

GUIDELINES FOR FACILITATORS

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GUIDELINES FOR CASE STUDY 1

Voting on Albadonia's New Defence Budget: Parliaments Role in Defence Budgeting

These guidelines are intended to support the discussion about the case study. They provide possible answers, further questions, and directions for discussion for each question.

Preliminary Remarks

- Please underline the high importance of the case study.
- Make sure that it is understood that although the case study is realistic, any resemblance to existing countries, institutions, or persons is purely co-incidental.
- It is advisable to give the participants about 15 minutes reading time for the case study, followed by, if need be, a brief Q&A session to clarify aspects of the case.

Discussion Questions

PART I Albadonia

1. Based on the information provided in the case study, would you agree or disagree with the Government's proposals if you were member of the Albadonian Parliament? Please support your answer.
 - How do you think the country's scarce resources should be allocated to the different sectors?
 - How important are the needs of the military compared to other sectors in a transition country?
 - Does Albadonia really have a capability gap to cover, or is the decision to buy US tanks taken in favour of the donor's defence sector?
 - A social plan is lacking for reintegrating redundant military personnel into society.
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.?
 - Most governments are required by law to give parliaments all the information asked for. The problem is that parliamentarians rely only on the information

given to them. They do not have access to independent expertise, nor do they have enough time and staff to control and to analyze that information.

- Transparency International's Bribe Payers Index 2002 ranks the arms industry in the top three most corruption-prone industries worldwide (the other two are oil and public works and construction).
- What sets the arms industry apart is the extent of secrecy, which breeds corruption. Legitimate needs for secrecy such as national security, are necessary, but they often help to cover up inappropriate aspects of the defence contracts.
- Corruption in military procurement leads not only to inefficient buying of the wrong product, but also to far greater spending than is really justified by the threats. In this way, corruption in military procurement actively diverts resources from investments to develop the country and challenge poverty.

3. What to do as parliamentarian?

- Make sure your country has two clear and coherent laws: Law on the protection of classified information and Law on free access to public information.
- the institutions who classify information must be discouraged to over-classify information.

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

4. 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?

There are different stages of the budgetary allocation and oversight process where your parliament can get involved:

- defining the defence and security needs of a country – when parliament approves the National Security Strategy, the White Paper for Defence, the structure and size of the armed forces, the national crises management system etc.
- determining how much of the budget to allocate to defence – when parliament approves or endorses the government decision to allocate a certain percentage of GDP to defence.
- determining how to allocate money between competing demands within the security sector – when you debate and amend the budget proposal in parliamentary committees.
- approving defence allocations – through the final vote of the parliament for the Budget Law.
- overseeing and evaluating the use of funds – through different oversight mechanisms: questions and interpellations to the minister, hearings, inquiries etc.

5. Do you have access to classified information related to defence budgeting and procurement?
 - Do you, as a MP, need a security clearance to have access to classified information? Are there clear vetting procedures for MPs in your country, or is clearance given on the basis of your parliamentary mandate? Are you satisfied with the vetting and clearing process for MPs?
6. Do you have enough knowledge and understanding of the budgetary process and documents? Does your parliament have the capacity and the human resources necessary to manage all the financial information that the military is able to generate about itself?
 - Parliamentary staff and resources are essential to provide you with professional advice and independent expertise (e.g., do you know that the US Senate Committee for Armed Services has a staff of 50 and a budget of 5.8 million Euros in 2002?).

PART III Strengthening the Role of Parliament in Budgeting

7. In your opinion, what specific problems does your country have in defence budgeting?
 - a system characterized by too much planning was replaced by one with insufficient planning.
 - the old system accorded high priority to defence spending but in the context of central planning and irrational pricing, with no budgetary transparency and accountability.
 - Possible recommendation: Allocate a fixed percentage of GDP to defence, for a number of years. It would ensure a steady revenue and it would make planning easier.
 - Possible recommendation: the out-sourcing of non-military services management (logistics, health care, pensions, housing, military recreation etc.), so that the military will be in charge in those arenas which are strictly military in nature and be able to concentrate on what it does best.
8. Do you think it is desirable to strengthen the parliament's role in defence budgeting in your country? Which roles can (should?) be strengthened?
 - In a democracy, the armed forces are not part of the government but are part of the "governed".
 - Do you consider it essential that civilian authorities, not the military, set and control defence budgets?

