

«L'AFRIQUE: DE LA MÉCONNAISSANCE À LA RECONNAISSANCE DES DROITS DE L'HOMME»  
"AFRICA: FROM HUMAN WRONGS TO HUMAN RIGHTS"

**CHRISTOF HEYNS**  
AFRICAN HUMAN RIGHTS  
MOOT COURT COMPETITION

**33**

CONCURSO AFRICANO DE  
JULGAMENTO FICTÍCIO SOBRE  
DIREITOS HUMANOS



**2024**



**K i g a l i**  
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**22-27 JULY 2024**



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CENTRE FOR HUMAN RIGHTS,  
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In collaboration with  
UNIVERSITY OF RWANDA

**33<sup>RD</sup> CHRISTOF HEYNS AFRICAN HUMAN RIGHTS MOOT COURT  
COMPETITION**

**UNIVERSITY OF RWANDA  
22- 27 JULY 2024  
KIGALI, RWANDA**

**HYPOTHETICAL CASE**

**Before the African Court on Human and Peoples' Rights  
in the case between**

**Human Rights First**

**and**

**The State of Rantania**

1 The Republic of Rantania is a landlocked country in Central Africa, with a population of 20 million according to the 2022 national census. To the north, it is bordered by the Republic of Aprophe and to the south by the Republic of Zawaland. To the west, it borders the state of Bamaland, and to the east, the Republic of Ravia. Benta is the capital of Rantania. Although Rantania is a unitary state with strongly centralised authority, for administrative purposes, the country is divided into five regions (the Central, East, North, South and West Regions). The North Region is the most mountainous and least developed of the five regions. According to the World Bank's Global Reporting Index 2022, Rantania has an average gross domestic product per capita (GDP per capita) of US\$ 500, with the GDP per capita of the North Region standing at US\$ 200. Rantania's economy is largely based on mining, agriculture, gas exports, and foreign aid. Mining accounts for 20% of the national budget, agriculture for 15%, gas exports for 10%, and foreign aid for 10%. The country relies heavily on foreign investment, and has undertaken several reforms to facilitate business and attract more foreign direct investment, particularly in the mining sector. Rantania is a member of the United Nations (UN) and the African Union (AU).

2 The Constitution of Rantania guarantees civil and political rights consistent with the provisions of the African Charter on Human and Peoples' Rights. It clearly states that duly ratified international treaties form part of national law. Although not included in the Constitution, the principles of customary international law have

been declared by the Rantanian Supreme Court to be part of domestic law insofar as they are not incompatible with the provisions of Rantanian law. Under section 14, the Constitution provides: “The President has the power to ratify treaties and agreements. However, treaties or agreements that concern membership of international organisations, or affect the vested rights of Rantanians, can only be ratified after approval by Parliament.” Under the Constitution, the Supreme Court is the country’s highest court. It can hear any matter that has been decided by the Court of Appeal. However, the Supreme Court’s criminal jurisdiction is limited to appeals in which imprisonment of five years or more, without the option of a fine, has been imposed. It is also the only court that can decide the “constitutional compatibility of legislation”, which the Constitution describes as “a process separate from appeals” and “an extraordinary legal remedy.” The country’s High Courts, located in each of the five Regions, have original jurisdiction over all matters, including all human rights matters (except for the constitutionality of national legislation). The Court of Appeal is not a court of original jurisdiction but is competent to hear all appeals against High Court judgments. Inefficiencies in the court system have been a long-standing problem in Rantania, with delays of up to two years in the scheduling of cases before the High Courts. In recent years, the efficiency of the judicial system has dramatically improved. In 2022-2023, the average delay in scheduling cases before the High Court has been reduced to six months.

- 3 Rantania has ratified the following international treaties:
  - a) International Covenant on Civil and Political Rights (ICCPR) (in 2000);
  - b) International Covenant on Economic, Social and Cultural Rights (ICESCR) (in 2000);
  - c) African Charter on Human and Peoples’ Rights (African Charter) (in 1986);
  - d) AU Charter on Democracy, Elections and Governance (in 2017);
  - e) Protocol to the African Charter on Human and Peoples’ Rights on the establishment of an African Court on Human and Peoples’ Rights (in 2015), and made a declaration under article 34(6) of the Protocol (on 2 August 2017);
  - f) African Convention on Cybersecurity and Personal Data Protection (in 2021);
  - g) African Charter of Public Service and Administration Values and Principles (in 2012);
  - h) United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (in 1988);
  - i) Revised African Convention on the Conservation of Nature and Natural Resources (in 2018);
  - j) African Charter on the Rights and Welfare of the Child (in 2013);
  - k) United Nations Convention on the Rights of the Child (in 1998);
  - l) ILO Minimum Age Convention, 1973 (No. 138) (in 1999);
  - m) ILO Worst Forms of Child Labour Convention, 1999 (No. 182) (in 2000); and

n) ILO Indigenous and Tribal Peoples Convention, 1989 (No. 169) (in 2010).

