

# **Transitional Justice – Reconciliation Talks**

## **A Simulation for Use in Youth and Adult Education**

**Complete Manual with Role Cards and Guidelines for Facilitators**

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#### **1. Guidelines for Simulation Facilitators**

##### **1.1 Introduction**

This game addresses issues of transitional justice and reconciliation. The setting is entirely fictitious. The country of Zamal experienced 15 years of an oppressive regime and brutal civil war. The newly established peace leads to questions of how to run the country in the future and what measures to employ to cope with Zamal's troubled past.

The **moderators** are part of the simulation - and responsible for structuring and guiding the negotiations. As **facilitator**, you are not a part of the negotiations, but responsible for the introduction and the debriefing. You may be asked by the moderators or one of the interest groups to clarify issues related to the schedule or rules of the simulation, but in the ideal case, you will be more or less invisible during the game itself.

## 1.2 Learning objective

This game on transitional justice and reconciliation in Zamal provides participants with personal insight into the dynamics and complexities of post-conflict resolutions, and the different approaches to transitional justice.

Reconciliation talks are to be held. In order for Zamal to move forward, **a consensual agreement on a set of general guidelines to be followed by the relevant stakeholders needs to emerge from the reconciliation talks.**

**The guidelines should include the measures of transitional justice to be taken, and how to implement these measures.** As stated above, they must be decided by consensus. Once decided, these guidelines will be binding upon the government.

The transitional justice measures up for discussion are:

- International Criminal Tribunal
- National Criminal Tribunal
- Truth Commission
- Reparations
- Memorialization

Of course, none of these measures needs to pass. Should the talks move towards 'no measure' and a decision to forget the past consensually, this would also be adequate. Furthermore, the stakeholders are not limited to a single solution; a hybrid solution (a mixture or combination of measures) is also acceptable, provided that a consensus is reached. The participants may be creative, and think of additional measures as required. A party's vision and direction should not be limited by the options mentioned here.

## 1.3 Material

The general information for all participants consists of the simulation scenario, background information on transitional justice.

The material for the interest groups consists of eight role cards for groups up to three participants. An ideal number of players would be 16 or 24. One could play it with less or participants (minimum 8). However, discussing arguments and strategies in small teams who represent one stakeholder party considerably improves the quality of the game.

The simulation scenario contains complex information on the historic background of the conflict. As some of the interest groups are rooted in previous political parties, it might be helpful if the facilitator visualizes these relationships on a flipchart.

#### 1.4 Role Cards

1. United Nations Body for Transitional Justice (Moderator for the talks)
2. Representative(s) of the Zamal National Army
3. Representative(s) of the People's Liberation Alliance (political wing of the People's Liberation Army)
4. Member(s) of the political party National Republican Party
5. Member(s) of the political party United Democratic Front
6. Member(s) of the political party Women In Action
7. Member(s) of the political party Combat Impunity
8. NGO Against Forgetting

#### 1.6. Meeting Procedure

The meeting that is simulated will be run by the moderator(s), representative(s) of the United Nations Body for Transitional Justice **Note:** The moderator role requires eloquent and strong participants with good moderation skills.

The moderator(s) must decide upon the seating arrangement and the duration of each discussion round, will direct the conversation, generally keep order and assist in the process by mediating and focusing the talks.

It is suggested that the meeting begins with a round for opening statements and a question and answer session. Subsequently there should be a period of roundtable discussion, followed by formal and informal talks, if necessary another plenary discussion.

The aim of the meeting is to reach a **consensual agreement** on which reconciliation process would work best for the specific situation and culture of the **people of Zamal**. Therefore, by the end of the talks **written guidelines must be produced – accepted by all parties**.

## 1.7. Timeline

Overall game duration (*full version*): up to 5 hours

- Preparation: 1 hour (this session is moderated by the facilitator)
- Introduction: 15 minutes
  - Individual Reading Time: 30 minutes
  - Developing strategy within groups: 15 minutes
- Game playing time: 3 hours (to structure this period is a task of the moderator(s) of the discussion)  
*Suggestion (variations possible):*
- 20 min. round of opening statements,
  - 20 min. question and answer session,
  - 30 min. plenary discussion,
  - 30 min. informal talks
  - 40 min. plenary discussion, agreement on the reconciliation process
  - 30 min. moderator(s) draft(s) written guidelines on the reconciliation process to be agreed on by all participants
  - 10 min. presentation of the statement
- Debriefing: 45 min. (this session is moderated by the facilitator)

The **debriefing** should include:

- Disclosing the information about one's figures, aim and objectives, so the others will understand why they were behaving in certain ways during the game.
- Talking about the identification of the participants with their roles: What was interesting, tough, challenging for the participants?
- Discussing the game itself : What did the participants learn?
- Assessing the solution: What is it worth in the political reality? Is it a façade-solution postponing or "outsourcing" the conflicts to future committee meeting – or is it based on sustainable compromise?
- If you work with a young group – discuss the difficulty of political negotiations and decision-making, including the problem of defining one's own political interests and means of achieving it as well as the importance of compromising.

## **2. Information for all participants: Scenario and background information**

### **2.1 Scenario**

#### **Transitional Justice – Reconciliation Talks: The case of the fictitious post-conflict country Zamal**

After 15 years of an oppressive regime and brutal civil war, Zamal is ready to mend its fractured society. The warring parties reached a ceasefire, and established a preliminary Peace Accord. The sensitive issue of transitional justice has been deferred for an upcoming meeting.

For this purpose, the government of Zamal has invited the *United Nations Body for Transitional Justice* to facilitate reconciliation talks. These talks will allow the relevant stakeholders to negotiate guidelines for an adequate approach to transitional justice in Zamal. In order for Zamal to move forward, a consensual agreement on a set of general guidelines to be followed by the relevant stakeholders needs to emerge from the reconciliation talks.

The guidelines should include the measures of transitional justice to be taken, and how to implement these measures. As stated above, they must be decided by consensus. Once decided, these guidelines will be binding upon the government.

The transitional justice measures up for discussion are:

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## History of the conflict

Zamal is a small island in South Asia. Little is known about the culture of Zamal or the structure of its society prior to colonial rule. Initially, it was comprised of several tribes characterized by a strong oral culture and set of traditions. In the early 1600's, explorers from Britain found it to be an asset to the Crown due to its natural resources and spices. Placing Zamal under colonial rule, Britain established several trade outposts in the country and developed a feudal-like system in which several British administrators were appointed throughout the island.

