justified; he broke multiple laws. And, given that Mr. Karlsson was charged with violating four distinct laws, three with a maximum of twenty years and one with a minimum of ten years and the possible penalty of death, the fact that it was twenty years is rather generous considering the possible length of time if sentences had to be served consecutively. The fact that the IACHR recommended 5 years is an absurd miscarriage of justice considering Mr. Karlsson violated multiple laws, incited an insurrection against the state, caused an outbreak of a disease that was being securely stored and studied for peaceful reasons, endangered national security on multiple levels, and whose words directly led to the deaths of multiple people. In addition, the state was in accordance to the Inter-American Convention to Prevent and Punish Torture, and Mr. Karlsson does not require a shortening of his sentence. This is because there is no "cruel, inhuman, or degrading treatment or punishment constitute an offense against human dignity" on him during his time in jail.[[31]](#footnote-31) The Republic of Notusa believes that justice has no age limit, and that it was already incredibly generous in its sentencing. To reduce it any further impedes on the state’s sovereignty is an affront to our already generous and fair judicial system.

* 1. **The State Did Not Violate Article 7**

The Republic of Notusa did not violate Article 7 of the American Convention on Human Rights. Article 7.4 states that "Anyone who is detained shall be informed of the reasons for his detention and shall be promptly notified of the charge or charges against him."[[32]](#footnote-32) The state did provide a logical reason to why charges are against Mr. Karlsson, which was for the violation of the First Degree Sedition. These include four distinct charges: treason, rebellion and insurrection, seditious conspiracy, and advocating government overthrow.[[33]](#footnote-33) Article 7.5 states that "Any person detained shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to be released without prejudice to the continuation of the proceedings. His release may be subject to guarantees to assure his appearance for trial."[[34]](#footnote-34) Geraldo Karlsson was brought before an officer authorized by law, for it was the National Prosecutor who charged Karlsson.

* 1. **The State Did Not Violate Article 13**

The state did not violate Article 13 of the American Convention on Human Rights. Article 13.2 states that "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."[[35]](#footnote-35) Again, for the protection of national security, public order, and public health the state had the right to temporarily stop Mr. Karlsson's freedom of thought and expression.

* 1. **The State Did Not Violate Article 15 and 16**

The Republic of Notusa did not violate Article 15 of the American Convention on Human Rights. Article 15 states that "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."[[36]](#footnote-36) It is clear that the assembly at The Verboten Funfzig were with arms, as it is stated that they had "semi-automatic weapons to knives and sticks."[[37]](#footnote-37) Also nowhere in Mr. Karlsson's Radio Show did he ever mention it to be a peaceful assembly, in fact, he says “we may even need to break in there by force”[[38]](#footnote-38). This directly is a call to violence. Article 16 states "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."[[39]](#footnote-39) Therefore it is the right of the state to place restrictions on the assembly for national security and public safety and order.

* 1. **The State Did Not Violate Article 22**

The state did not violate Article 22 of the American Convention on Human Rights. The article states that "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."[[40]](#footnote-40) The State at any point did not restrict Geraldo Karlsson from going anywhere, including The Verboten Funfzig. It is the actions of Mr. Karlsson that led the Republic of Notusa to arrest him. This is a valid reason also included in the same article which states "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."[[41]](#footnote-41) As Karlsson's attorney suggested that the secret government facility engaged in illegal activity, this is not accurate because the research is done for the protection of the Notusan citizens.[[42]](#footnote-42) As Mr. Karlsson stated in one of his Radio Shows that "do whatever was necessary to hold the government accountable for its actions."[[43]](#footnote-43) This is calling for actions that can arise public insecurity. There are also no actions the government stands to hold accountable for, for the research is done is a highly secured facility and does not violate the Biological Weapons Convention of 2002. The state's actions were necessary to protect national security, public order, and public health.

