

.Bismillah hirrohman nirrohim,
Assalam mu'alaikum warroh matullah hiwaba rokatuh

The Salutation.

I am particularly delighted to be here this afternoon despite the fact that this is the snoozing period. Looking at how well prepared you are, and everyone has a smile, I know you are here to share your concerns with what occurs in several parts of the world...for some time now and continuing today.

As I speak here, I received several alerts that there are troubles in Gaza, in Darfur, in Honduras and in Urumqi just a few moments ago.

But first we remind ourselves as to why we meet at this Court!

We assemble to honour the memory of Professor Emeritus Tan Sri Ahmad Mohamed Ibrahim. I first met the Allahyarham³ Professor at Cumberland Lodge during one of the Inner Temple residential weekends in the 1960s. I was then a law student in my 30s while the Professor was invited and placed amongst the Senior English Judges who led serious discussions on very crucial matters.

Allahyarham was instrumental in the progress of University Malaya particularly its Law Faculty and the IIUM which names the Law Faculty after him. IKIM has set up a special Ahmad Ibrahim mega project⁴ "Sebuah Biografi dan Telaah Pemikiran". I am confident that with Prof Dato' Dr Zaleha Kamaruddin going from Dean of AIKOL to IKIM, this project will get a boost.

It is appropriate at this juncture that I thank Professor Dato' Dr Zaleha Kamaruddin for inviting me to deliver today's lecture. I take this opportunity to heartily congratulate Prof Dato' Dr Zaleha on your special appointment in IKIM and wish you every success in the national and international arena. I am also grateful to AIKOL and particularly Assoc. Prof. Dr Mushera Ambaras Khan, the Director of the 10th Memorial Lecture, and her committee, for working so hard to organise today's event. I like all of you to join me in making this important event into one of turning minds towards tomorrow's solutions of World problems.

ADR.

The Committee indicated that I touch on ADR. But as I was given the opportunity to select the topic, I decided that we together judge for ourselves the various "Humanitarian Conflicts and Crises".

Let me go to the basics and offer you the explanation as to what ADR encapsulates: that it is "Alternative (some prefer Alternate) Dispute Resolution". In place of "Alternative", cannot we think that it be "Additional"? Additional to the Court process or litigation.

You must remember that Allahyarham Tan Sri Ahmad Ibrahim was instrumental in introducing the teaching and research on ADR in Malaysia. Those who knew Allahyarham Tan Sri will remember that he was a true Gentle Man. He avoided conflicts and arguments and instead chose the consensus way. I like to think of Allahyarham Tan Sri as ADR Personified.

Many of us already know that ADR is the term used in cases where parties, in dispute, meet with professional and/or reputable third party who helps them

³ The late (Also "al-Marhum".)

⁴ A Biographical and Intellectual Study Project.

resolve the dispute(s) in a less formal and often more consensual manner than that permitted by the environment in the Courts. The popular forms of ADR are mediation and arbitration. We should include negotiations. Even at this stage, let me not surprise you by saying that mediation has been used to resolve international and ethnic conflicts.

But sadly, as of today and maybe for the coming months⁵, several mediations fail in their quest for peace. One such was the Saudi role in the Lebanon crisis. This, I was told, was due to the divergent views of the Israelis, the US, the French, the Syrians and Lebanon's home-grown opposing parties. External actors are contributing to polarization by taking sides. To add to the confusion, Iran tried to mediate. And you know why such efforts had been rejected and by whom.

One characteristic of a successful mediator is that both parties must know him/her, respect him/her and accept that he/she is impartial as well as neutral⁶, apart from him/her being knowledgeable.

Which conflicts are excluded from our coverage?

I shall concentrate more on the armed conflicts, battles and shootings among people and the resultant humanitarian crises. I apologise that I shall not cover such calamities as floods⁷, fires, severe storms, cyclones⁸ and tsunamis⁹, dust smoke and haze, volcanoes¹⁰ and earth-quakes, crop failures¹¹ and drought and starvation. And you and I know that more human lives are lost through such occurrences or calamities¹².