The administrators operated under a 'divide and rule' policy, each working to exacerbate enmity between different social classes and religions within his assigned region. This policy made it nearly impossible for different regions to unite in a sustained movement to overthrow the British colonists. Several attempts were made on the part of the Zamalian people to end the inequalities suffered under the colonial regime, all of which failed.

The administrators created a hierarchical structure in which certain groups were granted more privileges than others. These 'privileged', in turn, assisted the British army and administrators in holding onto power for the benefit of their own class. In the mid-1960's, Zamal was finally granted independence by Britain under the condition that they would hold national elections and implement a democratic government, while remaining under the British Commonwealth.

In 1969, the first Zamalian elections were held. Many small political parties competed with the Zamalian Congress, which was composed of members of the social elite still closely tied to the former British administration. This initial election was an utter farce. The majority of citizens were disappointed with the outcome. Unfortunately, they were helpless and had to accept the status quo. With the passage of time, stronger political parties were established in Zamal to counter the residual cronyism that existed in government. Nevertheless, the new parties were again comprised largely of the social elite, making it difficult to represent voices that had been religiously or socioeconomically marginalized. Over the following fifteen years, Zamal synthesized its political structure, removing the smallest parties and alternating between several mainstream political leaders and parties:

- the **National Party of Zamal**,
- the **United Democratic Front**,
- and the **Zamalian Congress**.

While these parties purported to be different from one another, they merely represented very similar political interests under different leadership. Wealth from the exporting of spices, natural resources, and agriculture was mostly retained by the social elite, while most of the country remained in poverty with little political representation. **The United Democratic Front** consistently held the most power of the three parties, and was considered to be the least corrupt, because it had the greatest minority representation.

In 1995, a hard-liner party called the **National Party of Zamal**, led by Marceloh Fekmes, was democratically elected into government. Fekmes advocated for transitioning Zamal into a more politically centralized government, promising social policies that would alleviate some of the existing class inequalities and polarization; this platform gained him support from the masses. However, seven years into his presidency, Fekmes began to curtail Zamal's fundamental democratic policies in order to remain in power, including limiting freedom of speech. The government became very oppressive, marked by even greater corruption and horrendous human rights abuses. Instead of transitioning Zamal into a more centralized government (as promised), Fekmes replaced the former corrupt (but democratic) regime with a sham democracy marked by rigid social divisions and oppression; in effect, changing nothing while adding further to the government's dysfunction.

In response to such oppressive policies, the **Communist Party of Zamal**, which had previously been marginally represented in the parliament, formed a communist resistance movement called the **Peoples Liberation Movement**. Angered by the dysfunctional and abused democracy, they gained support for their aim of Fekmes' removal, and the implementation of a *People's Socialist Republic* through violent means. They additionally demanded reforms leading to social equality: advocating equal rights for all people in Zamal; focusing on the rights of religious minorities, women, and lower classes; and a greater political representation and wealth distribution for the socially marginalized.

Eventually, with the increasing oppressiveness of Fekmes's rule, they mobilized the masses, calling themselves the **People's Liberation Army (PLA)**. Primarily a guerilla movement, originating in rural areas (where people were most marginalized), the PLA engaged in a series of small uprisings and attacks on the police and security forces while gaining support from the people, finally declaring a People's War in 2000. Following incessant attacks against the police and security forces, the government – led by the National Party – declared the

People's Liberation Army to be "terrorists" and mobilized the **National Army** to fight them.

Over the following years, Zamal experienced a violent civil war, in which both the People's Liberation Army and the National Army committed horrible crimes. Most Zamalians supported the PLA's ideology, but not their violent measures, while many others aligned themselves with the NA, fearing communism and change.

The people were caught in between two armies at war. Civilians suspected by the NA of being loosely connected, or even rumored to be connected with the PLA faced harassment, torture, rape, or summary executions. Conversely, civilians were pressured by the PLA to provide the latter with food and money and with soldiers, including youths and children, and cruelly punished if they expressed reluctance to support and fight with the PLA.

Over the span of the conflict, some 15,000 Zamalians died, thousands disappeared, and gross human rights violations including murder, rape, torture, abductions, arbitrary arrests and violence were reported on a daily basis. Immediately following the conflict, an independent commission found that the NA and PLA committed a nearly even number of crimes during the civil war.

After several rounds of unsuccessful peace negotiations, Fekmes unexpectedly died of a heart attack, enabling a ceasefire between the People's Liberation Army and the National Army. After many years of violent conflict, the major political parties and the People's Liberation Army finally were able to form an alliance in which they agreed to fight the National Party of Zamal's rule – the **People's Liberation Alliance**.

Shortly thereafter, the National Party of Zamal was completely disbanded. Another political organization with many of the NPZ's former members was created, known as the **National Republican Party**. Similarly, the **United Democratic Front** reformed many of its wartime policies to increase the representation of minority voices. This action was a consequence of the heavy political repression and lives lost during the early years of Fekmes' rule.

In the war's wake, new political parties were created to protect and advocate for minority rights. One such party, **Women in Action**, represents both women's and minority rights, and has gained enough support to be considered a major player in the interim government. Another political party gaining momentum is **Combat Impunity**, also representing victims of the conflict. The recently

founded **NGO Against Forgetting** has also gained widespread support in the public.

The Peace Accord was signed some month ago, shelving the highly contentious issue of reconciliation and transitional justice in order to address past human rights violations, rebuild social trust, repair a fractured justice system, and build a democratic system of governance. The interim government installed since the peace accord consists primarily of five political parties:

- the People's Liberation Alliance (political wing of the People's Liberation Army),
- the United Democratic Front,
- the National Republican Party,
- Women in Action,
- and Combat Impunity .

## **2.2 Background information on transitional justice**

The following chapter contains background information on transitional justice and the principal approaches undertaken by various countries, as well as a definition and explanation of the different approaches, thereby mentioning the benefits and disadvantages of each.

### **2.2.1 What is transitional justice?**

Transitional justice is a response to systematic or widespread violations of human rights. It seeks recognition for victims and, at the same time, to promote chances and measures to be taken for peacekeeping, reconciliation, and democracy. Transitional justice is used in societies that are transforming themselves following a period of pervasive human rights abuses.

