

CASE STUDIES

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CASE STUDY 1

Voting on Albadonia's New Defence Budget:

Parliament's Role in Defence Budgeting

Introduction

The aim of this case study is to elucidate on various aspects of the role of parliaments in defence budgeting. Approval and control of the budget is one of the most important ways parliament can influence government policy. It increases the transparency of public spending and the accountability of government officials.

The scenario described below is fictional, yet it draws on facts and existing situations. The scenario seeks to enable the exchange of views and good practices, as well as identifying the optimal solutions possible within parliamentary powers to deal with defence budgeting.

Scenario

Albadonia is a fictional country situated in the Eastern hemisphere. Following the end of the Cold War, greater regional cooperation, and an overall change in the international security environment has led to a need to reform and downsize the existing structures of the defence sector. These changes are necessary to make the sector more affordable, modern, and more capable of carrying out new tasks, which include participation in overseas Peace Support Operations and assistance to civilian authorities in the event of natural or man-made disasters. The existing tasks consist of territorial and collective defence. Like many other European countries Albadonia is seeking to make the necessary changes in infrastructure, equipment, personnel and administration of its defence sector.

A joint analysis carried out by Albadonia and its PfP partners showed that Albadonia's military is not functioning efficiently. The yearly defence budget of \$2 billion represents 5% of the national GDP.

In drafting the Budget Proposal for 2006, the Government is trying to decrease its defence expenditure while improving its country's defence capability. Considering that 5% of GDP is much more than the country can afford, the Government is trying to convince Parliament to downsize the costs of the military by 50%.

The Government announced its intentions to the media, ensuring that citizens are informed of its intentions.

Problem 1: Improving Defence: Investing in New Capabilities

The new strategy of the Defence Ministry is to shift from a conscript-based territorial defence army to a small professional army capable of operating in terms of interoperability with its allies. However, adapting the country's forces to this strategic objective is contingent on the resources available.

20 ships in the navy are sold to Bhutan for capital, which amounts to a profit of \$500 million. The money earned is spent on the procurement of new equipment for the Special Forces, which is the only division within the military receiving a budget increase. The new equipment is purchased from ABCD Solutions Inc. in neighbouring Manustan. Rumour goes that the head of the procurement office of the Defence Ministry was bribed by the respective firm because a better deal (i.e. cheaper equipment of the same quality) could have been reached if the equipment had been bought from October Industries in Unia. The Defence Minister refused to disclose the details of the contract to the Parliamentary Defence Committee, maintaining that it concerned classified information, 'a matter of national security'.

The government also decided that the Army should modernise its capabilities by purchasing 200 used but efficient tanks from the US. The consequence of this decision is that a military factory in Ubiscu, which has been producing tanks for 45 years, will be closed down.

Problem 2: Spending Less: Social Consequences of Downsizing

In Albadonia, even finding the resources to pay for military personnel are at times very difficult.

In 2005, "Personnel" consumed approximately 80% of the defence budget. The Government proposes to reduce this percentage to 60% in two years time. The consequence will be a significant downsizing of the country's 300,000 professional soldiers, as well as the closure of a number of bases, units, and storage sites.

Specifically, the downsizing of the costs of the military means that 200,000 soldiers will lose their jobs in the next 36 months. Many of the soldiers to be laid off are aged 50-60 years old, whose chances to get a new job are very limited, if not impossible, given the dire economic situation in the country. Ten military bases located in the poorest areas of the country will also be closed. In these areas the unemployment rate is already 20%.

Contradicting Arguments

To protest against the Government's plans, demonstrations took place in the four largest towns of Albadonia. The Officers' Association also organized a large demonstration in front of the Parliament, as it disagrees with the proposed downsizing of the military.

The Association wants the politicians to answer the following questions:

- Why is such a huge and rapid downsizing necessary? The Association claims that the country's territorial defence will be in danger because of the proposed budget cuts.
- How will society/ government house the former soldiers?
- Are there any pensions and compensations for the former soldiers?
- Since the soldiers' chances to find new jobs are limited, why not use the money to retrain them, instead of purchasing the American tanks and reinforcing the Special Forces?

