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UGANDA

COURT JAILS LAWYER FOR CONTEMPT

Examining the Legal Implications of Contempt in Military Tribunals



A REPORT PUBLISHED BY FOI COUNSEL

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From the Editor's Desk

In this edition of our newsletter, we continue our unwavering commitment to justice, transparency, and the defense of fundamental rights. The rule of law must be upheld in every sphere of society, and as legal advocates, we must ensure that justice is not only served but seen to be served.

This issue highlights critical legal developments, including the recent court-martial case in Uganda, the principles surrounding contempt of court, and the troubling case of Dawit Isaak, a journalist imprisoned without trial for over two decades. These stories remind us of the power of legal advocacy and the pressing need to challenge injustices wherever they arise.

At FOI Counsel, we remain dedicated to promoting access to justice and ensuring that the law serves as a shield for the vulnerable, not a weapon against them. We encourage discourse, legal literacy, and active engagement in the pursuit of justice.

As always, we appreciate our readers' continued support and engagement. Together, we can foster a legal system that is transparent, accountable, and just for all.

President Aigbokhan
Editor-in-Chief

Background of the Case



The Uganda Peoples' Defence Forces General Court Martial held at Makindye, Uganda has asked that a lawyer representing Col. Kiiza Besigye (Rtd) in case no: **UPDF/GCM/040/2024** Mr. Kiiza Eron, Esq to prison for 9 months for misconduct. It was recorded that on the 10th day of December 2024, Mr. Kiiza Ekron, Esq appeared before the court representing Col (Rtd) Dr. Kiiza Besigye and another

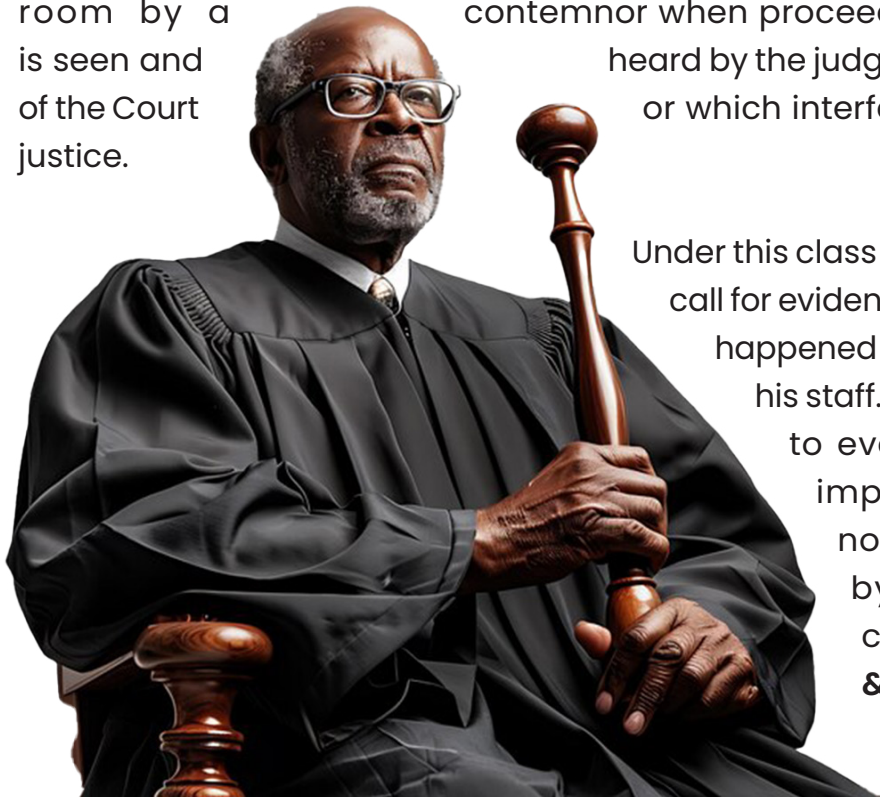
and expressed gross professional misconduct and was warned that such conduct is contempt of court. It was also recorded that on the 7th day of January 2025, when the lawyer entered the court and confronted the court orderly who was directing him where to sit and banged the angle bars of the entrance of the court. According to the Chairman of the General Court Martial,

Brig Gen R.E. Mugabe, he said *"We warned him of the misconduct yet the disturbance increased while he enjoyed the cheers from the audience. This court held that the lawyer's conduct amounts to contempt of court and found him guilty of contempt of court and sentenced him to nine (9) months imprisonment to be served in Kitalya Government prison."*

Judicial Considerations on Contempt of Court

The Ugandan Defense Forces Act 2005 provides for the prosecution of military personnel and associated civilians under court martial. Punishment for contempt of court in Uganda is guided by the Judicature Act and precedents. The penalty is at the discretion of the court but the award of a 9-month sentence is arbitrary.