This approach emerged in the late 1980s and early 1990s, mainly in response to political changes in Latin America and Eastern Europe. At the time, human rights activists and others wanted to address the systematic abuses suffered under the former regimes, without endangering the political transformations that were underway. Since these changes were popularly called "transitions to democracy", people began calling this new multidisciplinary field "transitional justice".

The concept of transitional justice has expanded as settings have shifted from Argentina and Chile, where a period of authoritarianism ended, to include societies such as Bosnia and Herzegovina, Liberia, and the Democratic Republic of Congo, where the key issue is restoring peace. Ethnic cleansing and displacement, the reintegration of ex-combatants, reconciliation among communities, and the role of justice in peace-building have become important new issues.

#### **The peace and/or justice debate:**

Some people argue that obtaining justice for human rights violations committed during a conflict is an obstacle to peacemaking. They contend that in order to have peace, the population of a conflict-ridden country must not be constantly reminded of the atrocities of the past. Others assert the exact opposite; that there cannot be peace without justice and that in order to create a viable and long-term peace and make a country democratic, a society needs to remember its past and undergo a reconciliation process.

There are several approaches to transitional justice. They include the following options:

**a) Criminal prosecutions:** These are judicial investigations of those responsible for human rights violations. Prosecutors frequently emphasize investigations of the "big fish": suspects considered most responsible for massive or systematic crimes. Criminal prosecutions help to block impunity for human rights violations. These can be carried out through the national legal system, or on an international level at the International Criminal Court (in existence since 2002; however, in this simulation Zamal is not a member of the ICC) or with an ad-hoc tribunal (e.g., the Tribunals for the former Yugoslavia or Rwanda).

There are also hybrid courts that generally operate in the place where the crimes occurred, but employ both domestic and international personnel, and usually have jurisdiction to try international crimes (for example in Cambodia). These courts offer an important model for bolstering national capacity with adherence to international standards, while ensuring that the proceedings have relevance for affected communities.

**b) Truth commissions:** These commissions of inquiry have the primary responsibility of investigating and reporting key periods of recent and past abuse (for example South Africa). They are non-judicial mechanisms of accountability, and are often led by state bodies that make recommendations to remedy past crimes and prevent their recurrence. Some truth commissions can grant amnesty. However, the great majority exclude the granting of amnesty for crimes under international law.

**c) Reparation programs:** These are initiatives that help repair the material and moral damage from past abuse. They typically distribute a mixture of material and symbolic benefits to victims; these benefits may include financial compensation and official apologies.

**d) Memorialization efforts:** These include museums and memorials that preserve the public memory of victims and raise moral consciousness about past abuse, in order to protect against its recurrence.

## **2.2.2 Examples of Tribunals and Truth Commissions:**

### **a) International Criminal Tribunals and Hybrid Tribunals**

#### **International Criminal Tribunals: The Cases of former Yugoslavia and Rwanda**

An international criminal tribunal consists of international judges. It is primarily focused on punitive measures and deterrence through the prosecution of international crimes. In order that it be as objective as possible, it is held outside the area where the conflict took place.

This solution has been implemented for the cases of former Yugoslavia (International Criminal Tribunal for the former Yugoslavia, ICTY) and Rwanda (International Criminal Tribunal for Rwanda, ICTR). These tribunals were established during (Yugoslavia) and shortly after (Rwanda) the conflicts, by resolutions of the United Nations Security Council. The tribunals have their legal basis in Chapter VII of the United Nations Charter, which directs the Security Council to take measures to maintain or restore international peace and security.

The ICTY and the ICTR have indicted 161 and 50 people, respectively. Their goal is to try individuals responsible for genocide, crimes against humanity, and war crimes as defined by international humanitarian law. In order to fall within the jurisdiction of the tribunals, the crimes had to be committed in Yugoslavia after January 1, 1991; and in Rwanda or its neighboring states (if committed by Rwandan citizens) in 1994.

These two international tribunals have primacy over national courts. National courts cannot try defendants if an international tribunal has already tried them. In addition, if an international tribunal believes a national trial was not an impartial or independent matter, or if the national court has tried an individual for an ordinary crime and not for high crimes (i. e. genocide, war crimes, or crimes against humanity), the international tribunal has jurisdiction. In order to ensure a fair trial and the independence of the judicial body, the judges of the tribunals are nominated by the Member States of the UN and elected by the UN General Assembly.

#### **Benefits**

Through their broad interpretation of international law, the ICTY and the ICTR have succeeded in prosecuting perpetrators that would not have been punished

under previous interpretations of international law. For example, the trials of the ICTR established that rape is a form of torture and a crime of genocide. Also, international criminal tribunals are able to incapacitate the remnants of regimes by prosecuting their most severe perpetrators. For example, the ICTR has politically incapacitated the remnants of the Hutu extremist leadership responsible for the 1994 genocide.

Finally, international criminal tribunals may restrain revenge. In the case of the ICTR, the international recognition of the Tutsis as victims of the Rwandan genocide already implied some sort of justice. Thus, Tutsis were discouraged from taking revenge against individual Hutus.

### **Criticism**

Critics point out that international criminal tribunals may exacerbate problems rather than solve them. Punishing a small group of high-ranking perpetrators leads to politicization of the trials, and reinforces mutual resentment and hostility. An example of this was the mounting support for Slobodan Milošević during his ICTY trial.

Another criticism is that international criminal tribunals are removed from the post-conflict country, which diminishes their role and impact on the affected society. This situation has been especially problematic with regards to the ICTR, which is situated in Arusha, Tanzania.

### **Hybrid Tribunal: The Case of Cambodia**

A hybrid tribunal consists of both national and international judges. This solution was implemented in Cambodia. The tribunal has exclusive jurisdiction over crimes committed by a certain regime during a certain period of time, with its own laws and procedures governing it. During the four years of misrule and terror, the Khmer Rouge regime (1975-1979) killed more than a million people. The country did not address the atrocities committed, instead choosing an uncomfortable peace over direct punitive measures.

After tense negotiations with the United Nations, a tribunal, named *Extraordinary Chambers in the Courts of Cambodia*, was established in 2006 under both Cambodian and foreign judges. Particularly noteworthy of this tribunal is the participation of victims, who are permitted to join the proceedings as civil parties. This is a major achievement for victims of gross human rights violations, whose voices have long gone unheard.