4 Rantania has also made a commitment to the Office of the United Nations High Commissioner for Human Rights (OHCHR) to promote compliance with:

- (a) The United Nations Guiding Principles on Business and Human Rights, adopted in 2011; and
- (b) The Organisation for Economic Co-operation and Development (OECD) Guidelines for Multinational Enterprises, adopted in 1976 and updated in 2011.

5 The Rantanian Constitution provides for a multi-party system. The Rantania Republican Party (RRP) has been in power since independence from France in 1960. According to reports by various human rights organisations, the political system has since independence been characterized by a lack of transparency and fairness. Human Rights First (HRF) is a non-government organisation defending human rights in Rantania and the region. It has observer status with the African Commission on Human and Peoples' Rights (African Commission) and, in the past, has lodged a number of complaints with the African Commission alleging human rights violations by certain AU member states.

6 In a bid to increase revenue mobilisation, the Rantanian government over the years has signed concession agreements with two major multinational companies for the extraction of coltan, cobalt, copper and gold in the West Region. The North Region has largely been unaffected by mining, until a company operating under the name Mining for Development Ltd (MD Ltd) in 2022 expanded its mining activities in the Omi district, on the ancestral lands of the Omia tribe. The Omia numbers about 300,000 people, of which two-thirds are pastoralists living in the most remote parts of Rantania. The Omia tribe has occupied this land, on which it has relied for its livelihood, for over 100 years. The remaining third of the Omia tribe live in the capital city of North Region, and are engaged in various professional capacities. Around a thousand members of this tribe complained through a local weekly newspaper, *The Confidential*, that they had been evicted from their ancestral lands without their free prior and informed consent or any fair compensation. A report by international NGOs with consultative status at the United Nations Economic and Social Council (UN ECOSOC) revealed that MD Ltd, in collaboration with the mayor of Omi district and the army commander in Omi district, intimidated the Omia tribe to leave their ancestral lands in Omi district, leaving around a thousand people without access to adequate grazing and farmland on which their livelihoods depended. The NGO report also states that the Omia people were not consulted in the decision-making process. After these revelations came to light, the Rantania government announced that a modern state-funded housing unit would be provided to each of the displaced families, in close proximity to government schools. During a meeting called by community leaders, 300 of the community members rejected the offer of new settlements.

7 In a series of publications, *The Confidential* reported that since the start of operations by MD Ltd, at least 2,000 children aged between 15 and 18 years old have been employed in mining activities, in particular as diggers and washers, extracting coltan and gold with inadequate equipment and in appalling safety conditions. Although these children are not directly employed by MD Ltd, some of them are **linked to contractors** working for MD Ltd, while the majority are engaged with small scale artisanal mining activities that have sprung up within and around the concession owned by MD Ltd. The report states that “the children are poorly housed, fed and cared for, unable to provide for their families, and 10 of them have passed on as a result of poor working conditions”. A local human rights NGO has called on the government agency responsible for overseeing mining activities, the Rantania Mining Board (RMB), to assume its responsibilities and remedy all these human rights violations. The RMB carried out investigations, but its report dismissed the allegations as unfounded. A report by an international NGO, the Business and Human Rights Resource Centre, also revealed a number of human rights abuses, including violations of land rights, child labour and inadequate security measures in mining operations. *The Confidential* further reported that anonymous individuals had reported that MD Ltd had bribed officials of the RMB. It was also alleged that the MD Ltd’s management maintained close ties with certain powerful government officials. Notably, the managing director and majority shareholder of MD Ltd is married to the cousin of the chairperson of RMB. The anonymous sources alleged that these were the root causes of the government’s inability to take adequate action against corporate human rights abuses.