One significant case where a scenario like this occurred is the case of **United States v Maj. David Frakt**, the accused was the lead defence of the detainees at Guantanamo Bay, Military Tribunal in Cuba. Although no lawyer was directly detained, the defence attorney faced repeated warnings for challenging the tribunal legitimacy and procedures. The defendant was accused of disrespecting the court for openly criticizing the fairness of the military commission system. While he was not detained, the military judge warned that persistent derogation of the procedural rules could lead to contempt charges. In Nigeria, the power of the court to punish for contempt derives from the Constitution and it is vested in the court to preserve its dignity. Section 133 of the Criminal Code, a court of law is vested with wide powers to punish for various types of contempt. Contempt can either be in facie curiae or ex facie curiae in the face of the court or outside the court respectively. For contempt committed in the face of the Court, may arise as a result of disrespectful conduct or comments made in the Court room by a contemnor when proceedings are going on and which is seen and heard by the judge, which undermines the dignity of the Court or which interferes with the administration of justice.



Under this class of contempt, there is no need to call for evidence of what transpired, because it happened in the presence of the judge and his staff. The judge is thus an eyewitness to everything that transpired. It is imperative to mention that it is not all discourtesy to the Court by Counsel that amounts to contempt. In the case of **INEC & Anor v. Oguebego & Ors**, the

Supreme Court whilst considering the instance when words or actions used in the face of the Court or in the course of proceedings can be deemed contemptuous, held as follows; *“For words or actions used in the face of the Court, or in the course of proceedings, to be contempt, they must be such as would interfere with the course of justice. A superior Court of record has the inherent jurisdiction to deal with contempt in facie curiae and punish for the offence summarily. It must once again be emphasized that the summary power of punishing for contempt should, however, be used sparingly and only in serious cases....”*



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Section 133(9) of the Criminal Code Act 1990 of Nigeria states that “Any person who commits any act of intentional disrespect to any judicial proceeding or to any person before whom such proceeding is being heard or taken is guilty of

a simple offence and liable to imprisonment for three months”. Before an alleged contemnor can be committed to prison for contempt ex facie curiae (done in the open court), there are laid down procedures that must be complied

with to ensure that the alleged contemnor is given a fair hearing. There is a standard procedure for conviction for contempt. It starts with putting the alleged contemnor in the accused box, explaining to him what he did before the court and asking to show cause why he must not be

punished.

Not every action or word used in the face of the Court amounts to contempt. It must be such as would interfere with the course of justice. Whilst it is undisputed that a Judge has both the inherent and statutory powers to punish for contempt in facie curie, he/she should exercise the powers in a bid to uphold and ensure the effective administration of justice and not for personal glory. In the case of *Adeyemi Candid-Johnson v. Mrs Esther Edigin* (1990) 11 NWLR (pt. 129) CA. 659, the Court of Appeal condemned the actions of the Chief Magistrate and held that she went beyond her powers when she cited a counsel for contempt merely because the counsel insisted that his submissions before the Court should be placed on record and also refused to answer a question on his year of call which was put to him by the Court.



Did you know?

That Isaak Dawit, an Eritrean-Swedish journalist, has been held in detention without trial for over 22 years?

Isaak Dawit, a journalist and advocate for freedom of expression, was arrested on September 23, 2001, during a sweeping crackdown on dissent in Eritrea. Isaak co-founded Setit, Eritrea's first independent newspaper, which became a platform for open debates on democracy, governance, and justice. In the months following his arrest, Isaak and his colleagues published a series of letters written by Eritrean intellectuals and politicians calling for constitutional reforms, elections, and greater political freedoms. These demands struck a nerve

with the Eritrean government, which responded by shutting down all independent media outlets and arresting Isaak, along with 10 other journalists and several reform-oriented politicians, now known as the G-15.

Isaak's detention has been marked by severe secrecy and a complete lack of due process. Since his arrest, he has been held incommunicado in an undisclosed location, with no charges brought against him, no trial, and no access to legal counsel or visits from family members. Reports from former detainees suggest that Isaak and other political prisoners



are subjected to inhumane conditions, including solitary confinement, malnutrition, and a lack of basic medical care. The government has refused to provide any substantive information on his whereabouts or health, sparking fears that he may be gravely ill or even deceased.

Despite the silence, Isaak's case remains a focal point in the global fight for press freedom. In 2009, he was undisclosed location, with no charges brought against him, no trial, and no access to legal counsel or visits from family members. Reports from former detainees suggest that Isaak and other political prisoners are subjected to inhumane conditions, including solitary confinement, malnutrition, and a lack of basic medical care. The government has refused to provide any substantive information on his whereabouts or health, sparking fears that he may be gravely ill or even deceased.

The international community must remain vigilant and unwavering in demanding Isaak's release. His resilience and the persistent calls for justice symbolize hope for a world where freedom of speech is safeguarded. Isaak Dawit's case is a reminder that silence is complicity, and the fight for press freedom is far from over.