I must however mention that FAO has stated that "hunger and malnutrition are killing more than six million children each year". Many of these children die from treatable infectious diseases like diarrhoea, pneumonia, malaria and measles. No ADR can help. But with excellent political will, incorruptible Governments, the Medical facilities and health clinics can prevent deaths.

Many will want to hear more on these issues and occurrences. But I shall have to keep within the title of today's lecture and work within the sphere of ADR.

I was given to understand that many of you are in your finals. So I shall not explain the laws relevant to each conflict. I do not want to overload you. Instead it can be a worthwhile exercise that you pit the facts to the legal principles applicable to each zone or crisis.

But first: what is Humanitarian crisis?

Some prefer to describe this as "humanitarian disaster" but the term can contain the above natural disasters and other major emergencies. For our talk, this term is confined to "Armed Conflicts" and Wars.

Dr John H King, Adjunct Professor of Webster University, stated that "humanitarian crises provoked by war seem far worse and more long-lasting than

⁵ Lebanon's Elections held in June 2009.

⁶ The two terms are now differentiated (i) Impartiality – helping without discrimination as to ethical or national criteria, religious beliefs or political opinion, and (ii) Neutral – not taking sides in hostilities or engaging at any time in controversies linked to the conflict. (See Official Statement by ICRC May '95.)

⁷ The 1931 floods in China killed between 1,000,000 and 4,000,000 The dispute in numbers continues.

⁸ 1970 Bangladesh Cyclones – 500,000 lost their lives. Cyclone Nargis in Myanmar claimed 22,000.

⁹ The Indian Ocean tsunamis (including Sri Lanka, Banda Aceh in Indonesia) killed over 350,000 and caused loss of millions of homes and in monetary terms. (Also called the Boxing Day tsunami of 2004)

¹⁰ From NASA Earth Observatory, the August 2003 Russian Kolka Glacier collapsed and killed 125.

¹¹ The US has instruments that can foretell such possibilities a couple of months in advance.

¹² Disaster or great misfortune.

crises caused by random events such as natural disasters". (in Refugee Survey Quarterly by UNHCR)

You should not be surprised that at end of last month (July 2009), the International Crisis Group¹³ reported that "nine actual or potential conflict situations around the world deteriorated and none improved .." These include the status in Georgia, Guinea-Bissau, Honduras, Iran, Niger, North Caucasus (non-Chechnya), Peru, Somalia and Thailand.

Those who are eager to know of the other conflict areas will remember these: Afghanistan, Algeria, Armenia, Azerbaijan, Bangladesh, Basque Country (Spain), Belarus, Bolivia, Bosnia, Burundi, Cameroon, Central African Republic, Chad, Chechnya (Russia), Colombia, Congo-Brazzaville, Cote d'Ivoire, Cyprus, Democratic Republic of Congo, Ecuador, Egypt, Eritrea, Ethiopia, Fiji, Gabon, Guinea, Haiti, India, Kosovo, Kyrgyzstan, Lebanon, Macedonia, Madagascar, Mali, Mauritania, Moldova, Myanmar/Burma, Nagorno-Karabakh (Azerbaijan), Nepal, Nigeria, Northern Ireland, North Korea, Pakistan, Philippines, Rwanda, Serbia, Sri Lanka, Sudan, Syria, Taiwan, Tajikistan, Timor-Leste, Turkey, Turkmenistan, Uganda, Ukraine, Uzbekistan, Venezuela, Western Sahara, Yemen, Zimbabwe.

Those who have experienced group activities will recall that it is always "might is right" despite the holy admonition that "justice must prevail". The ones with the power (power of owning land, power over oil or water or both, or fire-power as the US possesses) will be able to dictate and take what they want. In both the World Wars, the victors took what they decided on. But that has not brought peace¹⁴, goodwill or acceptance by the vanquished.

And the Victors may or might not have heeded any advice from outside experts or persons who had some knowledge of the situations then. Though negotiations had taken place, the third party (the "mediator") was not able to play a role in those decisions to ensure a fair deal as enshrined in the now-famous "Win-Win Situation". The Victors¹⁵ discarded any possibility then of mediation or arbitration. That put paid to ADR in those circumstances.