8 HRF took the case to the High Court on behalf of the aggrieved community, seeking compensation for the Omia people and affected individual workers. The High Court ruled that the citizens had received compensation in kind and that, consequently, neither the government of Rantania nor MD Ltd had violated the law, a decision that was upheld by the Court of Appeal on 1 May 2023. The report by the NGO, Transparency International, highlights perceptions held by most people surveyed of rampant corruption in many government bodies, and specifically mentions the RMB, the Rantania Prosecuting Authority and the judiciary. The report also notes that powerful officials and private companies control the judicial system to such an extent that ordinary people are denied an effective remedy, particularly in cases involving such powerful people. On behalf of the child labourers, HRF approached a national trade union, Workers’ Rights Advocates (WRA), for assistance. On 1 June 2023, WRA submitted a representation under article 24 of the ILO Constitution to the International Labour Office alleging Rantania’s failure to ensure protection of children against human rights abuses by MD Ltd. After examining the representation and the government statement, the tripartite committee set up by ILO Governing Body made some recommendations, as indicated in its report of 24 December 2023.

9 In the wake of these allegations of human rights abuses, many people have expressed their distrust of the RRP’s misguided policies, which are said to be at the root of an ever-increasing national debt, high unemployment rates and a potential

economic crisis. In January 2023, elections were held and a large number of citizens who supported the RRP changed their minds and supported Mr O’Kello, a charismatic candidate of the main opposition party, the Democratic Party of Rantania (DPR), in coalition with other smaller parties. Mr O’Kello won the presidential elections with 60% of the vote. However, his party lost the parliamentary elections, in both the Upper and Lower Houses. The DPR won 47% and 48% of seats in the Upper and Lower Houses of Parliament, respectively. The RRP candidate challenged the election results by filing a petition with the Supreme Court, which upheld the election results in its ruling of 2 February 2023.

10 On 15 February 2023, President-elect O’Kello was sworn in as President of Rantania. In his speech, he reiterated his commitment to keeping his campaign promises, including respect for fundamental human rights, the revision of investment laws and policies to attract foreign direct investment in line with international human rights standards, the fight against corruption, tax reform, infrastructure development and the promotion of friendly relations with other countries.

11 When he took office, the country had a huge national debt, which could potentially lead to an economic crisis. In his first year in office, President O’Kello introduced a number of reforms to deliver on his campaign promises and tackle the problems facing the country. Despite the difficulty encountered in passing certain laws within the RRP-controlled Parliament, President O’Kello was able to pass a law increasing corporate tax from 20% to 30%, and increasing by 10% the tax of the highest 10% of individual taxpayers. Under the leadership of President O’Kello, a law providing for universal healthcare was also introduced. However, instead of improving the country’s economy, these reforms increased the cost of living, as some multinationals began to relocate to other countries, and many employees lost their jobs.

12 The President was asked on national television about his policies, particularly on taxation, and confidently said: “People should focus more on the long-term benefits of my policies than on their short-term effects”. He also claimed that tax reforms were needed to reduce the imbalance between expenditure and revenue, and thus lower the national debt. According to the President, the revenues from the tax increase is earmarked to finance other government policies, including universal healthcare and free primary and secondary education.

13 These policies have drawn the ire of many people, particularly members of the RRP, businesses and even some of those who supported the President in the elections. Nevertheless, a poll carried out in October 2023 by a local social media platform, *The Truth*, showed that the President was still popular, with 56% of the population supporting him. Around three thousand people, unhappy with his policies, took to the streets of the capital, Benta. During this protest, the national police, in collaboration with other security organs, had trouble managing the demonstrations. On 5 January 2024, an article on corporate lobbying was published



in *The Confidential*. It claimed that big companies, particularly those involved in the mining sector, are inciting members of the government to overthrow the President. The author of the article added that some of these companies have political links with powerful government officials, including the country's Chief of Defence Staff, General Magui, and the Head of Intelligence. In the week following publication of the article, the President dismissed the Chief of Defence Staff and the Head of Intelligence.

14 A week later, on 19 January 2024, General Magui, together with several other army general officers, overthrew President O'Kello in a military coup d'état. No one was killed during the coup. At a lavish press conference in the Presidential Residence, General Magui declared himself the leader of the Rantania Peoples' Revolutionary Movement (RPRM), the military junta that overthrew President O'Kello and consequently the head of state of Rantania. General Magui announced that Mr O'Kello "was arrested and held incommunicado at an unknown location, pending investigations". A crowd of at least five thousand people gathered outside the Residence, chanting support of General Magui, and waving placards reading: "Down with O'Kello and his Taxes!". Two other members of the O'Kello cabinet, the Minister of the Economy and the Minister of Foreign Affairs, were also arrested. Mr Gayo, the DPR Secretary General, on the social media platform *The Truth*, called for all party members to organise peaceful demonstrations for the release and reinstatement of the elected president. Following this message, the Secretary General was arrested by three police officers. After his arrest, another member of the political party used an anonymous identity known as *The Great* and published various messages with specific sources. Rumour had it that the anonymous account, *The Great*, belonged to the DPR's mobilisation committee. Videos were posted on the account, showing three army officers and their subordinates arresting President O'Kello; and three police officers arresting the two ministers and the secretary general of the DPR. The account also informed the general public about the situation in the country and echoed the DPR Secretary-General's call for peaceful demonstrations. This message was reposted on *The Truth* and other social media platforms, prompting protests from the DPR faithful.

