

PROGRAM ON NEGOTIATION/CLEARINGHOUSE
AT HARVARD LAW SCHOOL

THE ZALADA CRISIS

TEACHER'S PACKAGE

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THE ZALADA CRISIS

General Information

Zalada achieved independence in 1962. It maintains relations with Colonia, its former ruler, and those relations have never been unfriendly. Zalada is a member of the non-aligned movement.

It is now the 8th of March. Late in the evening of March 1, two Zaladan drivers employed by the Colonial embassy were arrested, jailed, and reportedly badly beaten. They were travelling in an official embassy car at the time of their arrest; all other details of their arrest and detention were vague. On March 2, the families of the two drivers reported to embassy officials that the drivers had not returned home after work. Their friends had also heard rumors about the drivers being jailed and beaten by the Presidential Security Police (PSP).

Anne Joulet, a Colonial embassy political officer, then contacted an official in the Zalada Ministry of Justice; the Zaladan official said he knew nothing about the incident. Further calls extracted a promise to "make inquiries." A later phone call yielded an admission by the Zaladan official that the two drivers were in custody "on charges."

Pressed for details by Joulet, the Zaladan official mumbled something about the drivers passing the President's car on a street in a suburb of the capital, and that they had been seized by officers of the PSP. The Zaladan official implied that the incident constituted some kind of serious offense. He also said that the President's vehicle was "clearly marked." Later he explained that this meant the car had a "Z" on its license plate. The "Z" plates display a capital Z and a low number, and are used only on the presidential fleet of vehicles. It seemed that the car was of ordinary appearance except for the markings on the plate. It was also unknown whether the plate light was operating, from what direction the embassy car approached, and whether the President's vehicle was parked or being operated in some fashion. The President's residence is on the other side of the city from where the arrests were made. The President is widely rumored to have a custom of going out on amorous adventures *incognito* late at night.

Joulet asked to see the drivers and was refused. She then pointed out that the embassy car could only be operated by one person at a time, and asked that at least the embassy employee who was not actually operating the vehicle be released, along with the vehicle itself, which had been seized. The Zaladan official responded that under international law, Colonia had no right to see the drivers or to raise any issues on their behalf because they were Zaladan nationals who merely happened to be working for the Colonial Embassy.



On the morning of March 3, the main opposition newspaper in Zalada published a front page story about the arrest of the embassy drivers for passing an unmarked presidential vehicle, noting that the President's car was not even in a motorcade. The story implied that the arrests were a violation of the rights of the drivers and an insult to Colonia. Joulet again telephoned the Ministry of Justice to demand immediate action, but was again told that Colonia had no legal standing and that the matter was closed. The Zaladan official who took her call was of a lower rank than the one with whom she had spoken the day before. He responded immediately without seeming to have to consult with his superiors. The drivers had now been held for well over 24 hours.

No release or arraignment occurred March 4, and on the 5th, the Ambassador of Colonia met with the Zaladan Justice Minister and demanded that he be granted a visit to the drivers and that they be released. The Minister appeared nervous, but refused both demands.

On the evening television news and in newspapers the next morning (March 6), Col. Miller, Commander of the PSP, was quoted describing the drivers' actions as "reckless and drunken driving," "damaging government property" and "insulting the sovereignty of Zalada." He demanded Colonia apologize. After learning of Col. Miller's public statements, the Colonia Ambassador sent a formal note of protest to the Zalada Government. The note demanded the drivers' immediate release and reparations, and described the actions of the police as "irresponsible" and a violation of international law.

The next day, March 7, the press in Colonia and Zalada reported that a protest note had been sent by the ambassador which, according to diplomatic sources, had characterized the Zaladan President as "irresponsible." Some Colonian newspapers called the President of Zalada a madman, recalling the summary execution of a Colonian national for alleged smuggling four years earlier. Late that day, Col. Miller, citing the Colonian press reports, said this "outrage" called for the "strongest possible response." He mentioned breaking diplomatic relations and seizing Colonian property. He demanded an immediate apology. That evening, a Colonian Deputy (representative to Colonia's legislature) publicly called for economic sanctions against Zalada.