The Council of Ubiscu has also sent a petition to the Parliament, expressing its opposition to the decision to close the tank factory. It maintains that:

- Closing down the factory will generate massive unemployment in the area – 20,000 more people will become unemployed in the following year.
- The tank factory is a symbol of Albadonia's identity and a matter of national pride.
- The government must help the factory find new markets and invest in existing capabilities.
- If there is no way back, the people from Ubiscu demand financial compensation and government efforts to bring investments to the town.

When the Minister of Defence, the Chief of Staff and other high-ranking officials from the Defence Ministry present the new defence budget to the Parliamentary Defence Committee, they claim that the new capabilities are necessary to fulfil Albadonia's commitments in the Individual Partnership Programme in the PfP Framework and necessary to ensure inter-operability with its allies and partners.

An official from the Ministry of Finance also supports the changes undertaken by the government. He considers:

- The tank factory in Ubiscu a black hole in the national budget. For the last 10 years, it has survived mostly on state subsidies, gradually losing its former markets and unable to produce arms to high technological standards.
- To upgrade its capabilities would be more expensive than building new ones.
- In the long term, closing the factory will generate income for other state enterprises which are viable.

All the changes in the structure of Albadonia's armed forces and defence spending are contained in the Budget Law proposal. The Defence Committee has to approve the Budget Law and present its report to the Budget Committee. The main issues the committee will vote on are the following:

- Reducing the defence budget from 5% of GDP to 2.5% of GDP.

- Reducing the percentage of personnel costs in the defence budget from 80% to 60%.
- Downsizing the military from 300,000 to 100,000 soldiers over the next three years.
- Closing the tank factory in Ubiscu.
- Selling 20 ships for \$500 million.
- Using the \$500 million to purchase 200 US tanks and new equipment for the Special Forces.

Discussion Questions

PART I Albadonia

1. Based on the information in the case study, would you agree or disagree with these proposals if you were a member of Albadonia's Parliament? Please support your answer.
2. What kind of supplementary (detailed) information would you ask the government to be able to provide in order for you to vote on the Government's budget proposal? Do you find it acceptable that the Defence Minister refuses to disclose the specifics of the contract of the purchase of new equipment for the Special Forces from ABCD Solutions Inc.?

PART II Defence Budgeting in Your Country in Relation to the Case Study

3. How is the parliament in your country involved in defence budgeting? Does your parliament have the power to approve or reject the Budget Law? Can you change the budget, that is, to reallocate budget funds from one programme to another?
4. Do you have access to classified information related to defence budgeting and procurement?
5. Do you have enough knowledge and understanding of the budgetary process and documents? Does your parliament have the capacity and human resources necessary to manage all the financial information that the military is able to generate about itself?

PART III Strengthening the Role of Parliament in the Defence Budgeting Process

6. In your opinion, what specific problems does your country have in defence budgeting?
7. Do you think it is desirable to strengthen the parliament's role in defence budgeting in your country? Which roles should be strengthened?

CASE STUDY 2

Promoting Decent Treatment and Human Rights of Conscripts: The Role of Parliament

Introduction

Parliaments are the principal representative institution of a state. They are responsible for representing the interests of all sectors of society, articulating these interests into relevant policies, and ensuring that these policies are implemented efficiently.

Parliaments have an essential role to play in promoting and protecting human rights. The existence within parliaments of bodies with an explicit and permanent mandate to address human rights questions is an effective means of ensuring that these issues permeate all parliamentary activity on a continuing basis. Moreover, by contributing to the maintenance of human security throughout society, the parliament can play a vital role in maintaining the stability of the state through effective security sector governance.

States with limited means often use conscripts as the core human resource for key components of the security sector. Yet at the same time conscripts in such states are often maltreated, leading to instability within the military and a wider lack of societal confidence in the military and other state institutions. In time, state institutions not only become despised, but also ineffective instruments.

The scenario described below is fictional, yet it draws on facts and existing situations. The scenario seeks to enable the exchange of views and to identify the optimal solutions possible within parliamentary powers to deal with abuses of human rights towards military conscripts.