## **Benefits**

A hybrid tribunal is most often situated in the country where the crimes occurred. Thus, it can have a greater impact and visibility among the population, and assist in the development and restructuring of the national court system.

## **Criticism**

In the Cambodian case, the tribunal faces many delays in its work due to political interference by the Cambodian government in the form of corruption and funding issues. There are also allegations that some judges maintain connections to the Khmer Rouge.

## **b) Truth Commissions**

### **The South African case: Truth and Reconciliation Commission**

The South African Truth and Reconciliation Commission was established to bridge the gap between the country's torturous apartheid past, and the future of a nation that upholds the ideals of freedom and respect for human rights. The idea was that an understanding of South Africa's divided past, and acknowledgement of the suffering and injustices of that era, would restore the dignity of the victims. To this end, the commission has focused on conducting public hearings across the country in order to uncover the past and give the victims and their families a voice.

The truth commission was mandated to facilitate, initiate and coordinate the gathering of information and receiving of evidence from any victims of the apartheid regime between 1960 and 1994. The government was asked to pay cash reparations and render services to the victims and their families. In addition to cash payments, the commission recommended a speedier process to obtain death certificates and burial ceremonies. Streets and memorials were renamed, and a national day of remembrance established, as ways of celebrating and honoring people's sacrifices and restoring the dignity of the survivors.

The commission had the power to grant amnesty to perpetrators who had committed abuses during the apartheid era, but the conditions for such amnesty were very narrow: the crimes had to have been politically motivated and

proportionate, and there had to be full disclosure by the person seeking amnesty. There was no provision of general amnesty in the model of the Truth and Reconciliation Commission.

### **Benefits**

By providing justice to victims and perpetrators, the Truth and Reconciliation Commission focuses on a larger societal transformation that can be achieved by effective communication with all segments of society through the sharing of stories. By revealing the truth of the horrendous crimes committed during apartheid, this process enables all people to recognize past transgressions. The ultimate goal of the Commission's work is healing and reconciliation among members of society.

### **Criticism**

Truth commissions with the power to grant amnesty may invite impunity. Sometimes, the truth commissions are criticized for their partiality. Furthermore, the process is usually very slow and the victims may protest – an invitation to chaos. Often, the national army and other political forces may not cooperate with the truth commission, and may destroy and conceal documents that are necessary for revealing the truth.

### **The Rwandan case: Gacaca Trials**

The Gacaca method has been used in Rwanda as a traditional system of justice intended to relieve the burden on formal prisons and courts in the aftermath of genocide. Gacaca hearings are traditionally held outdoors (the word loosely translates as "justice on the grass"), with heads of the household typically serving as judges in the resolution of community disputes. The system is based on voluntary confessions and apologies by wrongdoers. Gacaca justice rests on three main principles:

- categorization of persons prosecuted for having allegedly committed genocide;
- participation of the population in public trials;
- confession and remorse of the culprits.

The Gacaca trains local community members to serve in panels as judges. The judges are "eminent persons" chosen within a given community, regardless of their level of formal education. The tribunals operated in several stages: first identifying victims, then suspects – and finally, holding trials. Local residents

gave testimony for and against the suspects, who were to be tried in the communities where they were accused of having committed the crimes. Those who confessed in Gacaca courts had their sentences reduced, or in some cases, suspended if they had already served enough time in prison.

### **Benefits**

The Gacaca courts provided relief to both small and larger national courts from their exceedingly large caseloads. Gacaca courts tried criminals charged with acts against humanity, such as murder and serious assault, as well as acts of so-called “first category” status (i. e. perpetrators of crimes at the local level). Community members felt that Gacaca might help Rwandans to talk about what happened in 1994 rather than shutting it away like before, and also help to identify the perpetrators.

Finally, in order to empty the country’s prisons, a new law in 2004 allowed those accused who plead guilty to have their prison terms commuted to mandatory community service. Reassigned to “solidarity camps”, the convicted were to make tiles and bricks, build houses for destitute survivors, drain swamps, or fight erosion.

### **Criticism**

Despite the Gacaca’s good intentions, certain experts believe that it has been only marginally successful. The level of participation by community members was generally quite low; witnesses often failed to attend the trials, or when they did appear, would not give testimony.

In addition, conventional trials have seen false accusations and intimidation of witnesses on both sides; the possibility of revenge was raised as a concern. The acquittal rate was 20 percent, suggesting that a large number of trials had not been well-founded. Many communities also perceive the tribunals as being one-sided, which contributes to a widespread lack of confidence in the system.

The fear of retribution appears to be a major issue preventing witnesses from testifying in the Gacaca. In fact, in the last few years there have been reports of killings and attacks on witnesses who were expected to testify in Gacaca courts.

### **3. Information for individual participants: Role cards**

#### **3.1. Role card: United Nations body for transitional justice (moderators)**

As moderators, you represent the only international body present at the talks. The Zamalian conflict was a long and bloody conflict, which garnered a great deal of international attention. Accordingly, you have been invited to the reconciliation talks to assist post-conflict Zamal in moving forward.

As representatives of the UN, you have a difficult undertaking before you. You want the **people of Zamal** to decide which reconciliation process would work best for their specific situation and culture. Your task is **to assist in the process by mediating and focusing the talks, in order to produce a set of written guidelines for the reconciliation process**. To facilitate this, you must **assess the conflict as objectively as possible, while simultaneously mediating between the different groups**.

Your aim is to reach a **consensual** agreement at the end of the meeting. A solution that is not agreed upon by every stakeholder would not be full reconciliation, and ultimately represents an obstacle to a sustainable peace-building process. Additionally, there is intense media coverage surrounding the Zamalian negotiations, fueling expectations from both your UN superiors and the international press. Therefore, by the end of the talks you must **produce written guidelines accepted by all parties**.

There are many interests represented at the talks. All of these actors harbor a great deal of anger, frustration, and resentment towards one another. Keep in mind that the discussion may become emotionally charged at times. There is a lot at stake, and all parties involved in the conflict have experienced great physical and emotional loss.

Complicating your task are the acknowledged human rights violations on both sides of the conflict. The UN is deeply concerned about the outcome of these talks. Therefore, **you cannot ignore the amount of international attention that the violent conflict has received, or the interests of the UN in these talks** (with respect to maintaining peace, redeveloping the region, and upholding human rights standards). You also do not want to endorse a resolution that could lead to another Zamalian conflict.

