

The State of Alba submits this memorandum to demonstrate that I) Alba is the rightful sovereign over the Island of Manca; II) The State of Benir has acted in violation with international law in its conduct on the Island of Manca; III) Alba's military intervention on the Island was justified under international law; and IV) recommendation for further action by the International Court of Justice.

I. Sovereignty of the State of Alba over the Island of Manca

Alba has maintained its rightful claim to title over Manca since its discovery of the Island in 1560. Alba established settlements periodically on the Island, fulfilling the concept of occupation.¹ The principle of *effectivités* is also fulfilled as Albanese government officials have continually held the title of 'Governor of Manca' for over three hundred years since its founding.² The international community has also recognized Alba as the rightful sovereign and maps produced by Alba have continuously recorded the Island as being Albanese territory.

Benir's claim to sovereignty rests on the treaty signed by the Mancan indigenous population and Benir in 1882 granting Benir sovereignty over the Port of Manca. However, since at this point the State of Alba had already maintained a rightful title to the Island of Manca for over three hundred years, the Mancan population did not possess the legal capacity to enter into a treaty with Benir, as they themselves are not a state.³ Treaties may only be negotiated between heads of state or their formally appointed negotiators, since this was not fulfilled in the case of the Beniri-Mancan treaty, this treaty is rendered null and void.⁴ The attempt by the Albanese Navy in 1895 to destroy the port and its subsequent protests of Benir's actions on the Island demonstrate their continuous protest against Beniri occupation of Manca. In addition, the treaty

¹ Epps et al., *International Law*, 41.

² Epps et al., *International Law*, 56.

³ Epps et al., *International Law*, 337-338.

⁴ Epps et al., *International Law*, 71.

was only granting jurisdiction over the Port of Manca, not the entire island, meaning that even in the absence of Alba sovereignty, Benir would still lack jurisdiction over the entirety of the Island of Manca.

Based on the precedent established in the *Island of Palmas Case* (1928), Alba's peaceful and continuous display of power since 1560 demonstrates that they are the rightful sovereign of Manca.⁵

II. Violations of International Law by the State of Benir

First, regarding jurisdiction, the reservation made by Benir to the Convention on the Prevention and Punishment of the Crime of Genocide makes it not a party to the treaty because the reservation allows the Beniri government to self-interpret their actions with respect to the convention, violating the nature of it.⁶ The Convention will still be used to define genocide, as genocide is a *jus cogens* norm that all states are bound by regardless of treaty⁷.

Benir's actions on the Island of Manca and against the indigenous Mancan people are in violation of international law. As defined by the Convention, genocide includes actions committed with intent to destroy an ethnic or national group, such as the indigenous Mancan people, including actions taken "with the specific intent to destroy at least a substantial part of the group."⁸ This requirement is met through actions taken by Benir, including the use of 10,000 military soldiers in 2012 to drive the Mancan people from their ancestral lands, as well as the torching of the jungle from which the Mancans derive subsistence from, preventing their return to the area. Both of these events are established as inferred evidence to commit genocide, as defined in the case *The Prosecutor v. Aloys Simba*.⁹ This, combined with reports in 2020 from

⁵ Epps et al., *International Law*, 41-50.

⁶ Epps et al., *International Law*, 80.

⁷ Epps et al., *International Law*, 26.

⁸ Epps et al., *International Law*, 583.

⁹ Epps et al., *International Law*, 583.

Albanese officials of widespread starvation and suffering on Manca outside of the port city, demonstrate the deliberate nature of Benir's actions.

Benir also does not possess sovereignty via the UN trusteeship bestowed upon them. UN trusteeships are designed to be temporary arrangements for former colonies as they transition to being full member states.¹⁰ This does not translate to full sovereignty over the area, particularly in this case. Benir's trusteeship was granted on the grounds that it regulated the Island's international affairs via the Port of Manca. This was not designed to override Alba's claim of sovereignty, and as the trusteeship holder, Benir has the obligation to serve the people of Manca, which they have failed to do on the grounds presented above.¹¹

In summary, Albanese sovereignty of the Island of Manca should be restored and recognized by the United Nations because of their original claim to title in 1560 and three hundred subsequent years of continuous claim and exercise of sovereignty. Benir's claim to sovereignty is based on an invalid treaty which the people of Manca did not have the legal capacity to enter into. Finally, Benir has committed egregious human rights violations and is in violation of international humanitarian law due to their actions against the indigenous Mancan people, violating their territorial rights and committing genocide through starvation and forced displacement.¹² Due to these violations, Benir's trusteeship over Manca should be terminated due to their failure to serve the interests of the Mancan people. Alba's sovereignty over the Island should thus be restored, with the expectation that they will protect and advance Mancan self-determination under their guidance.