Conscript Abuse in the Country of ‘Sinon’

In Sinon, annually thousands of military conscripts are grossly abused at the hands of senior conscripts throughout their first year of service. Dozens of conscripts die every year, and serious – and often permanent – damage is inflicted upon the physical and mental health of many others. Hundreds of conscripts attempt to or commit suicide each year, and many run away from their units. In Sinon, for decades, a system of abuse has existed whereby there is an informal hierarchy of conscripts, based on the length of their service, and a corresponding set of rights and duties for each group within the hierarchy. Essentially, newcomers have no rights under the system – they must earn them over time. At the beginning of their service, conscripts are ‘not eligible’ to eat, wash, relax, sleep, be sick, or even keep track of time. Any restrictions

placed on these activities are considered permissible. If a first-year conscript refuses to oblige or fails in his task, under this informal system a second-year conscript is free to administer whatever punishment he deems appropriate, and punishment is frequently violent. Personal belongings are also not for first-year conscripts. Thus, the second-year conscripts confiscate their belongings, money, and salaries, forcing first-year conscripts to frequently beg for money from relatives or on the street.

Understanding why such human rights abuses occur is central to understanding how to deal with the problem. In Sinon, civil society organisations have documented that such a system of abuse is fuelled by an endless cycle of vengeance. Throughout their first year, new recruits live under the constant threat of violence for failing to comply with the above-mentioned restrictions and second year conscripts' arbitrary demands, which range from polishing their boots to buying food and alcohol. First year recruits spend much of their time complying with these demands, as any failure to do so routinely results in violent beatings or other physical punishment, usually carried out after officers have left the base. After suffering horrific abuses in their first year of service, second-year conscripts avenge themselves by inflicting the same outrages on the next generation of recruits, and so on.

The vast majority of army officers either choose to ignore evidence of the abuses or to encourage them because they see such abuse as an effective means of maintaining discipline in their ranks. In many units, the existing prevention mechanisms in the Sinon armed forces have been reduced to empty formalities.

The fact that such abuse is rampant in some army units and practically absent in others suggests that these abuses are preventable if officers exercise leadership to stop them.

Despite years of public awareness about hazing and its consequences, the government has failed to take the appropriate steps to combat it. Instead of taking a clear, public stance against the abuses, government officials have largely ignored the issue in numerous speeches about military reform. This occurs despite the fact that the mistreatment of conscripts has contributed to the notoriety of the army. Now more than ever, young men use all possible means to evade the draft by legal or illegal means. The government has yet to adopt a clear and comprehensive strategy to deal with the abuses and establish a meaningful accountability process.

Below is the story of Alex F., one of Sinon's unfortunate conscripts.

The Story of Alex F.

Alex F. comes from a poor farming family, who at the age of eighteen was drafted into Sinon's armed forces. In November 2003 he was assigned to the railway troops. He therefore left his native province for Nga in the province of Persovigrad, where he spent his first

two months in basic training. At the end of basic training, Alex F. took the military oath and became a fully-fledged soldier.

After taking the oath, Alex F. was integrated into a regular railway troops company and participated in the day-to-day work of the base, with little training and endless assignments. There, Alex F. soon realized that the rules he had studied during basic training were a far-off utopia. In practice, he found that an entirely different set of rules dominated his life – rules that, though informal and unwritten, set up an elaborate parallel order and hierarchy. In this order, the exemplary behaviour, mutual respect, and careful oversight by superiors required by the Military Code of Conduct did not apply. On the contrary, these informal rules allowed second-year conscripts to treat new recruits like slaves whom they could order around with utter arbitrariness, punish in whatever way they saw fit for invented infractions, or abuse for no particular reason at all. As a first-year conscript, Alex F. found himself at the bottom of this informal hierarchy.

Alex F. experienced severe abuse in his first weeks of service, with severe beatings to his kidneys and beatings on his head with an iron bed post wrapped in a towel. He was also repeatedly beaten on the back and head until he collapsed in unconsciousness. He was later forced to perform push-ups until the early morning after more beatings; he was denied food and drinks. These incidents early in his military service set the tone for Alex F.'s time in the armed forces.