* 1. **The State Did Not Violate the Biological Weapons Convention of 2002**

There has been many cases in the past of pathogens being leaked unintentionally from secure locations; however, in almost every other case it is regarded as a breach in security, not as a country engaging in biological warfare. The people who followed Mr. Karlsson and riotted at The Verboten Funfzig were responsible for storming into the laboratory facility and getting themselves infected with the said pathogens. Therefore, they unfortunately and unknowingly became biological weapons of their own right. This effectively was a lab leak, and even though it was unintentional, it was the rioters who created the whole scenario. Lab leaks are unfortunately not unheard of, with cases in multiple countries happening, and yet it is widely understood that when labs do leak and pathogens unfortunately spread, it is not a “biological weapon”; rather, it is a security breach and care is taken to rectify it. The idea that Notusa is being singled out for this when there has been no evidence of anything other than research for defensive means is ridiculous.

Also, the state emphasizes that The Verboten Funfzig is, in addition to being a military base, a research center which often engages in activities/materials which are highly sensitive. The fact that it is a research center, and not a site of weapons manufacturing, underscores the state’s position that these pathogens are being studied in the interest of maintaining national security, and not for any sort of biological weapons and consequently do not violate the UN Biological Weapons Convention. The Convention states that "Each State Party to this Convention undertakes never in any circumstances to develop, produce, stockpile or otherwise acquire or retain: microbial or other biological agents, or toxins whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes."[[44]](#footnote-44) The Verboten Funfzig holds these biological agents for a justifiable reason which is to conduct research for the betterment of understanding what terrorist groups such as the Notexicans are using to attack Notusa. It is important to research such pathogens in order to figure out ways to prevent such spread among Notusans in the event of such an attack/outbreak and thus promote the general welfare of Notusans.

* 1. **The Notusan Government Inherently Conducts Legal Research**

The state does not need to re-construct their report regarding the start of their research for it never indicated that it started in 2020. Research done by the Government of Notusa at The Verboten Funfzig did begin in 2016, and it never said it was not. However, after the 2020 attack, the state did in fact dramatically increase funding, as it perceived a new level of urgency needed. The state believes the court should recognize that the Inter-American Convention Against Terrorism mentions "that terrorism represents a serious threat to democratic values and to international peace and security and is a cause of profound concern to all member states," and this factors into the new level of urgency.[[45]](#footnote-45) At no point did the state say that it began research in 2020; therefore, the 2016 date is still valid and those statements do not conflict at all.

* 1. **The Actions of the State Were Necessitated by the Circumstances**

What Mr. Karlsson did is attempt to undermine the security of Notusa, which is fundamentally no different than the goals of the terrorist groups in Notexico. Additionally, Mr. Karlsson had four civil suits brought against him regarding that "his media platform…resulted in the death and injury of others."[[46]](#footnote-46) And while even Mr. Karlsson's defense attorney claimed that the event was a riot, thus nullifying arguments about the rights to peaceably assemble, riots don’t have leaders who radicalize listeners to be anti-government and coordinate a location to cause a threat to national security.[[47]](#footnote-47)In this way Mr. Karlsson is an insurrectionist: he is actively undermining the legitimacy of Notusan leaders, Notusan elections, and Notusan security.

The state would never outright assert that Mr. Karlsson himself is actively colluding with terrorists like the Notexican People's Liberation Front (NPLF), but the state would like to point out a curious amount of certain coincidences and similarities between the two: that Mr. Karlsson has long been critical of the government; that Mr. Karlsson repeatedly issued calls to arms and to get answers by “any means necessary”; that Mr. Karlsson rails against “aliens” but stating them to be extraterrestrial rather than extraterritorial; that Mr. Karlsson conveniently continues to refuse to disclose the name of the officer; that his actions led to the undermining of public safety and confidence in the Notusan government; that the terrorists had been creating similar pathogens of their own to release; that the attack just so happened to be at one of the nation’s most top-secret research facilities; and, by complete coincidence, all intelligence reports suggest that the two missing containers of samples are currently with the NPLF.[[48]](#footnote-48) The state would, of course, never directly accuse Mr. Karlsson of working with the primary beneficiaries of such an attack. The state has more than enough evidence to convict Mr. Karlsson of sedition and treason on his own; it is simply pointing out that there seem to be a lot of dots that a person could connect.