Can mediation help a country to achieve independence?

Malaya (and later Malaysia) and many countries achieve independence through negotiations. But Namibia became independent through the efforts of a third party in 1990. That outstanding individual is Mr Martti Ahtisaari.¹⁶ I shall mention him again later.

If such "third party" intervention or, more appropriately termed as "mediation", (or "Third Party Facilitator"?) can assist parties to arrive at such momentous decision, then I am of the opinion that similar efforts can be doubled to achieve the termination of conflicts and so reduce crises and further loss of lives and lead to a safe and healthy world.

Former Yugoslavia¹⁷ / Bosnia.

Much as I like to talk of the Bihac Blockade¹⁸, I shall now turn to the Sarajevo Airport as at 1995. The World remembers this as a symbol of a city's survival and

¹³ Their Crisis Watch offers us weekly/monthly status of the various crisis-situations.

¹⁴ Remember the British decided on the State of Israel within Palestinian territory? See what that has caused the world!

¹⁵ War causes devastation, loss of lives in thousands and millions.

¹⁶ Finland's former President .

¹⁷ There was an "Arbitration Commission of the Peace Conference on the former Yugoslavia 1991/93.

¹⁸ Blockade by the Krajina Serbs to stop UN aid convoys to mainly Muslim areas of Bihac pocket in Bosnia in March 1995.

of the international determination to provide aid to its people. The Serbs had surrounded the city and the only way in and out was by planes or flying machines. I salute every one of those pilots.

The article by Cedric Thornberry¹⁹ says that "...a dozen or more huge planes dip suddenly below the rim of surrounding hills (which bristle with weapons), drop precipitously onto the runway and quickly unload a hundred or more tons of humanitarian aid from all over the world". This enabled the people to survive a three-year siege.

And what I wish to add here was that the Serb suddenly decided to hand over the airport (after they had captured it in June 1992) to UNPROFOR²⁰. The UN team in the negotiations explained that it had a Security Council mandate whose terms were not negotiable.

But very sadly another negotiation (or inaction?) involving the UN in July 1995 went awry. The Bosnian Serbs laid siege to the Srebrenica enclave where thousands of civilians had taken refuge. This area was under the protection of 600 Dutch infantry forces when Serb forces shelled it. Bosnian Muslim fighters in the town asked for the return of their weapons which they had surrendered to the peacekeepers. But their request was denied.

The Bosnian Serbs (the Army and the special military unit called The Scorpions) stepped up their shelling. The Dutch Commander Colonel Karremans filed a request for UN Air Support. UN Commander General Bertrand Janvier refused on July 10, 1995. The next day the Colonel received word from Sarajevo (Bosnian capital) that his request was on the wrong form! Six hours later, the Serb commander Ratko Mladic²¹ entered Srebrenica and summoned the Dutch Colonel when he delivered an ultimatum that the Muslims must hand over their weapons.

Srebrenica in Bosnia was the World's First UN Safe Area! Nobody could foretell that the worst case of genocide in Europe since WW2 could occur there.

The next day, more than 23,000 women and children were deported while the men and boys were held in trucks and warehouses. Then on 13th July the first killings of unarmed Muslims took place in the nearby village of Kravica. The Peacekeepers handed over about 5,000 Muslims who had been sheltering at the Dutch base at Potocari, a small intimate spa town.

It was only on 16th July that reports of the massacre emerged when the first survivors of the long march from Srebrenica arrived in Muslim-held territory. More than 8,000²² Muslim men had been killed in the five days.

Following the negotiations between the UN and Bosnian Serbs, the Dutch were permitted to leave Srebrenica, leaving behind weapons, food and medical supplies.²³

Some evidence seems to be emerging indicating that Serbia is allowed to censor the most incriminating evidence which shows Serbia's direct involvement in the Srebrenica genocide. I shall not deal with this matter as we will require a half day to discuss it.

¹⁹ Joined the UN in 1978. Rose to head UNPROFOR Civil Affairs until 1994.

²⁰ UN Protection Force.

²¹ Wartime military Commander indicted together with former Bosnian Serb leader Radovan Karadzic with genocide and crimes against humanity.