Nights were infinitely worse than during the day. When the officers had gone home, the second-year conscripts had complete free reign over the barracks. The second-year conscripts regularly deprived the first-year conscripts of sleep and made them sew collars onto their uniforms or wash their clothes. Alex F. said: 'There were many of them [second-year conscripts], so they'd wake five people up at night, and you would sew for them. If you sewed badly, you paid for it. [Once,] I sewed, and they beat me badly with a mop, then took me to the bathroom ... and beat three of us with the handle of a shovel'. The second-year conscripts also used the nights to punish those who had broken the rules or failed to comply with their orders during the day.

The daily grind of harassment; humiliation; coerced servility, with its excessively arbitrary orders; gratuitous abuse; and excessive punishments gradually wore Alex F. down. One incident put him over the edge. He told a non-governmental organisation:

I received a letter from home informing me that my mother was seriously ill. Sergeants and officers ... open our letters. Sometimes, someone sends money and they immediately take it away. When my letter came, they read that my mother was ill and said "Well, what are you going to do to yourself now? ... Your mommy got sick. Maybe she'll die." ... They sat down and started to laugh about the letter before they gave it to me.

Two days later, Alex F. went to the sickbay. Second-year conscripts joined him there and continued to harass and humiliate him. He made a request for short-term leave – to visit his mother in the hospital – but was denied. He then decided to attempt suicide.

At night, when they had gone to bed, I wanted to insert air into my veins and took a syringe... A guy from my draft had gone to the bathroom and came into the kitchen to drink some water. He noticed the syringe in my hands. He took it from me and said: 'Are you crazy or something? Don't do that. You're going to kill yourself because of someone else! You should run away'.

And so, after about two and a half months of service, Alex F. ran away. He realised that he might face prosecution for unauthorised departure from his unit and could vividly imagine the treatment he would face if a military patrol captured him and returned him to his unit. Yet, his desperation was so great that he took the risk.

In May 2004 he arrives in Matercity where he enters a church and is directed to a non-governmental organization (NGO) that protects the rights of military conscripts in the city. There, he fills out a form with basic details about himself and his military service, wrote a statement about the treatment he had faced, and filled out a questionnaire about torture. The NGO staff then discussed his situation with him and subsequently set in motion an effort to get Alex F. discharged from the military on medical grounds.

During the next few days, Alex F. underwent several medical examinations. While Alex F. had no significant physical problems, a former military psychiatrist, who now cooperates with the respective NGO, found that he had a personality disorder. At the request of the NGO, military officials at Alex F.'s unit referred him to a military hospital for observation in the psychiatric ward. After three weeks of observation, doctors at the hospital ruled that Alex F. was not fit for military service for psychiatric reasons, and ordered him to be discharged from military service. It was unclear whether Alex F. was drafted with the disorder or acquired it during his military service.

Toward the end of his stay at the military hospital, one of the second-year conscripts who had abused him came to the hospital and tried to take him back to the unit. He threatened Alex F. with violent revenge for running away and for giving an interview to a journalist about the abuses he had endured during his service. Alex F. managed to escape and made his way back to the office of the NGO.

Upon discharge, Alex F. learned that his ordeal in the armed forces would complicate his life for years to come: On his military identity card, officials indicated that he was discharged for psychiatric reasons. As many employers demand to see a prospective employee's military identity card, he expected this to considerably complicate his search for work. He told the NGO that his former employer, with whom he maintained good relations, would not take him back with such an indication.

Alex F. decided to approach Sinon's Military Prosecutor in a search for justice and compensation for the abuses he has suffered. The Military Prosecutor, a good friend of the Commander of the railway troops company of which Alex was a member, meets with Alex's unit commander and the second-year conscripts who had committed the abuses. After the meeting, they maintained that there were no grounds for concern. Rather, they appealed to

what they clearly saw as their 'right' to humiliate and abuse first-year conscripts. According to them, Alex F. had broken the 'rule of silence' by complaining about his treatment, including to the press. They called it an act of 'betrayal'. Such a reaction is typical of the officers' corps and the government of Sinon who have continually failed to act, despite the publication of a number of reports by NGOs working in the country. The abuse (hazing) is clearly in violation of Sinon's military code of conduct, yet no steps have been taken to stop them. One year later, Alex's case is still in its preliminary stages with an investigation pending, and no prosecutions, charges, or suspensions from duty have been made.