III. Explanation of the State of Alba's Military Intervention

¹⁰ Epps et al., *International Law*, 374.

¹¹ Epps et al., *International Law*, 374.

¹² Epps et al., *International Law*, 402, 583.

The surprise attack by the Albanese Navy in 2021 is justifiable on the grounds of humanitarian intervention and the protection of Albanese territory.

Reports by Albanese merchants in 2020, as well as the expelling of indigenous Mancans from their ancestral lands in 2012, present reasonable evidence to human rights violations on the Island of Manca perpetrated by Benir. Due to this documented evidence, Alba had genuine concern for the humanitarian state of the people of Manca, which is a lawful exception to the use of force prohibition under Article 2(4) of the UN Charter when there is evidence of ongoing atrocities and the Security Council is unable to act.¹³ In their conduct, Benir failed to protect the Mancans, as expected under their trusteeship, and blocked other forms of UN intervention by refusing external inspections, meaning that use of force was the only way to protect the Mancan people.¹⁴ The Albanese Navy only targeted military installations on the Island of Manca, attempting to avoid harm to civilians as much as possible. Due to the exhaustion of non-violent methods of intervention, the use of force by Alba to intervene in the alleged genocide conducted by Benir is valid because, as a *jus cogens* norm, genocide is a severe enough offense to justify the use of force as considered in the *Military and Paramilitary Activities in and against Nicaragua* case.¹⁵

The arrest of President Bengrebo of Benir concluded a chase of his yacht after Albanese military forces encountered it during their surprise attack. Alba forces engaged in lawful hot pursuit of the yacht after Bengrebo and others on the ship refused to allow them to board.¹⁶ The intention of this pursuit and subsequent arrest was to charge Bengrebo for his role in Benir's military actions on the Island of Manca, including charges of genocide. While sitting heads of

¹³ Epps et al., *International Law*, 504-505, 508.

¹⁴ Epps et al., *International Law*, 543-545.

¹⁵ Epps et al., *International Law*, 538-539.

¹⁶ Epps et al., *International Law*, 287-289.

state are typically granted immunity to acts undertaken while serving in office, there has been cited the potential for the evolution of international law in this domain as established in the case *Arrest Warrant of 11 April 2000*, which does not rule out the potential for an exception for crimes against humanity when considering immunity.¹⁷ Article VI of the Convention on the Prevention and Punishment of the Crime of Genocide also explicitly states that “[p]ersons charged with genocide...shall be tried by a competent tribunal of the State in the territory of which the act was committed,” legitimizing Bengrebo’s arrest by Alba.¹⁸

IV. Requests for further investigation by the International Court of Justice

Alba requests further investigation from the International Court of Justice with regard to a comprehensive survey of Mancan population numbers, health, and living conditions, a comprehensive list of Mancan deaths from 2012 - 2021, and an environmental impact assessment. This will allow the Court to understand the full picture of Benir’s genocide on the Island of Manca, defend Alba’s intervention on the Island, and to determine the appropriate reparations and criminal prosecution.

V. Conclusion

In conclusion, the State of Alba asserts that the State of Benir committed genocide against the indigenous Mancan people through forced displacement and deliberate starvation. Alba also asserts that it holds rightful sovereignty over the Island of Manca based on discovery and established governmental affairs, as compared to Benir’s more limited treaty, use of unlawful force, and failure to protect those under its trusteeship. Alba’s military intervention in Manca was justified as humanitarian intervention and defense of Alba’s own sovereign territory.

¹⁷ Epps et al., *International Law*, 159-160.

¹⁸ Epps et al., *International Law*, 157.

Bibliography

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