It also implies that by the statements made by Mr. Karlsson himself does not believe that storming of the laboratory facility is illegal. Therefore when he mentions "I'm not advocating for violence or anything illegal" he does not think that the actions the rioters had performed were illegal.[[49]](#footnote-49) In addition, his emphasis on breaking in by force, taking bold action, and gathering and gearing up does indicate violence even without implications.

**REQUEST FOR RELIEF**

For the foregoing reasons, the state respectfully asks that the IACHR court:

1. Uphold the decision of the Notusan Supreme Court that the Republic of Notusa allowed to stand.
2. Reconsider the report made by the IACHR suggesting what the Republic of Notusa violated in regards to the Biological Weapons Convention in 2002 and allow Notusa to continue the strategic research of pathogens in the interest of national security.
3. Recognizes that the Republic of Notusa, as a sovereign nation, has the sole authority to prosecute, within the parameters set by international agreements and treaties, domestic terrorists who threaten the national security and public health of its citizens.

1. Hypothetical I [↑](#footnote-ref-1)
2. Hypothetical II.1-2 [↑](#footnote-ref-2)
3. Hypothetical III.1 [↑](#footnote-ref-3)
4. Hypothetical III.1 [↑](#footnote-ref-4)
5. Hypothetical VII.1 [↑](#footnote-ref-5)
6. Hypothetical III.2 [↑](#footnote-ref-6)
7. Hypothetical VII.2 [↑](#footnote-ref-7)
8. Clarification 5 [↑](#footnote-ref-8)
9. Hypothetical III.3 [↑](#footnote-ref-9)
10. Clarification 21 [↑](#footnote-ref-10)
11. Hypothetical IV.2 [↑](#footnote-ref-11)
12. Hypothetical IV.3 [↑](#footnote-ref-12)
13. Clarification 19 [↑](#footnote-ref-13)
14. Hypothetical IV.6-7 [↑](#footnote-ref-14)
15. Hypothetical V.1 [↑](#footnote-ref-15)
16. Hypothetical V.2 [↑](#footnote-ref-16)
17. Hypothetical V.3 [↑](#footnote-ref-17)
18. Hypothetical V.3 [↑](#footnote-ref-18)
19. Hypothetical V.3 [↑](#footnote-ref-19)
20. Clarification 9 [↑](#footnote-ref-20)
21. Clarification 17 [↑](#footnote-ref-21)
22. Hypothetical V.4 [↑](#footnote-ref-22)
23. Hypothetical V.4 [↑](#footnote-ref-23)
24. Hypothetical V.5 [↑](#footnote-ref-24)
25. Hypothetical V.6 [↑](#footnote-ref-25)
26. Hypothetical VI.1-2 [↑](#footnote-ref-26)
27. Hypothetical VI.3 [↑](#footnote-ref-27)
28. Hypothetical IV.7 [↑](#footnote-ref-28)
29. ACHR 5.3 [↑](#footnote-ref-29)
30. Hypothetical VII [↑](#footnote-ref-30)
31. IACPPT Preamb [↑](#footnote-ref-31)
32. ACHR 7.4 [↑](#footnote-ref-32)
33. Hypothetical VIII.3 [↑](#footnote-ref-33)
34. ACHR 7.5 [↑](#footnote-ref-34)
35. ACHR 13.2 [↑](#footnote-ref-35)
36. ACHR 15 [↑](#footnote-ref-36)
37. Clarification 5 [↑](#footnote-ref-37)
38. Hypothetical VII.2 [↑](#footnote-ref-38)
39. ACHR 16.2 [↑](#footnote-ref-39)
40. ACHR 22.1 [↑](#footnote-ref-40)
41. ACHR 22.3 [↑](#footnote-ref-41)
42. Clarification 2 [↑](#footnote-ref-42)
43. Hypothetical III.2 [↑](#footnote-ref-43)
44. BWC A.I [↑](#footnote-ref-44)
45. IACAT Preambs [↑](#footnote-ref-45)
46. Clarification 19 [↑](#footnote-ref-46)
47. Hypothetical IV.4 [↑](#footnote-ref-47)
48. Clarification 9 [↑](#footnote-ref-48)
49. Hypothetical VII [↑](#footnote-ref-49)