Since this might be the first time since the end of the conflict that many of these groups have come into contact with one another, a brief introduction of 2 minutes is suggested before delving into the talks. You must create a space in which to encourage compromise and agreement.

As moderators, it is up to you to plan out the series of formal/informal talks to be held between the different interest groups. By scheduling informal talking sessions following each of the formal round(s) of conversation, the groups are given an opportunity to better understand each other's position.

Additionally, since you need to eventually agree on a set of written guidelines, after the opening introduction, and break for informal consultations, you should focus individual debate on **each of the reconciliation measures**. You should facilitate these debates in a manner whereby the different parties are encouraged to elaborate on the pros and cons of each possibility.

The decisions should be unanimous. You can make **suggestions** as to what direction the Zamal government should pursue if you think that the conversation is at a stalemate, or the parties are not moving towards a consensus.

### 3.2 Role card: People's Liberation Alliance (PLA)

You represent the political wing of the People's Liberation Army which was formed during the early years of Fekmes' rule to advocate for the People. The People's Liberation Army began with a Maoist ideology, seeking to equally redistribute the nation's wealth and power among the masses. Initially you relied upon grassroots organizations for support, capitalizing upon the shortcomings of Fekmes' government. Over time, socio-economic inequality, impunity, political instability, and the inaccessibility of remote villages proved fertile ground for creating a "people's war" against the state. As the war progressed, there was a greater need for you to move into other parts of Zamal in order to fight effectively against the National Army – in some cases, confiscating the houses and resources of the local population. However, you believe that this action was necessary for Zamal's greater good; it was the "people's" duty to support you during the war given that you were fighting for everyone's benefit.

In the wake of the civil war, you have been accused of committing egregious Human Rights Violations (HRV's), including rape and murder. In the reconciliation talks, you face the serious risk of having harsh punishments levied against members of your party for committing these alleged abuses. You realize that some human rights violations may have been committed by your followers but believe that said violations were not on par with those committed by the NA operating under Fekmes' government. You also believe that you were fighting for justice and equality on behalf of marginalized members within your society.

Overall, you want the country to heal and move forward. Thus, you are advocating for a **truth commission (TC)** to bring out the facts surrounding the war and decide the details of the reparation process. You believe that **forgiveness** might be the best form of reconciliation for your tattered nation, and the process of **granting amnesty through a truth commission** should heal the country's wounds. Additionally, **reparations** may be a progressive step towards lasting peace. You believe that TC's are preferable to court proceedings because **punitive justice measures would further divide the country by creating hostility and assigning unnecessary blame.**

You acknowledge that **criminal prosecution may be an option for some perpetrators in the conflict**, especially high-ranking Army officials, as you believe that the NA committed the most severe atrocities. Immediately following the conflict, an independent commission found that the NA and PLA committed an nearly even number of crimes during the civil war. Yet, the NA was under

Fekmes' control for years prior to your PLA uprising. Additionally, you are aware that the National Republican Party still controls most of the legal and political mechanisms in the country, and a lot of high-ranking members within society have ties to Fekmes' rule. Thus, you are **vehemently against any use of national courts to deal with the past and prosecute human rights violators**. This process would be skewed by the NRP's undue influence. A better option would be to have some sort of **international prosecuting body**.

**So, keep in mind, this is your lone opportunity to have your interests heard regarding reconciliation.**

**ICC:** Though you do not wish punitive measures to be enacted for human rights violations, you would support the ICC over NCT because you do not trust the national judicial commissions, which are under the NRP's influence. If forced to make a choice, you would support the ICC because you still believe that the NA committed the worst human rights violations. Thus, they must face trial for the abuses they committed prior to the war.

**National Criminal Tribunal:** You would only support the NCT if the majority of the judges were to be removed from their positions, because they are too closely aligned with the NRP. In that case, less corruption would exist, and a national legal proceeding could be realistically considered.

**Truth Commissions:** You recognize that a truth commission can vindicate your position. However, the members of the commission must produce an unbiased final report. You support a truth commission that would grant full amnesty, especially because your "soldiers" were fighting for the people. In your view, some HRV's were unfortunate yet necessary measures to remove Fekmes' government from power.

**Reparations:** You support this measure in the people's name. But you believe the members of the NRP and NA should pay the biggest share according to their responsibility.

**Memorialization:** You support memorialization, but believe the difficulties of war must be objectively presented.

**No measure:** You are vehemently against this proposition. In the war's aftermath, an investigation needs to be conducted and presented if the country is to move forward. Also, you feel that this measure would exempt many NRP and NA violators from rightful prosecution.

### 3.3 Role card: Zamal National Army (NA)

You are the General of the Zamal National Army (NA), and (optionally) have your chief of staff and primary aid with you during the reconciliation talks.

Once Fekmes gained dictatorial power, the NA became his personal cadre, and was not viewed favorably by most of the country's citizens. This resulted in the illegal uprising led by the People's Liberation Army (PLA), and the ensuing civil war. Fortunately, Fekmes died, and your Army is now free to regain the people's trust, and move forward without having to carry out his commands.

As the NA Commanding General, you did not actively participate in the war. Immediately following the conflict, an independent commission found that the NA and PLA had committed an nearly equal number of crimes. You are also ambivalent towards the National Republican Party (NRP) members, as you consider them disloyal hard-liners, who are trying to distance themselves from the NA despite their having been allies under the National Party of Zamal (NPZ). The NA has disassociated itself from the Fekmes legacy, and is remorseful for the countless lives lost both within your army and among the people at large. You are not a politician, but would like to take this opportunity to set the record straight and affirm your position in the face of any measures that will further tarnish the NA's reputation. All in all, for the nation to move forward, you believe that a **"clean slate" is the best policy.**

Consequently, you need to convince the reconciliation panel members that for the nation to regain legitimacy, the NA must regain its prominence. However, this can only be accomplished through a favorable public image; this will be difficult with drawn-out court proceedings. You are **against any punitive measures**, which in your view will only maintain the wedge within various factions and prolong the healing process. A **truth commission (TC)** may be an option because you know that the NA leadership did not commit any atrocities; you have already been vindicated through the independent commission. Keep in mind: the outcome of these talks is binding on the future government.

**This is the lone opportunity for you to have your interests heard regarding reconciliation.**

**International Criminal Tribunal:** You are against this option. You fear many of your top generals will become victims of a "witch hunt".