GUIDELINES FOR CASE STUDY 2

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

These guidelines are intended to support the discussion about the case study. They provide possible answers, further questions, and directions for discussion for each question.

Preliminary Remarks

- Please underline the high importance of the case study.
- Make sure that it is understood that although the case study is realistic, any resemblance to existing countries, institutions, or persons is purely co-incidental;
- It is advisable to give the participants about 15 minutes reading time for the case study, followed by, if need be, a brief Q&A session to clarify aspects of the case.

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?
 - Alex's status of military recruit does not justify the placement of unlimited restrictions on his rights.
 - The European Court of Human Rights held (e.g. *Engel and others v. the Netherlands* case, 1976) that while certain restrictions on the rights of military servicemen may be necessary to ensure the proper functioning of the army, these may not serve to altogether negate their basic rights. Initiation practices can therefore violate a number of basic human rights norms, including the prohibition against *torture, inhuman, and degrading treatment* (Art. 3 of the European Convention on Human Rights) *and the right to property* (Art. 1 of Protocol 1 ECHR). *They can also violate the right to the highest attainable level of health* (Art. 12 of the International Covenant on Economic, Social and Cultural Rights).
2. As a member of the parliament of Sinon, how would you address this case in particular and the misuse of conscripts in general?
 - Call on the *Government's Responsibility to Investigate* incidents of torture, inhuman, or degrading treatment or punishment that come to their attention under the European Convention on Human Rights and the Convention against Torture.

- Alternately, parliament can set up its own investigation. Relevant to parliamentary investigations are: the mandate, access to information and locations, powers to hear officials and other parties involved under oath, the status of the recommendation, the quality of the staff of the inquiry,
- Ensure that Alex has his *case heard*. The (European Convention requires that states establish “an effective remedy before a national authority” if it is determined that there is an ‘arguable claim’ (Art. 1 of Protocol 1 to the European Convention on Human Rights).
- The Convention against Torture obliges states parties to initiate a prompt and impartial investigation of torture complaints whenever circumstances give “reasonable ground to believe that an act of torture has been committed.” (Art 12 ECHR) The same applies to incidents of cruel, inhuman, or degrading treatment or punishment.
- *Summon* the Minister of Defence and those responsible for questioning.
- Suggest the defence *Ombudsperson* to investigate the case and to address issues of abusive treatment of conscripts.

Part II: Human Rights and the Mistreatment of Conscripts

3. The human rights of military conscripts may be restricted due to their special mission. What are in your opinion justified restrictions on the human rights of conscripts?
 - Under international human rights law, military recruits are an exceptional group. The special mission of the armed forces may justify restrictions on their rights that far exceed those that may be placed on almost any other group, e.g. ordering a prisoner to crawl through the mud for several hours would almost certainly constitute degrading treatment. Such an order from a military commander to conscripts during field training would be a legitimate part of a soldier’s preparation for battlefield conditions, as would temporary deprivation of food or sleep. Analogously, acts of initiation that would constitute degrading or inhuman treatment with respect to prisoners or other categories of persons may not reach that threshold when they occur in the armed forces, provided that they contribute to the specific mission of the armed forces
 - Torture, inhumane, and degrading treatment have occurred; rights to personal property and the highest attainable level of health have been violated.
 - HRW report: ‘All forms of physical assault, whether as punishment or otherwise, fall within the scope of the prohibition of torture, inhuman, or degrading treatment or punishment. In contrast, many other forms of treatment associ-

ated with initiation practices do not in and of themselves qualify as degrading or inhuman treatment or punishment, but HRW believes that their excessive or protracted nature, or their combination with the constant threat of violence, may push them over the threshold. This is the case in the following situations:

- Deprivation of food or sleep as part of an initiation does not necessarily constitute degrading treatment, but depriving a recruit a significant part of his food or sleep over an extended period of time would be degrading or inhuman.
 - Severe forms of physical exercise as punishment in the context of initiation practices are not in and of themselves degrading or inhuman, but forced physical exercise to the point of physical collapse under the threat of violence would constitute degrading treatment or punishment.
 - Making new recruits perform chores as part of an initiation does not in and of itself constitute degrading treatment, but forcing a recruit to live in servitude for extended periods of time, under threat of violence, reaches this threshold.'
4. Do you think that in your country conscripts are mistreated by peers or by superiors in a systematic way? Or are there only incidents, but no systematic pattern of mistreatment?
 - Media reports, International NGOs.
 - Have there been any cases brought before parliament?
 - Do you know of any cases of conscript abuse brought before the courts?
 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. Parliament has 3 main functions, does your parliament exercise these functions?
 - *Legislate*: to set the legal framework for human rights at the national level, ratify international treaties, and ensure that norms set forth in those treaties are translated into national law and implemented.
 - *Oversee government activity*: to keep the policies and actions of the executive under constant scrutiny to ensure that the government, the administration, and other state bodies comply with human rights obligations;
 - *Allocate financial resources*: Parliaments approve the budget and thus set national policy priorities. They must ensure that sufficient funds are provided for human rights implementation and that these funds are used accordingly to deal with human rights issues.

- Members of parliament are also *opinion leaders* and can do much to create a human rights culture in their countries.
7. What role is there for a parliamentary Human Rights Committee in this scenario? What actions should it take?
 8. What role should the ombuds institution, including the military ombudsperson, play in this scenario? How can they best interact with parliament on these issues?
 9. How does your parliament ensure the implementation of international human rights standards?
 - *National legislation and standards* There are various ways of incorporating human rights protection standards into national law. The constitutions of some countries provide that duly ratified treaties – or a certain category of treaties or specified treaties – automatically form part of national law. In other cases, new or revised legislation is required.

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

10. How do human rights fit into the structure of parliament?
 - Encourage participants to bring forward best practices of parliamentary oversight of human rights of conscripts in your country
 - Is human rights seen as a cross-cutting issue that should be taken into account by every parliamentary committee, including the defence and national security committee?
 - Human rights are generally dealt with by *standing committees*. Ad hoc, select, study or inquiry committees may be set up to examine particular human rights problems or issues at a given time. If more than one committee, the activities of these committees should be coordinated to ensure that conscript protection issues are taken into account in all of the parliament's work.
 - A conscript protection committee, representing all political parties, which can generate regular parliamentary debate on the question
 - An informal group on the conscript protection issues which closely monitors action by the government and liaises with civil society
11. Does your parliament have a special parliamentary human rights committee (dealing exclusively with human rights)?
 - At present, only few parliaments have standing committees dealing exclusively with human rights. This is the case for, among other countries, Austria,

Azerbaijan, Belgium, Cambodia, Canada, Chad, Cyprus, Lebanon, Lithuania, Macedonia, Nigeria, Philippines, Togo, Turkey, Yemen and all countries in Latin America.