15 Two days later, around five thousand DPR members demonstrated in the capital, particularly outside the President's office and the Ministry of Defence, obstructing traffic and destroying some property. The police, deployed to disperse the demonstrators with tear gas, were not able to cope with the situation, which degenerated into violence. Angry protesters threw stones, seriously injuring five members of the police force, and a police van was set on fire. After the police failed to put an end to the protests, General Magui deployed three armed 'special forces' units; members of these units fired live ammunition at the demonstrators. In addition, in a letter dated 15 February 2024, the Head of the Criminal Investigation Department ordered the owners of *The Truth* to delete all of the posts made by *The Great* and reveal the true identity of the person(s) behind it, citing the fact that the account has been used to incite violence. *The Truth* platform complied with the government order, submitted all this user's data to the government, which revealed

that the anonymous account belonged to Mr Ditan, the commissioner in charge of mobilisation within the DPR. Two days later, Mr Ditan was arrested and charged with disseminating information likely to disturb public order, an offence provided for under article 30 of the Rantanian Criminal Act (2010), which states:

*Any person who disseminate information that is likely to disturb public order commits an offence and is liable to imprisonment for a term of no less than three (3) years and not more than five (5) years.*

16 A video shared on social media shows him being severely beaten by two individuals in police uniform before being bundled into a police vehicle. An international newspaper published another video showing Mr Ditan crying while being beaten and begging for an end to the assaults. One of the prison's security guards anonymously released the video, which shows two people in civilian uniforms beating Mr Ditan with electrical cables, surrounded by four prison guards. The demonstrations ceased after a week. A report by a local NGO, *The Secret*, states that 20 civilians died in the protests and 30 were seriously injured.

17 Following his initial incommunicado detention in an unknown location, President O'Kello was on 18 February placed under house arrest, in a small government-owned house in the North Region, together with his family, and allowed access to lawyers and medical practitioners. General Magui made a public announcement that O'Kello "would be detained until investigations of alleged corruption and embezzlement had been finalised, and any subsequent trial has been completed". At the same time, all other arrested politicians, except Mr Ditan, were released. On 10 May 2024, O'Kello's lawyers submitted a case to the High Court in the North Region, contesting the constitutionality of President O'Kello's removal from office, arrest and detention. The High Court scheduled the hearing of this matter for 10 February 2025.

18 On 1 March 2024, the High Court convicted Mr Ditan for the offence of disseminating information likely to disturb public order and sentenced him to three years' imprisonment without the option of a fine. The Court of Appeal confirmed Ditan's conviction on 1 May 2024. On 12 May 2024, HRF announced that it was holding discussions with the lawyers of O'Kello and Ditan with a view to submitting a case to the African Court. On 15 May 2024, President Magui announced that Rantania withdrew its declaration under article 34(6) of the African Court Protocol.

19 On 22 May 2024, HRF submitted an application to the African Court on Human and Peoples' Rights, requesting it to make the following findings:

- (a) The withdrawal by Rantania of its article 34(6) declaration is invalid, as it violates the African Charter and other relevant human rights instruments by undermining the vested rights of Rantanians.
- (b) Rantania violated the African Charter and other relevant human rights instruments by failing to ensure that the Omia people and child workers are protected from violations committed by the MD Ltd.



- (c) Rantania violated the African Charter and other relevant human rights instruments by overthrowing and subsequently detaining President O’Kello.
- (d) Rantania violated the African Charter and other relevant human rights instruments by accessing Mr Ditan’s data on the social media platform, *The Truth*, by arresting him, and by convicting him of and sentencing him for disseminating information likely to disturb public order.

20 The hearing is scheduled for 22 July 2024. Prepare separate written arguments on behalf of the applicant, Human Rights First (HRF), and the State of Rantania, the respondent. For each party, address the issue of jurisdiction admissibility, merits and remedies in relation to (a) to (d) above.