**National Criminal Tribunal:** You somewhat favor this option because you still retain (marginal) ties to the NRP. However, you do not want any members of your army to be punished, even though the NRP has made private concessions not to prosecute your soldiers. There is a conflict of interest in the making.

**Truth Commission:** You favor this option as a way to place blame on the PLA. While vindicated, you believe that the PLA still grossly underestimates the damage they caused to the national psyche. An internal TC, conducted with the NRP's assistance, will once again restore the NA's rightful place among the people.

**Reparations:** You only favor this option if the Combat Impunity Party acknowledges that the PLA, as a guerilla force, was responsible for the collateral damage within the nation's towns and villages.

**Memorialization:** You are against this option, unless the NA is given an opportunity to participate in the decision-making process. You fear that the NA will not be depicted favorably concerning their position as defenders of the Zamalian government.

**No Measures:** This is your **ideal outcome** from the reconciliation talks.

### 3.4 Role card: Zamal National Republican Party (NPZ)

You are part of the National Republican Party; an ideologically “right-wing” political party formed after the conflict. Prior to the civil war, you and many of your colleagues were members of the hard-line “National Party of Zamal” (NPZ), spearheaded by Marceloh Fekmes. Towards the civil war’s conclusion, a faction of the NPZ leadership realized they could not further support Fekmes. They viewed his erratic and repressive policies as destructive to their party, and felt threatened by the power he was gaining. Therefore, your faction separated and formed the “National Republican Party (NRP)”, attempting to politically distance yourselves from the horrific reign of the NPZ. Nevertheless, the majority of the Zamalian population still equates the NPR with the NPZ and Fekmes.

During the war, the NPZ began to lose political clout as violence mounted. Once Fekmes died and the cease-fire was initiated, the remaining members of the NPZ sought to regain political power and joined your faction, publicly declaring your party to be different from Fekmes’ NPZ. Clearly, the civil war placed your party in the midst of a very contentious situation. The reconciliation talks are crucial to the survival, integrity, and success of the party.

Many of your party members are social “elites” who retain close ties to the former NPZ party, the Fekmes government, and the National Army. Politically, you wish to **quickly reestablish the pre-Fekmes status quo, preserve the traditional and cultural structures of Zamal, and the power and wealth of the upper strata of society.** You face a serious challenge negotiating with many of the parties present at the talks, with members of the People’s Liberation Army (PLA) and the United Democratic Front (UDF) being particularly problematic. Currently they are gaining power, threatening the power of the social elite and advocating for more minority representation in the government, which you believe would result in political chaos and stunt Zamal’s progress. However, you also wish to appease the public as best as possible, and distance yourself as much as possible from the negative attention that the National Army (NA) and NPZ have received. Since you are major players in the government, you must find a way to create a positive public image, while recovering power lost to the other interest groups in the summit. **Remember, this is the lone opportunity for your interests to be heard regarding reconciliation.**

#### Political interests

You believe that **prolonging the memory of the conflict, and therefore the reconciliation process, represents a serious threat** to your survival. This would place many of your party members at grave risk of retribution, and

continue a decline in your party prestige and class power – ultimately curtailing the nation’s progress. At the same time, you understand that prolonging the peace process risks angering the people and possibly creating more armed civil conflict. Therefore, you want to find a solution in which **reconciliation can be carried out as fast as possible, with little negative repercussion to your party members.**

You also understand the need to distance your newly named party from the NA and the NPZ in the public sphere and do not want the possibility of another dictator rising in your party. There are former army generals who are loosely affiliated, and vying for prominent leadership roles. Although you openly collaborated with these generals before and during the war, you realize the danger to your public image that would ensue were they fully associated with your party, as many of them have been accused of committing war crimes. You want a solution in which **some of the worst perpetrators are punished and removed from power, while still protecting as many of your members as possible** so that the NRP can remain in power.

Since members of the NPZ and NRP have been in power for a very long time and retain power in the nation, many national judges are closely associated with the NRP. Therefore, it is in the **NRP’s interests to have national criminal tribunals (NCT’s). The trials could prosecute prominent members of the PLA** who committed serious war crimes. Those members pose a potential danger to the nation’s stability through their advocating of equal rights for minorities, including increased government representation. **An NCT would preserve peace, keeping power and wealth in the hands of the elite, while limiting outside influence.** The use of international judges would complicate the reconciliation process, risking the prosecution of many members within the NRP and NA. Publicly, you advocate that **holding local trials** would strengthen Zamal’s legal system, paving the road for a strong democratic future.

**So, keep in mind:** To keep a favorable public persona, you want to prosecute members of the PLA through a NCT, because you have a great deal of influence over local judges. An International Criminal Tribunal is not an option. Moreover, you have made private concessions to the NA not to prosecute many members of the army. You want the nation to move forward as quickly as possible, so you do not want any sort of Truth Commission or Memorialization. However, if it helps move the reconciliation process along, you would be willing to endorse reparations to the victims. No measures is also an option that you favor.

### 3.5 Role card: United Democratic Front (UDF)

You are representatives of the United Democratic Front (UDF), a political party that existed in Zamal prior to Fekmes's rise to power and the Zamalian Civil War. Your main objective is to advance the nation towards a peaceful and democratic future.

Prior to the Civil War, the UDF was entirely comprised of elite members within society. Through the years, your party has gained a more diversified political body. It has also been historically considered to be the least corrupt faction of the government. During Fekmes' early years as president, the UDF was a very vocal critic of his authoritarian practices. As a result, many of your high-ranking members were arrested, imprisoned, and tortured. Also, during the civil war, some of your leaders were executed because Fekmes declared that they were instigating unrest in the country. Meanwhile, rank-and-file supporters were subjected to the crimes of the People's Liberation Army (PLA) and National Army (NA). Clearly, your party has suffered losses on all fronts.

Despite this history, at the war's conclusion the UDF aligned itself with the PLA, believing that the latter represented a force that could achieve positive change. Yet, you are leery about lending complete support to the PLA because of the crimes committed against your supporters. Yet, you also worry that if too many PLA members were taken into custody and tried in court proceedings the interim government's effectiveness and legitimacy would become compromised.