12. Does an ombudsperson exist who possesses the authority to investigate human rights violations within the military and who is appointed by and reports to parliament?
 - *Ombudsperson*: may monitor abuses on military bases hereby protecting newly recruited Sinon soldiers from abusive hazing rituals at the hands of senior soldiers.
 - Often, ombudsmen report and are responsible to parliament. They can thus be an important parliamentary tool to ensure compliance with human rights.
 - *Special ombudsperson* for the rights of military servicemen, authorized to:
 - a) access military bases without prior notification;
 - b) move freely inside military bases without restrictions;
 - c) speak to any serviceman in private;
 - d) have access to any documents relevant to the mandate, both at military bases, at the relevant ministries and other government agencies, and at military procurement;
 - e) receive mail from any serviceman without intervention of the military censor;
 - f) receive information from nongovernmental, professional, and other organizations.
13. Do you suggest any other tools, procedures or mechanisms for parliament to address human rights?
 - Use parliamentary procedure and mechanisms to oversee government action and ensure that they meet their conscript protection commitments and that conscript protection issues are mainstreamed in all parliamentary and governmental activities, and that responsibilities and mandates of government departments are clearly defined in order to ensure proper coordination and avoid gaps in government implementation.
 - Apart from the committees, which are part of Parliament's formal structure, informal groups and caucuses exist in almost all parliaments around the world where MPs discuss and work on issues of particular interest to them, including human rights. Likewise, in some countries, political groups in parliaments have created spokespersons for matters relating to human rights. This has occurred in the Lower Chamber of the Austrian Parliament, for example.
 - Ensure that Parliament adopts national legislation that corresponds to the international legal instruments to which your State is party.

- Ensure that existing legislation is reviewed – by the competent services of Government, a special parliamentary committee or other official body.
 - Where necessary, make use of parliamentary procedure to ensure that the Government sends draft legislation, or amendments to existing legislation, to Parliament.
 - Do not hesitate to enter into contact, consult, and cooperate with civil society groups working on conscript protection issues when developing national legislation, so as to have access to comprehensive data and experience.
 - Make sure that national legislation is accompanied by the corresponding rules and administrative measures to ensure adequate implementation.
 - Make sure that implementing costs of the new legislation are taken into account in the national budget.
 - Exchange best practices with neighbouring and other countries.
14. Do you see problems or obstacles for parliament to exercise effective oversight over the human rights situation of conscripts in your country?
- Lack of transparency and information, corruption, fear, denial, and party discipline.
15. 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?
- Yes, each year thousands of abuses and hundreds of deaths occur in some countries.
 - By ensuring the consistency of *national legislation* with international human rights standards.
 - *Ratification of international legal instruments* on human rights
 - If your State is not yet a party to the various international human rights legal instruments, or if your State has not *signed or ratified* some of them, you can:
 - o Find out whether ratification/ accession is under consideration;
 - o Put an oral or written question to your government to determine why ratification or accession has not been achieved;
 - o Consider using your right to introduce a private member's bill on the matter;
 - o Encourage a parliamentary debate on the question;
 - o Mobilize public opinion.
 - Reservations or declarations of understanding

- o If your Government intends to ratify, or has ratified with reservation(s) or declaration(s) of understanding that limit the legal instruments' scope, you can:
- o Determine or review the validity of the suggested reservation(s);
- o Encourage a parliamentary debate on the subject of the reservations;
- o Mobilise public opinion to encourage the Government to ratify or accede without any reservation(s) or declarations(s) of understanding.
- *Establish a Parliamentary Human Rights Committee*
- *Prevention*: training of current and future officers on initiation practices, strengthening enforcement of existing prevention mechanisms, and examining best and worst practices.
- *Enforcement of Existing Prevention Mechanisms*: requiring officers to monitor regularly the health of soldiers and surprise inspections to complement routine checks. Any finding that officers failed to implement rigorously prevention mechanisms should lead to punishment.
- *Learning from Best Practices*
- *Independent Monitoring*: this requires reliable information about the prevalence of abuse. Investigations by independent, outside monitors, including by a *special ombudsperson* for the rights of military servicemen.
- *Structural Reform*: discipline often lies with second-year conscripts, who themselves have been abused.

GUIDELINES FOR CASE STUDY 3

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

These guidelines are intended to support the discussion about the case study. They provide possible answers, further questions, and directions for discussion for each question.