²² Some reports put the number at 7444 dead. Another issued later put the number at 8,372.

²³ From the BBC News (Timeline: Siege of Srebrenica).

But I can say that I attended (as "Special Visitor") the trial of a Serb Commander, involved in the genocide, at the ICTY (International Criminal Tribunal of the Former Yugoslavia) at The Hague in May this year. A video was screened in evidence. I saw the Serbs and their fire power and military hardware.

So coming back to ADR, it is essential that the objective be fixed. In the Srebrenica's case, the ADR (or negotiation) was only to save the Dutch lives. And so they were saved. The UN did not provide the necessary leadership or the guidance. And so the Commander was left with less than himself.

I shall input a bit more in order to fill in the sequence (in the hope you are keen on the "progress" of this episode.) On 10th April 2002, the Dutch released a 7,600 page report of the Srebrenica genocide. On 16th April the Dutch Government announced that its entire cabinet had resigned. The Prime Minister Wim Kok said the Government accepted responsibility²⁴ (but not any blame) for its failure to protect the town. The next day General Ad van Baal, Dutch Army Chief of Staff, resigned.

From what I heard, (and You-Tube has it in 2007), more than 70% of those in the "Dutchbat"²⁵ have left the Army and 10 have reportedly committed suicide.

Where else could ADR help?

Dr Karen Mingst, the Lockwood Chair Professor,²⁶ on April 7th of this year, declared that "there are no humanitarian solutions to humanitarian problems", a quote made famous by the former UNHCR²⁷ Sadako Ogata. She added that in humanitarian aid we must be aware of a "bloody hand" and a "bleeding heart", the terms used to describe the corruption in NGOs that correlates with the desire to help those in need.

At one stage, many in the international field of humanitarian services were in despair. They could see that their services were in vain as conflicts increased and became a part of the global village. More so when none was indeed as successful as they had hoped for. In that environment, Lester B Pearson²⁸ encouraged us on by saying that "If we believe the world is made up of powerful irrational forces, that anarchy and dissolution are always closer than we think, then we have some reason for optimism, not only because we are still here but because under the pressure or, if you like, the blackmail of facts, we are moving forward however slowly".

And to make you happy at this stage, I shall quote from Martti Ahtisaari's Nobel Lecture when he accepted the Nobel Peace Prize in Oslo: "Wars and Conflicts are caused by human beings. All conflicts can be settled". (I shall refer to this when we discuss Sudan).

Let us visit other conflict zones.

As time is of the essence and there is shortage of it, I shall speed and cover as many as possible with brief explanations of each. But believe me: in these zones and countries, the magnitude of human suffering is excessive and people endure, are injured or raped and die. No proper burial grounds for them and no justice as the killers and perpetrators are not caught but instead remain free.

²⁴ Many doubt if a Government in an Asian or African or American country, placed in such situation, would have the honour and decency to resign. Probably they cling on to power (maybe through use of Army and Police) and grab more bribes!

²⁵ Those who were in the UN Force then

²⁶ of the University of Kentucky (may not be well known in Malaysia compared to the KFC?)

²⁷ United Nations High Commissioner for Refugees (or the UN Refugees Agency)

²⁸ Canadian Prime Minister and Nobel Peace Prize Laureate in 1968

A few years ago, the Rt. Hon'ble the Prime Minister of Malaysia approved my nomination as Malaysia's candidate for the post of Judge for the Second Trial Chamber of the Special Court for Sierra Leone. I soon learned of the atrocities committed there and of the huge numbers of people whose arms were cut (just because they prayed to God and used both hands to "dua"²⁹), I knew I could not be impartial and so I did not proceed towards the appointment. And as an update, a witness at the trial of Liberia's former President Charles Taylor testified at the Special Court for Sierra Leone last week that he ate human flesh.

Burundi & Rwanda.

