ASSIGNMENT 2

Question 1)

1. **What should be the goal of a 3rd party intervention in a conflict: peace or justice? Why?**

Although I believe that peace cannot exist without justice neither justice without peace and as we have seen in our set of readings they are both interdependent of each other one has to come in front of the other one in any conflict. This, as we have read, has created major problems between human rights advocates who believe justice is more important and ADR practitioners for whom peace should always be first in a conflict. The question here is: What SHOULD be first?

Both human rights advocates and ADR practitioners have one common goal as we saw in our reading: to develop and strengthen civil society and prevent them from falling back into human rights abuses or violence. Even so, their priorities to reach this common goal are entirely different. Human rights advocates place their emphasis on finding the guilty and punishing them, thus achieving justice. Conflict resolution practitioners on the other hand seek dialogue and reconciliation to please both parties and achieve peace. Not only will the tension that exists between the parties involved in a conflict exist, but also the tension between those intervening to solve the problem and who have different views. Human rights advocates are a stumbling block in reaching immediate peace, as seen through the eyes of an ADR practitioner while ADR practitioners are an interference to justice as seen through the eyes of a human rights advocate.

When you are in in the middle of an armed conflict where people are losing lives I believe that the first goal should be to achieve peace. Even so, it is of extreme importance not to put justice completely on hold. Human rights are incredibly relevant for the sustainability of the peace that you are trying to achieve. If these are ignored then it will not be long before conflict arises again. Therefore, mediators should be very clever as to how they present their case and not just make peace their main and only objective but, “What can we do to make this peace actually last?” As we read in William G. O´Neill´s “Mediation and Human Rights” a good way to address this issue would be to start with those human rights that have been usually seen as “second class” which are economic, social, and cultural rights which include things such as the right to education, the right to food, housing, and medical care, the right to remuneration and well-being and these are just to list a few. These rights tend to be less touchy than those of first generation which are civil and political rights. This set of rights are the ones that usually cause the most tension at the negotiation table. I believe that it is wise to not try to get everything at once, but to move one step at a time at the negotiation table. It is also important to learn to be flexible, yet not so flexible that you come to the point of entirely forgiving the past grievances of people who have affected the lives of many others and who if left free could be the cause of more problems in the future. ADR practitioners cannot allow justice to be entirely sacrificed at the negotiation table, but human rights advocates also need to be less aggressive in their approach to their beliefs and learn that sometimes in life you cannot have the largest slice at once, but you have to begin with the smaller slices and then slowly move on towards the big one. Starting off with less touchy rights will also allow mediators to achieve peace faster, thus human rights practitioners not entirely interfering with the work of mediators, nor it being the other way around, I believe that if both sides have more of an open mind that to that which they are trying to “defend” then there will be more trust at the negotiation table and will be more effective in their cause of peace and justice.

1. **How stable is peace without justice?**

Not very stable at all. If you achieve peace completely setting aside justice then you are not really achieving much as it will not be long before conflict begins again. Just as violent conflict or the absence of peace will lead to human right violations the lack of human rights will without any doubts lead to conflict. When individuals in a certain context feel like their basic human rights are being violated they will rise in order to achieve those rights. We have seen this happen in the course of history many times.An example of this waswhen the majority of non-white inhabitants of South Africa rose against Apartheid. Apartheid was a system of racial segregation where the white South African minority held control of the government and deprived of the rest of rights such as their citizenship, interracial marriage, and even going to the same places white people went to. This inevitably led to a spark of internal resistance to which the government responded with very violent police interventions, which eventually led to an armed conflict. As we can therefore see a state who acts unjustly against its people will without doubts have violence problems.

1. **Do the attempts by human rights activists to bring human rights perpetrators to justice before the end of the conflict, prolong the violence?**

It probably does because human rights perpetrators are after all in a negotiation table. They will not be willing to cease fire as well as lose their freedom all at once. This is the reason why so many political leaders that have submerged themselves in this kind of actions against civilians have been able to take advantage of the negotiation table to plight for amnesties and even positions in government. Many times for the cause of immediate peace ADR practitioners are extremely flexible to forgive things that should not be so easily forgiven. After all, these leaders did commit war crimes and direct violations to human rights. If this had not happened there would be no need to be in the negotiation table. That is why it is so important to be clever in how you manage the conflict and in knowing both sides well to be able to achieve peace as fast as possible yet be able to deliver justice in its due time.

1. **Should human rights perpetrators be accepted to the peace process negotiation table? Should they be offered amnesty?**

I believe that they should because after all you cannot just hear out one side of a conflict but, both of them. After all these individuals have the same rights before the law that the “good” guys have and they should also be heard. You will never be able to reach any kind of agreement if only one side of a conflict is represented and the problem will just persist. The presence of all the sides involved in the conflict are essential to talk, mediate, and find a solution to the problem. One will never be able to reach any kind of solutions if just one side is allowed to show up at the mediation table therefore even the human rights perpetrators should be allowed to come into the negotiation table.

