

Susan J. Ferrell Intercultural Human Rights Moot Court Competition

2016 Problem

THE PINK DIAMOND ERUPTION CASE

Yinka v. Maritz

1. The Corazon Peninsula is a 15,366 square mile area of land rich in agriculture that stretches into the Quartz Sea. Corazon is split between the State of Maritz and the State of Yinka. These two states are located in the continent of Plato. The population of the peninsula is around one million people which, until recently, consisted mostly of farmers and their respective families belonging to the ethnic groups of Yinka and Maritz. The Corazon Peninsula derives its name from its topographical shape. Corazon is a Spanish word that literally translates into “heart” in the English language. A map of the region (Annex 1) sets out certain developments that follow *infra*.

2. In the early 1800s, the State of Cicero colonized the Southwestern part of the continent of Plato, precisely consisting of the area making up Maritz and Yinka. Shortly thereafter, another strong and expanding nation, the State of Aristotle, took interest in this territory. Cicero and Aristotle signed an agreement to share their rule over the area, with Cicero having authority and control over Maritz and Aristotle ruling over Yinka. This agreement included the “Filosofia Treaty” that delineated the borders of the territories in question. This resulted in the Western half of the Corazon peninsula falling within the Yinka borders. In 1840, for reasons that remain unknown, Cicero and Aristotle chose to release their respective colonies into independence.

3. During the following decades, the government of Maritz expended its economic surplus in the Southwestern half of Corazon located within the State of Yinka, with each passing year establishing more infrastructural developments and providing more economic aid to the farmers of that area. This was seen as neighborly love up until the government of Maritz made a shocking claim. In 1965, the State stated that, as a result of their financial assistance to Corazon, and only due to this help, the peninsula had been able to grow and develop. This in turn, gave Maritz an exclusive right to the Southwestern portion of the Corazon peninsula. For the most part, the farming families of mostly Yinka ethnic origin acknowledged and agreed that they did indeed owe their improvement in quality of life to the Maritz government. They, however, did not wish to leave the State of Yinka, but felt coerced to sign petitions of support for a change of sovereignty from Yinka to Maritz

which were personally delivered by Maritz military personnel to each farmer's home. Not knowing of the involvement of the Maritz military, the Yinka government proceeded to sign an agreement to cede the Southwestern portion of the Corazon peninsula to Maritz. Yinka was content with this outcome as it was both able to appease its citizens and their apparent wishes and at the same time keep a portion of the Corazon peninsula. This agreement was signed in 1965 and came to be known as the "Southwest Finca Agreement."

4. For the following 35 years, the Corazon peninsula was not of further interest to either country. As such, the inhabitants of Corazon on both sides of the peninsula were left free to enjoy their primarily agricultural lifestyles without any interruption. Approximately two-thirds of the population identified as proud Maritz citizens.

5. Interest in Corazon arose in 2000 with the eruption of a volcano deemed dormant which was located approximately 90 miles underground. One-third of the volcano was situated in the Northwestern territory of Corazon belonging to Yinka and two-thirds was located South of it in the territory now belonging to Maritz according to the Finca Agreement. After its eruption in 2000 the volcano was classified as dormant with no possibility of future activity. In 2011, farmers in Corazon discovered remains of that eruption that included what seemed to be an endless supply of pink diamonds. Upon this discovery, scientists were immediately sent by both Yinka and Maritz government officials to conduct further studies. It was unanimously agreed by the scientists that the deep-source volcanic eruption that occurred in 2000 had delivered these remarkable pink diamonds to the Earth's surface. The force of the eruption caused the tearing of pieces of the Earth's mantle leading to the diamonds being carried to the surface at an incredibly rapid speed from the mantle in a rare type of magma known as kimberlite. This evidence led to the conclusion that Corazon's continental plate and upper mantle may prove to have an endless supply of pink diamonds.

6. Needless to say, both of Corazon's neighboring countries took immediate action to claim their right to this newly discovered diamond territory. The farmers who lived in Yinka's part of the Corazon peninsula saw this new discovery as a way out of their meager farming occupations, and they claimed not only the diamonds found on their own territory, but also those on Maritz territory acquired under the Finca Agreement. The Yinka government was made aware of the Maritz military action in procuring the signatures for the petitions for cession of the Finca territory to Maritz, and immediately declared the cession of the territory under the Finca Agreement null and void due to coercion. The Yinka farmers quickly gathered together to defend their land and their newfound resources on both parts of the border in the Western part of Corazon. Simultaneously, Maritz used their advanced military and army tactics to quickly send military troops into Finca agreement territory to assert their state control over the diamond area. The troops were soon intimidating thousands of farmers into leaving their homes. Meanwhile, the acts by the Yinka farmers living in the Finca territory against the Maritz supporters became

so violent that Maritz was prompted to issue a state of emergency. With this came an official Maritz government decree stating that any civilian opposition to the Maritz military should be crushed with lethal force.