The CIA has reported that despite the 1972 Burundi Genocide where an estimated 100,000 Hutus were killed, Hutus remain the largest of the three ethnic groups in both countries. Hutus comprise of about 84-85% in each. When troubles spilled over, another round of killings took place. This time in 1994, it was the Rwanda Genocide. More than 800,000 to one million Rwandans (or about 30% of the population) were killed within 100 days by the Tutsis who were majority in the Armed Forces. As of 2006, violence has subsided but many Rwandans continue to survive as refugees.³⁰

I shall mention DRC or Democratic Republic of Congo and Somalia. Both suffer from civil wars and the over-throw of governments. In the Congo, Aimee Mwadi Kadi (Director of the Society of Women Against AIDS), says that "poverty has a woman's face". Hassan Noor, humanitarian coordinator of Oxfam, says that Somalia faces a "crisis of monumental proportions" and IDPs have exceeded a million. He thinks Somalia can become "worse than Darfur". And as we sit here, Somalia and other countries with humanitarian disasters tumble down even more.

We shall have a bit more about Somalia later.

And in passing, we should also rope in the Middle East where IRAQ has 1.9 million IDPs³¹ and two million plus refugees who escaped to Syria and Jordan. In addition, Iraq suffers from having millions of children with various disabilities.

Could ADR have helped? Could ADR stop the President of the USA from attacking Iraq then? Their Intelligence Services had claimed that Iraq had WMD³². And they decided they had to stop those from falling on their heads. Their attacks were termed as "pre-emptive" which term is now accepted to describe a method of warfare.

Do you see similarity in Mindanao and Xinjiang?

In both, Muslims live and have homes since time immemorial. And they were happily settled. They carried out their daily chores in the Islamic way and did not venture outside. They did not even force their religion onto others.

Then the Big Bad Wolves, in their expansionist campaign or just as an incident of history (to give it the best and kindest interpretation), brought into Mindanao Muslim Ancestral Areas and Xinjiang Muslim Lands people from outside. In Mindanao's³³ case, the Philippines Government then in the 1946s, was of the view that as the Muslims only occupied the lands nearest the shores, they would give

²⁹ recite a prayer (or supplication) to the Almighty. (to Allah swt)

³⁰ Protocol relating to the Status of Refugees agreed upon by the UN in 1969: "any person who is outside the country of his nationality".

³¹ Internal Displaced Persons. (they are uprooted from their homes, villages and towns but remain within the country)

³² Weapons of Mass Destruction.

³³ Mindanao is the second largest island in the Philippines, with the other two being the Visayan Islands (central) and Luzon (in the north.). Read "In the Neighborhood: Refugees in Sabah" by Ayesah U Abubakar, "RIDO Clan Feuding and Conflict Management in Mindanao:" by Wilfredo Torres III.

the "vacant" or "unoccupied" hinterland to Christian settlers from the Visayan Islands and Luzon³⁴. During an interview by AsiaSource, Professor Thomas McKenna, author of "Muslim Rulers and Rebels: Everyday Politics and Armed Separatism in the Southern Philippines" admitted that "the new Christian communities became linked to trade centres and to one another by networks or roads while Muslim communities remained isolated".

As for Xinjiang, the Chinese Communist Government could not permit the peaceful existence of the Uighurs mostly probably as they wanted to "integrate" other Chinese into the province. But religion and land do unceasingly cause the rise in emotions.

In Mindanao, the Muslims had fought and pushed away US soldiers during the Spanish-American War in 1898 against the Philippines. Mindanao remained "Unconquered". But due to the migration of outsiders, misunderstanding and suspicion became the order of the day. Currently the Bangsamoros³⁵ suffer inequities and deprivations. Jacques Bertrand notes in *Pacific Affairs* (Spring 2000) that "in 1912 the Moros owned most of the land in Mindanao and Sulu; by 1972 only about 30% had land in their name and by 1982 the Moros represented only 17% of total landowners".

Professor Abhoud Syed Lingga proposes the "Re-thinking State Policies and Minority Rights: Getting the Mindanao Peace Process Moving" after the Supreme Court of the Philippines allowed an objection against the GRP (Government of the Republic of the Philippines) and declared the Memorandum of Agreement on Ancestral Domain (MOA-AD) as unconstitutional on October 14, 2008³⁶.