It is now March 8. The drivers remain in jail. The First Secretary of the Colonia Embassy has requested and been granted an appointment to meet with the Zaladan Deputy Minister of Justice for Security Affairs.

Background information about Zalada and Colonia.

Zalada and Colonia have been trading partners for many years. The trade is important to both, but a matter of survival for Zalada. Nearly all of its foreign currency is earned in this way, and most of its trading arrangements are through Colonian banks. Most of Zalada's industry is Colonian-owned.

Zalada is located in a vital geo-political position. By agreement, Colonia has the right to use



Zalada's main port as a naval base in the event of crisis. In fact, the Colonial aircraft carrier *Pacifica* and her support group are scheduled to make a port call next week. Zalada receives Colonial aid for a number of development projects, as well as military equipment and occasionally military advisers.

The Colonians are very popular in Zalada. A Colonial college and institute, cultural exchanges and many other ties link the two peoples. Colonial is one of the official languages of Zalada and is used throughout the civil service.

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SUMMARY OF KEY POINTS

- * Zalada gained independence from Colonia peacefully in 1962; friendly relations have been maintained between the two states, which are closely linked culturally. Colonial is one of the official languages in Zalada.
- * Zalada is highly dependent on Colonia -- for trade, banking development assistance and military aid. Most businesses are owned by Colonians.
- * Colonia maintains a naval base in Zalada's main port, which it has the right to use in times of crisis. A Colonial aircraft carrier, and its support group, are due to arrive March 15 for a port of call.

THE CURRENT CRISIS

March 2

The families of two Zaladian drivers, employed by the Colonial embassy, report that these men are missing. Rumors suggest that the men were arrested late at night on March 1 by the Presidential Security Police (PSP).

The Administrative office of the Colonial embassy called the Zaladian foreign ministry, and was advised to inquire directly at the Justice Ministry. After several calls, she reached an official who said: Yes, the PSP had taken the men into custody -- and seized the embassy vehicle as well -- after an incident involving the car of the President of Zalada. Since the men were Zaladian nationals, Colonial diplomats would not be allowed to see them.

March 3

The opposition newspaper in Zalada reported the arrest of embassy drivers: its account claimed the President's car was not marked or escorted, and implied that the PSP had intended a deliberate insult to Colonia by seizing its vehicle (which was clearly marked with diplomatic plates) and beating up the drivers.

No official reports on the status of the drivers were made available.

March 4

The Colonial Ambassador called on the Minister of Justice to demand that first, he be allowed to visit the drivers and second, that the drivers be released. Both demands were refused.

March 5

The Colonial Ambassador sent a formal note of protest to the Zalada government. The note described the actions of the PSP as irresponsible and incongruent with conventional



diplomatic practice, and demanded that the drivers be released immediately.

March 6

Press accounts in both Zalada and Colonia report that the Ambassador had said the President of Zalada was "irresponsible." Some news media in Colonia described the President as a "madman," and added lurid accounts of his strongman political techniques.

Col. Miller denounced hostile Colonian press accounts, demanded that the Colonian Ambassador apologize, and suggested the "strongest possible response" to this "outrageous insult to Zaladian sovereignty."

March 7

Several speeches in the Colonian parliament called for economic sanctions against Zalada.

March 8

The Deputy Chief of Mission of the Colonian Embassy has requested and been granted an appointment with the Deputy Minister of Justice in Zalada to discuss the situation.

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THE ZALADA CRISIS

Confidential Instructions for the First Secretary of the Colonial Embassy in Zalada

You are a career diplomat. You feel you understand the subtleties of dealing with the Zaladans better than any other Colonial national presently in Zalada. Your Ambassador is a popular political figure in Colonia who has only recently been appointed to his post in Zalada. He had no prior foreign relations experience, and had relied heavily on your expertise until now.