Although they should be allowed at the negotiation table I do not believe that they should be offered amnesty. It is good to be flexible, but not so flexible that they are allowed to go on with their lives as if they had never done anything. They should be allowed to trial and just punishment just like any other person that commits a crime for those are the rights of a person. But they should not be allowed to simply go free in order to reach what will turn out to be a very unstable peace agreement. It is good to find ways to negotiate with this people and to be wise about it in order to achieve peace as fast as possible, but impunity for such terrible crimes should not be allowed. Although I believe that all people are redeemable and that they can become respectable people after having done terrible things, I believe that the deliverance justice is also very important in long stable peace processes. If they are allowed to simply go on with their lives freely they may cause further trouble in the future. Not offering amnesty is good even for the civilians who were under the hands of unjust leaders. If a loved one was murdered or treated unfairly under a regime you will not rest in peace knowing that the person responsible for that crime is still free. Therefore I do not believe that amnesty should be an option offered to those who deserve punishment.

**Question 2:-**

**a: Have you experienced the tensions between the HR and ADR practitioners that are mentioned by the readings? Could you share some examples?**

Tension between of the HR and ADR practitioners are summarized as follows:-

1. It originates from the misconception that it is impossible for the two practitioners to share a space. Not much different from Nation-State conflicts.
2. Human rights practitioners advocates. ADR practitioners mediate/ facilitate dialogues. One coerces they other persuades.
3. Tensions could arise because they apply different lens to the conflict. The human rights practitioner lens adjusts to positive and natural laws, the customs, and the desire for fundamental human needs to be respected. The ADR practitioner lens adjusts accordingly to preserve the conversation, the dialogue, and the outcome

**b: Regardless if you have or have not experienced these differences between the HR and ADR fields in your work, think of some solutions, maybe some that you’ve already implemented, to overcome these tensions mentioned in the literature.**

Using restorative, transformative or truth and reconciliation approaches are possible solutions.

Before elaborating further it is worthwhile to outline the basic tenets embedded in restorative principles. According to academics, restorative principles include:

1. Human beings are inherently relational

2. Dialogue over punishment

3. Include all those involved

4. Be prepared to look forward

5. conflict/dispute must consider the story of those involved at a holistic level

6. Approach to conflicts must be flexible and democratic in nature

According to the text, this method can also bring about peace and justice in a way that lessens harm in the future for the larger group as a whole. it is from this basic principle that all people have value and rights that human rights activists and ADR professionals should start to work from, together. We need to ask what happened, why, and how everyone was impacted to see that everyone has a perspective and more likely than not, there are misunderstandings and misconceptions that fuel the instability and injustice. The reasons, insights, perceptions and interpretations that come out of the dialogue may shed light on the misunderstandings and build feelings of compassion,which in turn often brings forth healing and feelings of justice for the individuals..

Gaps of the two fields:

1. **Westernized tool (Cultural):-**

The human rights and Alternative dispute resolution (ADR) tools are based on researchers that

1. **Religion:-**

There is a coalition between protection of human rights and alternative dispute resolution (ADR) with the world religions.

For example, some human rights advocates and western governments encourage gay and lesbian (homosexual) rights and protect them. For example, in Islam world and African countries those who practice such behavior are regarded as criminals and it is a heinous crime. It is civil Rights whereprotection from discrimination based on gender, religion, race, nationality, age, sexual orientation. Some human rights advocates and government

1. **Sovereignty of state:**

The state is a historical institution it emerged in fifteenth and sixteenth century in Europe as a system of centralized rule that succeeded in subordinating all other institutions and groups.

State is defined as:-

* A defined territory
* Permanent population
* An effective government
* The capacity to enter in to relations with other states

The current international state system is derived from Europe into North America and then to the rest of the world. Therefore most Human rights and ADR scholars tied their research with the notation of that principles and ignored that they did consider the historical and composition of the society in the world.

For example,

Somali ethnic is divided by the colonial powers into five regions (Djibouti, Five Zone/Kilal of Ethiopia, North west of Kenya, Somaliland and Somalia) The later two formed a Somali republic in 1960. Somalis were member of the Ottoman Empire and Adal kingdom in the Horn of Africa before European colonization.

In that regions if a conflict occur, peace is maintained and reserved by the Somali community in tribal lineage and their own methods of conflict resolution tools to achieve a sustainable and lasting peace. Irrespective of the region they live in, they work together and resolve their issues . It is more effective than government interventions and the application of existed ADR tools and HR.

1. **Application of confliction resolution, Alternative Dispute Resolution (ADR), Human rights tools:**

Such application of ADR and Human rights is widely divided for many issues. For example, the conflict of Palestine and Israel, you can see who governments and societies are divided in this issue.

1. **Foreign policy :**

Most foreign policies of the governments in each country are incompatible with human rights and alternative dispute resolutions (ADR)

1. **Legality/Law: -** Who has the right to ensure the application of human rights and alternative dispute resolution (ADR) in peace and conflict situation? Is it State, society, religion etc? What reference should be following and adhered to?