{ After I had completed the full text, I received an e-mail from Prof Abhoud attaching

a "Joint Statement" signed between GRP and MILF, witnessed by Third Party Facilitator. I am heartened that it was acknowledged that MOA-AD is accepted towards

a negotiated political settlement. Some of you may like to see the copy of the Text }

On invitation, I addressed the Institute of Bangsamoro Studies in Cotabato city on Mindanao in April this year. I spoke on "Good Governance". I was honoured and delighted that the Hall was packed. I met the City Mayor and visited the IDPs' camps. It was reported that more 500,000 were displaced in Mindanao. And by July 10th, the National Disaster Coordinating Council has placed the number of IDPs at 703,949 individuals. Nonoy Espina stated that these IDPs suffered illness and hunger besides other deprivations.

I went to the IMT International Monitoring Team (both the Malaysian³⁷ and the International) sites. The other Malaysians, who were to have gone on that trip, did not fly with me as they were concerned for their personal safety "due to security³⁸ problems in Cotabato". I like you to visit Mindanao and decide.³⁹for yourselves.

³⁴ The Manila Government launched "Settlement Programs" for the Christians from outside Mindanao

³⁵ Read "Bangsamoro Children in Conflict Situation" (2008) by Institute of Bangsamoro Studies, "Is there hope for Negotiated Solution to the GRP-Bangsamoro Conflict?" (January 2009) by Abhoud Syed M Lingga, and "The Past is always Present: The Moros of Mindanao and the Quest for Peace" by Astrid S Tuminez of City University of Hong Kong.

³⁶ "What happened to the Peace Process?" by Mary Ann M Arnado, (Sec-Gen of Mindanao Peoples' Caucus) and "The MOA is NOT dead" by Engr. Don Mustapha Arbison Loong.

³⁷ Malaysia pulled out our IMT squad. But the new Agreement signed on 29th July offers hope.

³⁸ The MNLF, founded by Nur Misuari, is the original political front for the Muslims. Misuari is signatory of the 1976 Tripoli Agreement. Then came the MILF in 1977 under Hashim Selamat.

³⁹ Even here, we are in constant danger. A homing device or a smart bomb or a drone can find me!

I should stop here and say that MEDIATION can play a role in this episode, provided both parties can lift the yokes hanging around their necks. One should not demand for excessive portions while the other should offer a "status-quo" as a gentlemanly (or Christian) act and return to the peaceful days, by returning the Ancestral Lands.

Going now to the recent turmoil and riots in Urumqi, the (Muslim) Uighurs (pronounced "Wee-gers") see their properties "stolen" under their feet and given away to the "Han" Chinese.

Several reports have provided a picture of what had taken place. Official figures said "156 dead and more than 1,000 injured, almost all of them Han Chinese". But the League for 5th International says: "Unofficial figures reported before the internet was closed down, speak of as many as 600 dead, mostly Uighurs"⁴⁰.

The South China Morning Post of July 11, 2009, in its Editorial says: "Ethnic conflicts are among the most intractable of political problems. As an ethnic group which feels increasingly marginalised, the Uyghurs ⁴¹ have legitimate grievances; any long term solution must offer viable means to redress them".

Who can offer ADR services? Will the Chinese Government listen? The news has been full with "Muslim anger grows around the world over handling of unrest". But does China care? President Hu Jintao cut short his visit to Italy and quickly led the statement by Communist Party Leaders in warning : "Those who have committed crimes, we will execute them"⁴².

I can say that the Chinese leaders of today are different from those of about 20 to 40 years ago; we can hope for justice. A few days ago, the Chinese President sent to Taiwan's Ma Ying-jeou a congratulatory telegram, the first direct communication. This seems to indicate a fresh viewpoint. Prof Lin Chong-pin, a Strategic Studies expert at Tamkang University, predicted that "it is in Hu Jintao's advantage. He's going to retire in 2012. He may get a peace prize".

And if the President⁴³ can continue with his economic projects and actually allocate a fair proportion to the Uighurs⁴⁴, and also help them develop, something of similar conflicts will not recur. This is my 2-cents offer of a point of view from afar or a premise upon which a negotiation can succeed.