Dawit Isaak, born on October 28, 1964, in Asmara, Eritrea, is a Swedish-Eritrean playwright, journalist, and writer. He sought refuge in Sweden in 1987 during the Eritrean War of Independence, obtaining Swedish citizenship in 1992 while retaining his Eritrean nationality. Following Eritrea's independence in 1991, Isaak returned to Asmara and co-founded Setit, the country's first independent newspaper.

In September 2001, the Eritrean government shut down the independent press, arresting Isaak and other journalists after Setit published an open letter advocating for democratic reforms. Since then, Isaak has been detained without trial or formal charges, making him one of the longest-held journalists globally. He has been denied contact with his family, legal representation, and consular assistance, effectively rendering his situation an enforced disappearance.

International organizations, including Amnesty International and Reporters Without Borders, have designated Isaak as a prisoner of conscience and have consistently called for his immediate and unconditional release. In recognition of his unwavering commitment to freedom of expression, Isaak has received several accolades, such as the Norwegian Freedom of Expression Prize in 2009. In 2017, he was a finalist for the European Parliament's Sakharov Prize for Freedom of Thought..



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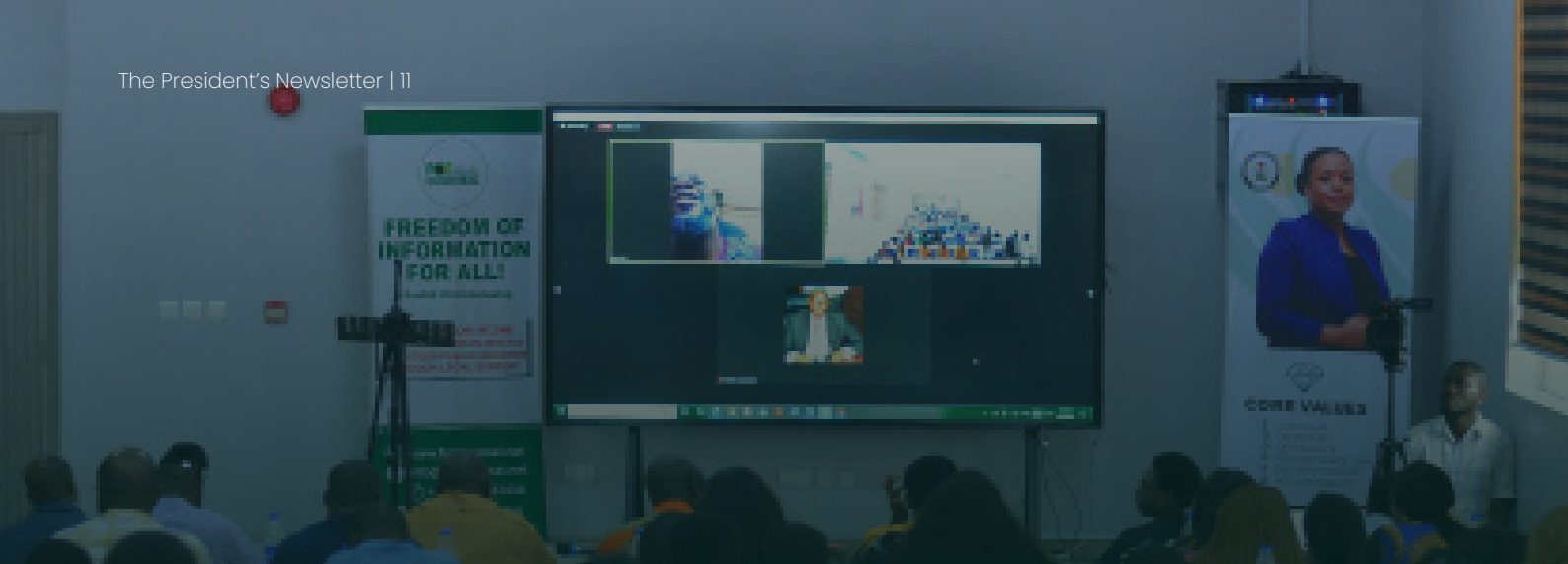
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About Us

FOI Counsel is a law group established primarily to provide legal assistance to NGOs and the media seeking for information, under the Freedom of Information Act 2011. We are also, the first Freedom of Information Act (FOIA) Litigation-specialized firm in Africa. As the demand for our services increased we billowed into four thematic areas of work and these are:

FOI Advocacy & Litigation



We focus on ensuring transparency and accountability in government processes. This includes challenging government agencies that have refused to disclose information and litigating on behalf of individuals and organizations seeking to obtain government-held information.



We protect the fundamental rights of individuals and groups who have been subjected to violations involving a wide range of issues such as discrimination, police brutality, and freedom of speech, among others, and seek to bring justice to those who have suffered harm through legal means.



We promote equitable access to land resources and support the sustainable growth of rural communities. This involves advising on land ownership and tenure, supporting land-based livelihoods, and advocating for policies and programs that support rural development and the rights of rural communities.



We empower change and justice through in-depth analysis of laws, precedents, and regulations, and effective advocacy strategies to shape policies and promote equitable outcomes in society.

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