Alex F. decides to write an open letter to the Chairman of the Human Rights Committee and National Security Committee, demanding attention to his case, justice for the abuses inflicted, and the prevention of further abuses against future generations of conscripts. The two chairmen hold a joint committee meeting to discuss what to do with his case. Feeling the media and public pressure, the chairmen decide to place Alex F.'s case on the agenda of today's Committee meeting.

Discussion

You, as a parliamentarian, are called to discuss how to deal with such serious allegations of abuse against your own people, in particular military conscripts.

As a member of the Joint Human Rights and National Security Meeting you will specifically discuss the case of Alex F., the victim of human rights abuses while serving in Sinon's army.

Part I: The Case of Alex F.: Abuse of Conscripts in Sinon

1. How would you assess the case of Alex F.? Do you see it as a serious case of mistreatment?
2. As a member of parliament of Sinon, how would you address this case in particular and the abuse of conscripts in general?

Part II: Human Rights & Mistreatments of Conscripts

3. The human rights of military conscripts may be restricted due to their special mission. What are, in your opinion, justified restrictions in the human rights of conscripts?
4. Do you think that conscripts are systematically mistreated by their peers or superiors in your country? Or are there only incidents, but no systematic pattern of mistreatment?

5. Does your country have institutions, mechanisms, and/ or procedures in place for promoting the proper treatment of conscripts? Are you satisfied with how these institutions, mechanisms and/ or procedures work in your country? Can you bring forward some of these as a best practice?
6. How does your parliament ensure the implementation of international human rights standards?

Part III: Strengthening the Role of Parliament in Protecting Human Rights of Conscripts

7. How do human rights fit into the structure of parliament?
8. Do you see problems or obstacles for parliament to exercise effective oversight over the human rights situation of conscripts in your country?
9. Is it desirable that parliament plays a stronger role in protecting the proper treatment of conscripts? How could parliament better promote the protection and proper treatment of conscripts?

CASE STUDY 3

Law Enforcement Officials and the Use of Force against Protesters in the City of Suzuki: The Role of Parliament in Protecting the Human Rights of Citizens

Introduction

Parliaments are the principal representative institution of a State. They are responsible for representing the interests of all sectors of society, articulating these interests into relevant policies, and ensuring that these policies are implemented efficiently.

Parliaments have an essential role to play in promoting and protecting human rights. The existence within parliaments of bodies with an explicit and permanent mandate to address human rights questions is an effective means of ensuring that these issues permeate all parliamentary activity on a continuing basis.

The scenario described below is fictional, yet it draws on facts and existing situations. The scenario seeks to enable the exchange of views and to identify the optimal solutions possible within parliamentary powers to deal with abuses of human rights by law enforcement officials. The term 'law enforcement officials' includes all officers of the law, whether appointed or elected, who exercise police powers, especially the

powers of arrest and detention. The term should be given the widest possible interpretation and includes military, police, and internal security forces as well as other security services and immigration agencies where they exercise such powers.

“Riot control” and Excessive Use of Force by Law Enforcement Officials in Sinon

Early in the morning on Tuesday 25 October 2005, hundreds of citizens of Suzuki, the capital of Sinon, protested peacefully against repression and torture of opposition leaders. As the day progressed, the demonstration amassed to a major demonstration of thousands of people, gradually becoming a general anti-government protest against the government's failure to improve law and order and combat the price hike of essentials and utility services.

Police first blocked the protesters. At one point, police brutally clashed with protesters, reportedly beating people in the crowd and grabbing Mr. Extra Yamaha, chair of the Human Rights Movement of Sinon. Demonstrators marched to the local police station and demanded that police release Mr. Yamaha; they were alleged to have begun throwing stones. Without giving the protesters sufficient time to disband, the police opened fire, killing 90 people.