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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?
 - Refer to the basic human rights which any person is entitled to enjoy according to the UN Universal Declaration of Human Rights (UDHR), e.g.
 - o Everyone has the right to life, liberty, and security of person (Article 3);
 - o No one shall be subjected to torture or to cruel, inhuman, or degrading treatment or punishment (Article 5);
 - o All are equal before the law and are entitled without any discrimination to equal protection by the law (Article 7);
 - o No one shall be subjected to arbitrary arrest and detention (Article 9);
 - o Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which they have had all the guarantees necessary for their defence (Article 11(1));
 - o Everyone has the right to freedom of opinion and expression (Article 19);
 - o Everyone has the right to freedom of peaceful assembly and association, and no one may be compelled to belong to an association (Article 20)
2. Discuss to what extent human rights can be limited in a democratic society (proportionality principle) for reasons of national security.
3. Refer to the *UN Basic Principles on the Use of Force and Firearms*:
 - In dispersing UNLAWFUL but NON-VIOLENT assemblies law enforcement officials shall avoid the use of force or, where that is not practicable, shall restrict the use of force to the minimum extent necessary (BP 13);
 - In dispersing VIOLENT assemblies law enforcement officials may use firearms only when less dangerous means are not practicable; AND ONLY to the minimum extent necessary; AND ONLY under the conditions stipulated in BP 9 (BP 14).
 - Only the conditions mentioned in BP 9, (i.e. an imminent threat of death or serious injury), warrant the use of firearms. The additional risks posed by a violent assembly—large crowds, confusion and disorganization—make it questionable whether the use of firearms is at all practicable in such situations, in view of the potential consequences for persons who are present but not

involved. Basic Principle 14 does not allow indiscriminate firing into a violent crowd as an acceptable tactic for dispersing that crowd.

- Everyone is allowed to participate in peaceful assemblies, whether political or non-political, subject only to very limited restrictions imposed in conformity with the law, which are necessary in a democratic society to protect such interests as public order and public health. The police must not interfere with lawful and peaceful assemblies, otherwise than for the protection of persons participating in such an assembly or others.¹
- *Lethal force should not be used except when strictly unavoidable in order to protect your life or the lives of others:* The use of firearms is an extreme measure which must be strictly regulated, because of the risk of death or serious injury involved. Must only use firearms: (1) In self-defence or in defence of others against the imminent threat of death or serious injury; (2) To prevent the perpetration of a particularly serious crime involving grave threat to life; (3) To arrest a person presenting such a danger and resisting the police officer's authority, or to prevent his or her escape.

4. Refer to the *UN Code of Conduct for Law Enforcement Officials*.

- *Conduct of Operations:* Law enforcement officials are expected to respect and protect human dignity and to maintain and uphold the human rights of all persons (Code of Conduct for Law Enforcement Officials, Art. 2). This objective can be achieved only if law enforcement practice meets the inherent requirements of this provision.
- 4 basic principles that underlie correct law enforcement practice: *legality; necessity; proportionality; and ethics*.
- *State of Emergency* declared by government: arguably all legal restrictions are legal. Certain human rights are non-derogable under any circumstances. The ECHR and the ICCPR identify these rights as follows: the right to life; prohibition of torture; freedom from slavery; freedom from *post facto* legislation and other judicial guarantees; the right to recognition before the law; freedom of thought, conscience and religion.

5. Article 3 of the U.N. 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 enforcement officials in the city of Suzuki acted in accordance with this provision of the UN Code of Conduct? Was the level of force used by the law enforcement officials justified?

¹ Source, UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (Principles 9, 12, 13, and 14).