Sudan. {Anthem: "We are the Army of God and Our Land".}

This is the largest country in Africa and the Arab world. The world's longest river, the Nile, bisects the country from north to south. It is surrounded by Egypt, Eritrea, Ethiopia, Kenya, Uganda, DR Congo, Central African Republic, Chad and Libya (and the Red Sea is to its northeast) and obtained independence from United Kingdom in 1956.

I shall desist from lecturing on the country's history despite the fact that it is colourful and exciting, ranging from 60,000 years ago. For our purpose, suffice if

⁴⁰ There are more than eight million Uighurs, more than half of the population of the province. The Uighurs are Turkic and Muslims.

⁴¹ The newspaper spells it this way. Others spell "Uighur".

⁴² Xinjiang borders Russia, Mongolia, Kazakhstan, Kyrgyzstan, Tajikistan, Afghanistan, Pakistan and India. It is China's largest natural-gas producing region and has abundant oil reserves.

⁴³ It is only fair that I declare here that I am appointed onto the Arbitrators' Panel of CIETAC, the China International Economic Trade Arbitration Commission.

⁴⁴ The premiere of a documentary about Uighur activist (exiled Rebiya Kadeer) was a sell-out at the Melbourne International Film Festival last week. Chinese directors withdrew their films and hackers attacked the festival website. Foreign Ministry officials in Beijing oppose countries providing Kadeer with a platform "to engage in anti-China activities".

I say (with sadness) that Sudan, as of this year, ranks as the 3rd most politically unstable country in the world, according to the Failed States Index. She is given this unpalatable crown because of the (IN)humanitarian crisis in Darfur and numerous incidents of the violation of human rights (which I like to change to "human wrongs")

I am of the opinion that with proper facilities and knowledgeable mediator(s), the Sudan vis-à-vis Darfur conflicts can be resolved.

At present, the situation is not clear because questions have arisen as to the cause of the on-going conflicts, crises and killings (or murders). Can it be premised on (i) Muslim Government of the North vs the Christians of the South⁴⁵? Or (ii) persons are permitted to commit robbery with connivance by officials in power or with arms? or (iii) greedy people now realise they can be enriched on the backs of the poor⁴⁶ and the land?

The infamous Darfur conflict was termed "genocide" in 2004 by US Secretary of State Colin Powell and was said to be "the worst humanitarian crisis of the 21st century". More than 3 million have been displaced and a million killed. The UN has described Sudan's western Darfur region as one of the worst humanitarian crises.

The culprits are said to be the Janjawid (some spell it Janjaweed)⁴⁷ and these militias operate with impunity and allegedly equipped by the Sudan Government. In case you wish, you can access the Google Earth Outreach and you can view high-resolution satellite imagery and other critical evidence which was previously accessible only to a select few.

What may baffle us is that the Janjawid killings occur among Muslims; in Darfur, the people are predominantly Black Africans (Muslims) and the Janjawid are "Arabised Black African: Black Arabs". But then the IRA in Northern Ireland had their conflicts between Christians who are Catholics and those who are Protestant. So obviously there were/are other factors that impact on the disputes and misunderstanding among people of the same faith.

From local intelligence, the Janjawid became aggressive in 2003 after two Non-Arab groups (i) The Sudan Liberation Army and (ii) Justice and Equality Movement took up arms against the Sudan Government.

With IDPs in the millions, I think it is high time the Government act in the best spirit of humanity and rescue every human being within their country. Maybe Petronas⁴⁸ can persuade the President? Maybe "mediators" from Europe or the Americas can set the tone so that hostilities can cease and understanding and cooperation can take root. Enough is enough. And with Ramadan coming on 22nd August, the Sudan Government can seize this opportunity to organise true humanitarian projects and programmes, inshaAllah.

The latest is that "The African Union (AU) has refused to act on an international war crimes warrant against Sudan's president". African leaders have denounced the International Criminal Court (ICC) but Human Rights groups responded by saying that the AU's decision was a "gift to a dictator".