7. After a yearlong mini-war, the Yinka farmers were feeling defeated and realized that their numbers were dwindling. The farmers resorted to enlisting strong and healthy boys along the Yinka/Maritz border. These boy soldiers were between the ages of 8 and 17. The boys were lured with promises of diamonds, money, and power, and equipped with machine guns, rifles, and makeshift bombs which the farmers had managed to steal from their enemy troops. This caused the efforts of the Maritz army to escalate and by 2013 nearly 200,000 Corazon civilians had fled to neighboring countries, including Belkys, in fear of persecution by Maritz's regime.

8. Yinka's military weighed in and began fighting alongside its farmer rebels in the Finca territory. The farmers' additional motives and justification were that Maritz was already a wealthy country and was seen as the superpower of the Continent of Plato. In addition to the claim of invalidity by coercion, Yinka, being the poorer country and vested initially with authority over more of the peninsula, felt entitled to the diamond territory. With these diamond resources, and only through these resources, would it be able to make the infrastructural developments it so desperately needed, such as roads, schools, hospitals, and telecommunications, without further dependence on its enemy. Yinkans saw this as their only opportunity to improve their economic and social status. The Yinka government promoted the cause and fought for the entire Western part of Corazon with slogans such as "It's Our Time" and "Fight the Super Powers."

9. All the while, some of the Corazon civilians on the Finca territory who had Maritz citizenship fled to neighboring countries were slowly being deported back to Yinka. These civilians, also of Maritz ethnic origin, were left feeling confused with nowhere to call home, asking themselves, "what country do I belong to now"? Despite their turmoil, the majority of the Corazon refugees held firm to their loyalty to the State of Maritz. Yinka turned away these refugees since some of them were apparently remaining loyal to their Maritz roots. The Yinka government strictly prohibited them from entering or reentering their borders.

10. A further year of bloodshed followed, with the loss of countless innocent lives, and inhumane treatment being suffered by Yinka and Maritz citizens alike. The Yinka farmer rebels made their way slowly into Finca territory. Most of the villages they encountered had been abandoned but for a few hundred or so women that had been left behind due to old age. Along the way they rounded up these women against their will. They called their efforts a mass rescue from the oppressive Maritz government. However, the women themselves saw this for what it truly was, a mass kidnapping. The women were not physically harmed but they were treated like slaves, being forced to work 20 hours straight cooking and cleaning up after the Yinka rebels, particularly the young boys. It was not long before Maritz responded

with their counterattack. The government chose to set the ultimate example by killing all male inhabitants of a Yinka farmer village located within the Finca territory. Simultaneously, Maritz ramped up its attacks further by targeting those they saw most vulnerable, the child soldiers. As a result, thousands of child soldiers met their death at the hand of ruthless Maritz troops.

11. In April 2015, the two countries, upon intercession by the State of Belkys, signed an agreement, and submitted it in compliance with all formal requirements, to the Registrar of the International Court of Justice, to have the International Court of Justice decide all the issues of international law that have arisen in this dispute. This agreement included the provision that the International Court of Justice was not competent to decide if a state party considered an issue an essential part of its national security.

12. Both Maritz and Yinka are members of the United Nations, and they are states parties to the 1966 International Covenant on Civil and Political Rights, the 1951 Convention and the 1967 Protocol relating to the Status of Refugees, the 1989 Convention on the Rights of the Child and its 2002 Optional Protocol on the involvement of children in armed conflict, the 1998 Rome Statute of the International Criminal Court as well as the four 1949 Geneva Conventions on the Law of Armed Conflict and their two Additional Protocols of 1977.

13. Yinka, the Applicant, asks the Court to adjudge and declare that:

- (1) The International Court of Justice has jurisdiction to adjudicate this dispute.
- (2) The case is admissible.
- (3) Maritz's acquisition of sovereignty over the Finca territory was invalid; therefore, the Western part of the Corazon Peninsula is rightfully the territory of the State of Yinka.
- (4) The treatment and displacement of millions of persons forced to flee to neighboring countries was directly caused by Maritz's use of military force and is a violation of international and human rights law.
- (5) Yinka was not obligated to accept persons displaced by the war.
- (6) The self-proclaimed Yinka Militia's recruitment and use of under-aged Yinka citizens (i.e., child soldiers) is not attributable to the Yinka government or military forces.
- (7) Maritz committed international crimes; Yinka did not, or was justified in its actions.

Maritz, the Respondent, asks the Court to adjudge and declare that:

- (1) The International Court of Justice does not have jurisdiction to adjudicate this dispute.
- (2) The case is inadmissible.

(3) Maritz's boundary with Yinka under the 1965 Finca Agreement is valid; therefore, the Southwestern part of the Corazon peninsula is rightfully the territory of the State of Maritz.

(4) Maritz's treatment of the Yinka's rebel forces and civilians was justified and carried out during a time of war and a state of national emergency.

(5) Yinka violated international law by rejecting persons displaced by the war based on their ethnic affinity with Maritz.

(6) Yinka violated international law by condoning the use of child soldiers by Yinka farmer rebels.

(7) Yinka committed international crimes; Maritz did not, or was justified in its actions.

Annex 1