- Police officers, in carrying out their duty, should apply non-violent means as far as possible before resorting to the use of force. They may use force only if other means remain ineffective or without any promise of achieving the necessary result.
 - Whenever the lawful use of force is unavoidable, police officers must *exercise restraint* in such use and act in proportion to the seriousness of the offence and the legitimate objective to be achieved; *minimize damage and injury*, and respect and preserve human life; ensure that all possible *assistance and medical aid* are rendered to any injured or affected persons at the earliest possible moment; ensure that *relatives or close friends* of the injured or affected person are *notified* at the earliest possible moment; where *injury or death* is caused by the use of force by police officers, they shall *report the incident promptly to their superiors*, who should ensure that *proper investigations* of all such incidents are carried out.²
 - *Fundamental Rights and Freedoms*: including the right of peaceful assembly (ICCPR, Article 21) and the right to freedom of association (ICCPR, Article 22.1). The exercise of those rights is not without limits. Restrictions can be imposed on it, provided that: they are lawful; and necessary: for respect of the rights or reputation of others; or for the protection of national security or of public order, or of public health or morals. (ICCPR, Articles 19.3, 21 and 22.2). Note: In addition to the above, the element of “public safety” can be a lawful reason for restricting the right to freedom of peaceful assembly and the right to freedom of association. (See ICCPR, Articles 21 and 22.2.)
6. Who can be blamed and be 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?
- All may be responsible.
 - Law enforcement officials must be held accountable for their individual acts, including those that are unlawful and/ or arbitrary.
 - Neither exceptional circumstances nor orders by superiors may be invoked by individual law enforcement officials as a justification for unlawful behaviour.
 - The issue of correct, lawful and ethical behaviour of law enforcement officials has direct implications for officials with command, management and/ or supervisory responsibilities.

² Sources include, UN Code of Conduct for Law Enforcement Officials (Article 3), UN Basic Principles on the Use of Force and Firearms by Law Enforcement Officials (Principles 4, 5, 6 and 9).

- (Suspected) unlawful and/or unethical behaviour by law enforcement officials requires prompt, thorough and impartial investigation; (suspected) unlawful and/or unethical behaviour, although attributable to individual law enforcement officials, reflects negatively on the entire law enforcement organization and is potentially damaging to it.
7. How should the parliament of Sinon react to the situation and to specific allegations of human rights abuses?
- Call on the *Government's responsibility to investigate* incidents of torture, inhuman, or degrading treatment or punishment that come to their attention under the European Convention on Human Rights and the Convention against Torture.
 - Alternatively, *parliament can set up its own investigation*. Relevant to parliamentary investigations are: the mandate, access to information and locations, powers to hear officials and other parties involved under oath, the status of the recommendation, and the quality of the staff of the inquiry.
 - Ensure that all individuals arrested have their case heard, individual complaints procedures under e.g. the ICCPR and CAT (Convention against Torture) regimes. CAT obliges states parties to initiate a prompt and impartial investigation of torture complaints whenever circumstances give "reasonable ground to believe that an act of torture has been committed" (Article 12 ECHR).
 - Summon the Minister responsible, Chief of Police, and others responsible for questioning. Law Enforcement Organizations: most are of a civilian nature and are under the authority of the Ministry of the Interior or the Ministry of Justice. Only a minority are attached to the Ministry of Defence and (para)military in nature.
 - Suggest the defence Ombudsperson investigate the case and address the issues of abusive treatment by law enforcement officials.
 - Parliament not only has the function to take care that justice is achieved, but also that a process of reconciliation is put into motion. In this respect, it can be helpful to organise a *roundtable or hearing* in parliament which brings together the different parties to the conflict.