Last week, however, when this whole incident began, you were home on leave. As a result, the Ambassador wrote the strongly-worded protest note himself, apparently without consulting either the foreign office or other career diplomats at the embassy. When you returned yesterday, the Ambassador immediately summoned you. He had begun to draft a cable to the foreign office asking for the imposition of sanctions and authorization to impose, at his discretion, a wide range of political measures. He asked you to finish drafting the cable. You persuaded him that at least one more overture should be tried and suggested that you arrange to meet the Zaladan Deputy Minister of Justice for Security Affairs. The Deputy Minister was educated in Colonia and lived there for several years before returning to Zalada. The Deputy Minister has always cooperated closely with Colonia on regional security problems of mutual interest and is Col. Miller's superior. Although you have met the Deputy Minister several times at social and public events, and you went to school with the Deputy Minister's older brother (now a prominent Zaladan businessman), you have never conducted any formal negotiations with each other.

In preparation for your meeting with the Deputy Minister, you met with political officer Joulet and other members of the embassy staff to review the situation. The staff expressed concern about the role of Col. Miller, Commander of the PSP. Reliable informants have advised embassy officials that Col. Miller had been with the President on the night of the arrests, and had made a show of efficiency and power out of the incident. The colonel is a very strong-willed individual who has recently become quite powerful. Informants hint that the other Zaladan ministers fear him and that the President tolerates his excesses because the colonel is effective in his security work.

Internal dissent has risen in Zalada over the past few years, as the President's popularity has declined. He has put off elections for many years. In recent months, some Zaladan dissidents have approached embassy officials and urged Colonia to make a strong public attack against the President in hopes that it would topple his regime.



That hope may not be so unrealistic. Colonia controls virtually all of Zalada's trade credit and foreign currency reserves. Any actions Colonia might take to impair or freeze these resources would cause Zalada severe hardship. Colonia is under no formal contractual obligation to provide aid to Zalada, and Colonia could at any time terminate its aid and trade programs. These include military assistance, infrastructure projects, and general economic development programs. On the other hand, Colonial access to the Zaladan port is of great strategic importance. Also, any kind of overtly coercive intervention might be embarrassing for Colonia, particularly in its extensive relations with its other former colonies in Africa and other developing countries.

Of course, such use of political leverage may not be necessary. A check of legal sources suggests that the protocols on diplomatic relations between Zalada and Colonia not only give Colonia standing to raise a matter involving the welfare of any of its employees but also offer diplomatic immunity to Zaladan nationals employed by the embassy for charges arising from "any actions connected with the employee's official duties, if performed under the direct orders of an embassy officer." On the evening of the arrest, an economic aid specialist at the embassy had worked late and had been driven to his home by the two drivers, arriving at midnight. According to the specialist, the second driver had apparently "come along for the ride." The specialist lives within a kilometer of the location where the arrests were made.

The review of legal sources also revealed that as far as anyone could discern, no statute or administrative regulation governed behavior around the President's car. In addition, the Zaladan Constitution states that no one may be held for more than twenty-four hours unless charged, brought before a judge, and offered bail.

Prepare to meet with the Deputy Minister.

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THE ZALADA CRISIS

Confidential Instructions for the Zalada Deputy Minister of Justice for Security Affairs

You have been Deputy Minister of Justice for Security Affairs for three years. You were appointed by the President. You have always been loyal to your President, and your loyalty has been rewarded by a series of advancements in your public career. A week ago, you arrived at your office to find one of your subordinates waiting to see you. He told you that at about 1:00 a.m. that morning, the Presidential Security Police (PSP) had arrested some employees of the Colonian embassy, and that embassy officials were making telephone calls to the Ministry trying to get the drivers released. You knew nothing about the arrests, but did know that anything done by the PSP could mean trouble for you. You instructed your subordinate to find out what he could from the PSP, and pass on to the Colonians only the information that was safe and would not get the Ministry into any trouble.

You thought you had succeeded at avoiding any trouble. Until this morning. The First Secretary of the Colonian embassy telephoned and asked to meet with you personally. Although you have worked with the military attachés at the embassy on regional security problems and have met the First Secretary several times at social and public events, you have never conducted any formal negotiations with each other. Although the First Secretary seems to be a decent enough person, you also know that the First Secretary went to school in Colonia with your older brother. He is a prominent Zaladan businessman whom you greatly dislike and suspect may be trying to blackmail you.