Later that same day, according to witnesses, large military trucks loaded with soldiers cruised the streets and internal security troops backed by armoured vehicles surrounded the heavily fortified police headquarters. Earlier, masked soldiers had loaded scores of bodies of those killed onto four trucks and a bus after blocking friends and relatives from collecting them, witnesses said. An AP reporter said she saw at least 40 bodies. All had been shot, and at least one had his skull smashed. She said there were large pools of blood and hundreds of spent cartridges on the streets.

Late afternoon, the police used tear gas to disperse the protesters, and as the crowd became more restive, the police baton charged the protesters. The police action sparked off a riot, with protesters stabbing four police officers and setting ablaze some government buildings. Armed pro-government militants also joined the police in the attacks, which rapidly escalated.

According to one witness:

‘Gradually the crowd got angrier and angrier ... [The protest] just took a life of its own’.

By evening, the government had declared a state of emergency, with BMW State Radio announcing that the government had forbidden citizens to assemble in big groups; after 18:00, citizens were not allowed on the street without special permission; and people were banned from demonstrating or expressing views critical of the government; finally, various newspapers were shut down for an indefinite period of time. The government officially announced to international media that the protesters were terrorists.

In the course of the protest, hundreds of protesters were arrested. A group of foreign journalists who were detained early in the protest were told to leave the city immediately. Allegations have been made that those arrested have been subject to particularly brutal acts of torture and other cruel, inhuman, or degrading treatment or punishment committed by law enforcement personnel, particularly in police stations and prisons where the protesters were held. The most common techniques have been beatings, often with blunt iron weapons, and asphyxiation with gas masks. Those held are in overcrowded conditions, isolated for long periods of time, often denied food and drink, and restrained by methods of torture. Rapes by police officers and guards have been reported as common. The detained are being treated as animals, yet, no investigation has been made of such serious human rights allegations.

Concern has been expressed by various opposition members in parliament about the use of violence against citizens of Sinon. Political differences are not being resolved in a civilized manner and the Government has failed to create a congenial democratic environment. Worries have been expressed about the unprecedented breakdown of law and order, and the Government's inability to protect all segments of the population. Calls have been made to the Government to immediately cease all attacks targeting opposition leaders exercising their rights of protest against its policies, and to respect international human rights norms, laws, and the Constitution. As the demonstration was wide-spread and had supporters in nearly all quarters and layers of Sinon society, even members of the government party in parliament requested for an emergency meeting in parliament. Two days after 25 October, this emergency meeting took place and parliament convened in a special session in order to assess the situation and to ask the government to clarify the situation. Most observers expect an (over)heated debate between government, opposition parties, and government parties.

Discussion

You, as a parliamentarian, are participating in the special session of parliament to discuss how to deal with such serious allegations of abuse against your own people by law enforcement officials.

Part I: Riot Control and Human Rights Abuses in the City of Suzuki

1. How do you assess the situation? At which points did law enforcement officials make mistakes?
2. Article 3 of the UN Code of Conduct for Law Enforcement Officials reads as follows: "Law enforcement officials may use force only when strictly necessary and to the extent required for the performance of duty". Do you think that the law enforce-

ment officials described in the case study acted in accordance with this provision of the UN Code of Conduct? Was the level of force used by the law enforcement officials justified?

3. Who should be blamed and held accountable for the disaster? The minister? The head of police in Suzuki? The head of the internal security forces? Or individual law enforcement officials?
4. How should the parliament of Sinon react to the situation and to specific allegations of human rights abuses?

Part II: Parliamentary Mechanisms Dealing with Human Rights in Different Countries

5. What parliamentary mechanisms would be used in your country should a similar scenario as described above occur?
6. Who would be held accountable, and before which institution?

Part III: Strengthening the Role of Parliament in Case of Human Rights Violations by Law Enforcement Officials

7. Do you think it is desirable that parliament plays a substantial role in protecting the human rights of citizens vis-à-vis activities of law enforcement officials? Or do you think that this is not a case for parliament but for the government and the judiciary only?
8. How should human right abuses by law enforcement officials be dealt with by parliament? Which tools can parliament use?