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

8. What parliamentary mechanisms would be used in your country should a similar scenario as described above occur?

- Ask for good practices, procedures, and mechanisms as applied by parliament in similar situations in their country, e.g. investigations, complaints procedures mechanism and legal remedies.
9. Parliament has 3 main functions. Does your parliament exercise these functions?
- 1. *Legislate*: legal framework for human rights at the national level. Ratify international treaties and ensure that norms set forth in those treaties are translated into national law and implemented.
 - 2. *Oversee government activity*: so keep the policies and actions of the executive under constant scrutiny. Can therefore ensure that the government, the administration and other state bodies comply with human rights obligations.
 - 3. *Allocate financial resources*: Parliaments approve the budget and thus set national policy priorities. They must ensure that sufficient funds are provided for human rights implementation and that these funds are used accordingly to deal with human rights issues.
 - Members of parliament are also *opinion leaders* and can do much to create a human rights culture in their countries.
10. What role is there for a parliamentary Human Rights Committee in this scenario? What actions should it take?
- Suggest *institutional reform* to end law enforcement officials' *impunity*. Propose that an independent body be set up to monitor investigations into torture allegations carried out by the procuracy; in cases of inadequate investigation, this body could have powers of intervention.
 - *Judiciary*: protector of rights of detainees and defendants, monitoring the way that judges deal with torture-related issues would both encourage proper implementation of torture prevention measures in the courts and provide valuable insights into where problems exist.
 - *Suspension of Law Enforcement Officers*. As soon as there is credible evidence that a police or other law enforcement officer has tortured, or ill-treated a detainee, that officer should be suspended from active duty, regardless of whether any particular stage has been reached in the criminal prosecution of the officer.
11. What role should the ombuds institution, including the military ombudsperson, play in this scenario? How can they best interact with parliament on these issues?
12. Who would be held accountable and before whom?

- Distinguish different type of accountability: legal, political, public, and administrative accountability.
- Law enforcement organizations are legally accountable to the government and to the community as a whole.
- The State can be held accountable for law enforcement practices that violate the principles of legality, necessity, and proportionality.
- Law enforcement organizations and individual law enforcement officials can be held accountable for their actions under national laws; officials must be held accountable at the individual level through their internal hierarchy. Superior officials must offer guidance and support and rigorous action against illegal acts.
- Law enforcement performance is prone to complaints from members of society, therefore they must be equipped to investigate any such complaint promptly, thoroughly and impartially. In certain countries the investigation of complaints about law enforcement performance is entrusted to an independent civilian review board.
- The right to file a complaint with a review board or with a particular law enforcement organization in no way affects an individual's right to have his/ her complaint examined by an independent court or tribunal in criminal or civil proceedings, or by both.

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

13. 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 this is not a case for parliament but for government and the judiciary only?
- Riots and escalated demonstrations take place when people feel that they cannot express their grievances and complaints via the political system. This may happen if they feel that the political system and institutions fail to represent them. If such demonstrations continue, they may lead to regime change. Parliaments can and should function as a political institution that can absorb societal changes. Moreover, protests should be accounted for in the political system, not outside of it.
 - *Parliament has obligations created by international human rights treaties to adapt (or enact) legislation at the national level to ensure compliance with the requirements of a given treaty and States Parties to refrain from practices that*

are in contravention of treaty provisions: *law enforcement practice is a matter of State responsibility.*

- Obligation re: *education and training*, to keep law enforcement procedures under constant review and to ensure their compliance with international human rights law. States must take rigorous steps to *prevent and oppose violations of human rights* committed by law enforcement officials. *State responsibility* is the ultimate stage of accountability for law enforcement practices.
14. How should human right abuses by law enforcement officials be dealt with by parliament? Which tools can be used by parliament?
- Human rights abuses can have a political, legal, and technical side.
 - o Political: explaining and solving human rights abuses politically (and hold political authorities accountable)
 - o Legal: Ensuring consistency of *national legislation* with international human rights standards.
 - o Technical: Parliament should monitor whether law enforcement officials are trained to deal with democratic protests, mass demonstrations, and riots. It should ensure that law enforcement officials are familiarized with riot control guidelines and that they have proper equipment at their disposal.
 - *Ratification of international legal instruments* on human rights; If your State is not yet a party to the various international human rights legal instruments, or if your State has not *signed or ratified* some of them, you can:
 - o Find out whether ratification/accession is under consideration;
 - o Put an oral or written question to your government to determine why ratification or accession has not been achieved;
 - o Consider using your right to introduce a private member's bill on the matter;
 - o Encourage a parliamentary debate on the question;
 - o Mobilize public opinion.
 - Establish a *Parliamentary Human Rights Committee*
 - Establish an *Ombuds Institution*
 - *Prevention*: training of current and future officers on human rights, strengthening enforcement of existing prevention mechanisms, and examining best and worst practices.