You personally (or *one* of your representatives) feel(s) that the aforementioned crimes require further investigation, and that the perpetrators of said crimes should receive full punitive measures. Your member's position is similar to that of "Combat Impunity". However, you (as a party) realize that their position may be impossible to implement, as the National Republican Party still holds several key judicial placements among local and national judges. Furthermore, your members are very concerned that local judges might further politicize the conflict, with the result of maintaining the Zamalian society's current status. Because some of your party members were victims of the PLA and National Army, and because you represent a democratic oppositional force trying to break with the long tradition of corrupt judges and partisan trials in your country, your favored option is **an International Criminal Tribunal**. Your party believes that in order to move forward, the truth surrounding all perpetrators in the conflict must be made public; therefore, high-ranking violators should be tried independently of the political framework of the state.

With this in mind, you should seek an option that tries as many perpetrators as possible, and does not solely focus on high-ranking perpetrators. **A Truth Commission (TC) could serve as a supplementary institution dealing with medium and low-ranking perpetrators as opposed to high-ranking offenders.** In your opinion, the TC should grant amnesty only in exceptional cases. **Furthermore, you favor reparations for all victims and their families in every case brought before the TC and ICT.** You consider monetary awards a public expression of justice, and do not favor reparations that would be offered “under the table”.

With respect to non-punitive measures, education and memorialization are other possible methods of reconciliation. **You believe that educators should objectively emphasize the tragedy of the conflict; after all, both sides were involved to a vast extent.** Museums and memorials should also present a balanced view of the tragedy. **This stance aligns you with the Women in Action party and Combat Impunity.** However, you worry that their position may make it too difficult to reach a compromise with the PLA, NRP, and NA.

**Keep in mind** that you see yourself as a moderate party, and are willing to compromise on all non-punitive measures. The lone exception is the ICT, which you consider to be crucial to successful reconciliation in Zamal.

### 3.6 Role card: "Women in Action"

You are political representatives of "Women in Action", a political party formed at the end of the conflict by a coalition of women who were dedicated to attaining peace in Zamal through inclusion of women in the talks. Your party supported the social policies and ideals of the People's Liberation Army (PLA), advocating changes to the traditional patriarchal hierarchies characterizing Zamalian society, but not their violent measures. Your party is part of the interim government, primarily standing for equal rights of women and minority groups.

As often occurs in violent conflicts, women in Zamal carried especially heavy burdens and were specifically targeted, easily manipulated and suppressed by the army, arbitrarily suspected and harrassed for supporting the PLA, pressured by PLA forces to provide them with food and lodging, and exposed to massive sexual abuse (mostly by the army, but also by PLA rebels). Both entities used rape and psychological intimidation as weapons of attrition warfare. The direct and collateral effects of the armed conflict severely harmed Zamalian women, leaving them overburdened and destitute, as well as physically and emotionally traumatized. You know the stories of many of these women and sympathize with their pain, loss and anger. Nonetheless, you recognize and respect the capacity of women to reconcile with the perpetrators of crimes and re-establish a necessary social fabric; therefore, you focus on this aspect in your political representation and negotiations with all interested parties.

The crimes targeted against women have largely remained unreported and unpunished, due to social stigmas attached to victims of gender-based violence and a general culture of impunity during the war. As such, "Women in Action" **wants the crimes and their perpetrators to be made public in order to end their impunity.** You believe that as the chief caretakers of families and communities, women are vital to preserving the social fabric. In this time of fragile peace, when antagonists must often live as neighbors, restoring and rebuilding relationships in villages is vital. Your focus is not on judicial prosecutions, but on opening a dialogue between victims and perpetrators through an "intergroup process of healing" in order to heal or at least to relieve the personal and social traumas suffered.

You favor **Truth/Reconciliation Commissions (TRC)** which involve the active participation of the Zamalian population. You advocate a TRC at the state level, but even more importantly, local reconciliation commissions (i.e. Gacaca Trials) to enable healing at the grassroots level. While it is often very difficult and

painful to remember and relive these experiences, burying the past through deliberate forgetting will not enable an individual (nor a society) to let go of the past and evolve. You understand the reluctance of the victims' party (Combat Impunity) to forgive the perpetrators of human rights violations (HRV), but you firmly advocate a **dialogue between antagonists** as the only remedy to overcome pain, fear and suspicion – the gradual generation of trust.

Although women have suffered greatly during the conflict, you disagree with the idea of prosecuting all perpetrators of HRVs; far too many individuals would face trials. Nonetheless, you do believe that certain crimes committed against women were so severe that they cannot be pardoned and granted amnesty. Your party calls for perpetrators of such crimes to be brought to justice in **national criminal tribunals** in order to provide a symbolic form of public apology; this is of particular importance for sexual abuses and rape. While the national legal system might still be corrupt, with many judges maintaining associations with the NRP, your focus is on a reconciled and democratic Zamal. Therefore, you advocate that using the national courts at this point would be the only way of strengthening the fragile legal system.

Also, you would prefer that the perpetrators bear **financial reparations** rather than serving prison sentences. This money could essentially relieve financial burdens of the victims and society brought about by the war.

**So, keep in mind:** You principally advocate **Truth/Reconciliation Commissions** at the local level in order to establish a dialogue between victims and perpetrators, and to enable social healing. For particularly grave crimes, you want criminal justice at a **national level** to demand retribution from the perpetrators – primarily in the form of **reparations** – and at the same time, to strengthen the country's legal structure.

### 3.7 Role card: Combat Impunity

You are the representative(s) of the victims' party, which calls itself Combat Impunity. The party formed shortly after the ceasefire, and represents victims of the war. Composed of victims on both sides of the conflict, Combat Impunity wants to ensure that **all perpetrators of the war will be punished, regardless of their involvement.**

During the brutal civil war, almost everyone in Zamal suffered intense oppression and harassment – both psychological and physical – from the Peoples Liberation Army (PLA) and the National Army (NA). Civilians faced harassment, torture, rape, and summary executions if suspected by the NA of having any connections with the PLA. Conversely, if civilians were suspected of supporting the Army, they suffered cruel oppression from the PLA. They were also forced to provide the PLA with food, money, and soldiers under threat of severe punishment. The population was caught in the middle. Almost every family has been affected by the violent war. You represent the men, women, and children who are dealing with the aftermath. Many of them lost relatives, homes, and have had to cope with drastic lifestyle changes. Due to the injustices they faced, your party will not forget or easily forgive all the crimes and horrors experienced.