The First Secretary seemed quite anxious to meet you, and you did not want to make a hasty refusal that might appear to be an insult. You said you would have to seek the approval of your superiors and then telephoned the Minister of Justice. He did not give you an immediate answer, but promised to call back. Instead, about twenty minutes later, the President called you directly and approved the meeting. He gave rather sketchy and confusing instructions; he seemed to be saying that the matter had to be resolved quickly but that the government was in an awkward position and would not give in to any bullying from Colonia.

Your position is delicate. You are acutely aware the your President has become quite unpopular in recent months. He is coming to rely increasingly on his security forces, to the point where you are worried about his or anyone's ability to control people like Col. Miller. You can well appreciate how the Colonians might regard Miller's behavior -- you were trained as a lawyer in



Colonia and lived there for several years before returning to Zalada. You understand the desirability of civilian control of the military and of human rights, including legal due process rights. On the other hand, you recognize that many Zaladans don't share those ideas; they believe that the state must take precedence over the individual and over regional and ethnic groups so that Zalada can overcome its internal divisions and develop into a modern nation.

The President and Col. Miller are contemporaries, and went to the same elite Zaladan high school, which has a very strong 'old boy' network. Even though you are nominally Col. Miller's superior, you would not want to give him an order he is likely to refuse, as you feel sure the President would side with Col. Miller. Government officials educated at the Zaladan high school have tended to resent those Zaladans who were educated abroad, and you don't want to reopen any old wounds.

You want to come out of this incident with you, the President, and your country looking as good as possible -- your future political career may depend on it. This might necessitate a little embarrassment for Colonia, but you are hopeful that you can explain the situation to the Colonial First Secretary. Even if you can't reach a full resolution (after all, your hands are tied in many ways), it would be helpful to work out some arrangement that postpones any further escalation.

To prepare for your meeting, you met with some of the other officials in your ministry and from the foreign ministry to review the situation. The drivers are now being held in a PSP garrison, rather than in the city jail. This is certainly irregular; you should be able to persuade (if not order) Col. Miller to turn over the arrestees to the city jail. Such a request can be portrayed as consistent with the President's wishes. Also, the drivers have not been allowed any visitors, and no formal charges have been filed. There is no statute or administrative regulation governing behavior around the President's car. However, there are the usual traffic regulations against reckless and drunken driving and requiring motorists to obey police orders. No one knows exactly what charges the PSP might want to bring: no formal report of the arrest was filed by the PSP with the ministry, and lower level officials within the ministry have not dared ask for one. One of your subordinates was certain that the drivers were drunk at the time they were arrested (consistent with Col. Miller's public statements), but no one has been able to confirm whether this is true. You have tried repeatedly to reach Col. Miller, but have been told both by his office and his home that he is "unreachable at this time," and that they don't know when he will be available.

The Zaladan Constitution stipulates that no one can be held for more than twenty-four hours unless charged, brought before a judge, and offered bail. The official from the foreign ministry brought to your attention the protocols on diplomatic immunity to Zaladan nationals employed by the embassy for charges arising from "any actions connected with the employee's official duties, if performed under the direct orders of an embassy officer." Lacking an arrest report, you don't know exactly what the drivers were doing when they were arrested and whether they claimed to be acting under orders. Of course, it's doubtful they were under direct orders to engage in drunk driving.



You realize that Colonia controls virtually all of Zalada's trade credit and foreign currency reserves, and for Colonia to impair or freeze these resources would cause Zalada severe hardship. You are also aware that Colonia is under no formal contractual obligation to provide aid to Zalada. In other words, Colonia could at any time terminate its aid and trade programs, which include military assistance, infrastructure projects, and general economic development programs. Such hardships might encourage political dissent and de-stabilize the regime. It may also however, enable the President to rally the people against Colonial intervention. Either way, it is difficult to predict in the current political setting.

Prepare to negotiate with the First Secretary from the Colonial Embassy.

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