Your party wants to join the reconciliation talks and have a substantial influence on the proceedings because you feel that you represent the interests of society as a whole. While you understand the importance of forgiveness in the reconciliation process, most of the crimes have been so severe that you do not want to accept an absolute amnesty for the perpetrators. In order to achieve justice and reconciliation, **you desire punitive measures against all perpetrators of the crimes, through the application of the most stringent consequences possible.** You believe that in order to have peace and re-build the country of Zamal, harsh measures are required in light of what occurred. Additionally, you believe that the whole world should hear about the cruelty of Zamal's civil war and the personal tragedies of Zamalians. **Your primary goal is to use an International Tribunal,** so that the international community will become aware of the human rights violations (HRVs) that took place in Zamal. Keep in mind that the National Army does not want any measures to be taken. Meanwhile, the PLA, advocating for forgiveness as the best way of reconciliation, admits that there should be prosecutions – but only for certain crimes.

In addition, you believe that Zamal should **memorialize the war's tragedies so they will not be forgotten**. This measure is extremely important to your party, as you represent those who suffered the most and want their stories to be remembered. This may be a measure that the "Women in Action" Party is willing to co-sign.

The people you represent have endured intense psychological and psychic harassment, and no amount of money could ever compensate their suffering. However, you are aware that many Zamalians no longer have their livelihoods, property, or life savings; they now live in poverty. As such, you strongly advocate for financial reparations. These funds will enable the victims to rebuild their lives. Nevertheless, though important, **reparations** are not your primary interest.

**NOTE:** You do not trust the National Republican Party (NRP), as the majority of its members supported Fekmes. You worry that they will have an uncontrollable impact on the local and national legal systems. The PLA also does not trust the national officials. Keep in mind that the NRP will probably oppose any international influence on the trials. However, for Zamal's future, you need to compromise in order to reach a consensus. Remain open-minded, and ready to listen to arguments on all sides of the talks. You may also consider courts in which international judges cooperate with and supervise national judges.

### **3.8 Role card: Against Forgetting**

You are representative(s) of Against Forgetting, an NGO that strongly speaks out for national reconciliation through the **memorialization** of the civil war and its atrocities, in order to avoid a forgetting of the past and a reoccurrence of similar crimes in the future. Education is a focus of your organization and you are currently working closely with the interim government to develop a plan on how the war will be taught. In addition to educational measures, your goal is to remember the war in the form of museums, monuments and memorials for the victims, historical sites, etc. You also advocate for truth telling by the perpetrators. You consider that real reconciliation can only happen through memorialization in education, media and the public space.

A peaceful and democratic society can only be built if the past is not put behind and forgotten, but remembered and properly dealt with. In your opinion, national reconciliation must start with **education** so that the next generation will become a bulwark against a possible recurrence of war in the country. You strongly advocate for different aspects of the civil war to become part of the curriculum and consider that the young generation needs to learn about the causes of the war in order to prevent such a conflict from happening again.

With regard to the current generation that has lived through the civil war, your aim is to create physical spaces that are places of mourning and healing for victims, survivors and also perpetrators. **Public memorials and museums** must be built in order to confront the legacies of the atrocities of the past and to **teach lessons about democratic citizenship and human rights**. In these public spaces, an ongoing dialogue on past trauma can be achieved, and diverse opinions and perspectives can be discussed. You view that memorialisation – combining public art, civic space, and the power of memory – is one of the most important tools to help build a better Zamalian society.

You ardently argue against forgetting crimes and massive human rights violations committed by both the Zamal National Army and the People's Liberation Army during the civil war. However, in your opinion, criminal prosecution of the perpetrators is less important than finding out the truth and making it public. Zamalian society which was caught in between the army and the PLA during the war and forced to collaborate with either or both, needs to know about the crimes committed by both sides. This will serve to cut all former allegiances and to recognize that it is not possible to define a "good" or "bad" party of the conflict and that the Zamalian civil war was a war that was all-

encompassing, including the – often times forced – collaboration of all segments of society.

Ideally, finding out the truth should be supported by the perpetrators themselves, by coming out publically and admitting their crimes. You thus argue for a **truth commission** to be established. If the perpetrators – the army, the PLA, as well as the majority of the population – admitted their crimes before their fellow countrymen, this would enable a process of national healing, forgiveness and reconciliation. Only on that basis, new trust can be established and a new democratic society can be built. Since criminal prosecution is less important to you than a truth commission, you are generally **against national or international criminal tribunals**, or at least not as the sole measure. If the other stakeholders insist on a criminal tribunal, **make sure that the transitional justice measures also include a truth commission**. You are strongly against a solely national tribunal as several of the current judges in the national court system still have strong ties to the National Republican Party.

Your organization is aware of the **role of the media** in the conflict, different radios and newspapers supporting different actors during the war and thus reinforcing hatred on both sides. That is why you aim to include the media in your educational efforts. Your organization already organizes capacity building activities and training for journalists. With regard to the specificities of a truth commission, you argue that the **truth telling of the perpetrators should be transmitted on the radio**. Everyone needs to know about the crimes committed, reconciliation efforts must be as close to the people as possible.

Keep in mind: You support a holistic approach to transitional justice and are thus interested in different forms of justice and reconciliation. However, your main concern lies with educating people about the civil war and its causes, the current as well as for the next generation.

Try to talk to all the different stakeholders in the beginning and in the informal negotiation rounds to see with whom you could ally to realize your preferences.

Your position on the different options:

**International Criminal Tribunal:** You are generally against criminal prosecution, both on the international and the national level as you consider truth telling more important. Make that clear in the beginning and don't make concessions too early in the game. However, if other stakeholders insist on criminal prosecution, make sure that it takes place on the international level or that there is an international component to it (like a hybrid tribunal).

**National Criminal Tribunal:** You are even more against criminal prosecution on the national than international level as you know that the national judges are controlled by the NRP.

**Truth Commission:** You strongly argue for a truth commission to be established. Moreover, you advocate for the proceedings of the truth commission to be transmitted on the radio.

**Reparations:** This is not your main concern, but you are not against reparations. If it comes up in the discussions, you will mostly argue for reparations in the form of rebuilding schools.

**Memorialization:** This is your main concern. You strongly argue for different memorialization efforts including education, museums and memorials as well as the media. In order to move forward and to become a real democratic society, Zamalian society needs to remember the atrocities of the past.

**No Measures:** This is unacceptable for you.