⁴⁵ First Sudanese Civil War 1955-1972. and the Second 1983-2005. The North with Arab and Nubian roots while the South has majority Christians and animist Nilotes

⁴⁶ During the 20 years, IDPs were estimated at four million and two million killed. UNICEF recently reported that around 80 infants die each day in Darfur.

⁴⁷ Meaning "A man with a gun on a horse".

⁴⁸ The National Petroleum Corporation of Malaysia (doing business in Sudan at present)

Indonesia: Aceh (Peace Pact with "GAM"⁴⁹)

Whatever the merits or faults of the AU or the President and Government of Sudan, there can be lessons to learn from the stature of President Dr Susilo Bambang Yudhoyono of the Republic of Indonesia.

GAM had been fighting for independence since 1976. But after the 2004 tsunami (which killed some 170,000 residents) both sides in the conflict returned to the negotiating table. The deal⁵⁰ was unthinkable prior to the arrival of thousands of international observers and aid workers who helped with tsunami relief. Secondly GAM dropped their historic demands for independence.

President SB Yudhoyono seized the moment of history and pushed ahead with negotiations. Martti Ahtisaari has concluded that "The Peace process in Aceh showed how important it is that the country's political leadership is committed to finding a solution to an internal conflict".

GAM agreed to decommission its arms and demobilise its 3,000 troops. Some 1,500 members of GAM imprisoned for their political activities were released. More than half of Indonesian Army and Police earlier stationed in Aceh were withdrawn. The parties are committed to a common vision for a new and peaceful⁵¹ future for Aceh based on the principle of decentralised governance within the unitary state of Indonesia.⁵²

The Government of Indonesia invited the EU and five countries from ASEAN to set up the Aceh Monitoring Mission (AMM); the AMM's 15-month tour of duty successfully ended in December 2006.

Somalia.

This is another country (I had mentioned this earlier) which claims to have the "World's Worst Humanitarian Crisis". More than 3.2 million require humanitarian aid, more than 1.1 million displaced (may rise to 1.5 million by the end of my lecture). Aid agencies describe Somalia as one of the most dangerous places in the world.

The Press seem to think that the troubles arise because of conflict between the "Islamist insurgents" and the Transitional Federal Government (which seems to be unpopular but backed by Ethiopia, a US ally). Foreign involvement fuelled opposition locally and outside but these efforts only boosted support for the "Islamists".

Someone has to be big and bold enough to meet both parties and explain to them that their conflict can be MEDIATED; they can select a neutral party whom both respect. There must be someone of that stature (?). Get an international organisation to obtain full and proper data to address their concerns. Then place these on the table for both to see, size up, weigh and consider. Then choose a way whereby both can GAIN something out of peace.

Southern Thailand.

I see some similarities between Somalia and Southern Thailand but not in all respects; in Somalia, the whole country is embroiled in the conflict but

⁴⁹ Gerakan Aceh Merdeka (or Free Aceh Movement)

⁵⁰ The Aceh Peace Agreement (Accord between the Government of Indonesia and GAM) signed on 15th August, 2005.

⁵¹ Those who wish can apply to attend the Master's Degree Program in International Law and the Settlement of Disputes at the University for Peace, the UN-mandated Graduate School for Peace and Conflict Studies

⁵² Aceh Peace Process Support Website: EU Aceh Peace.

fortunately this is not the case with Thailand (where the conflict is in its Southern part).

I see that MEDIATION (or Third Party acting as a Neutral Adviser) can ameliorate the conditions for both sides in the conflict. Thaksin, as alleged by many in Bangkok, was a poison with his attempts to cause more hardships among the Muslims and murders in the provinces of Pattani, Yala and Narathiwat. So far about 4,000 people, both Muslims and Buddhists, have been killed.

Recently the province took stock of their losses: 115 teachers had died and another 200 wounded since 2004. In June 10 Muslims were shot in a mosque whereupon Thai Authorities put the blame on the insurgents. But the strong belief is that such an attack must have been masterminded by "Government" (or part of it).

The present Thai Prime Minister (Abhisit Vejjajiva) is sincere in his promise to develop Thailand's Muslim South with the "Win the Hearts and Minds" Campaign. The Government has promised Thai Baht 54 billion. But then, as feared by the villagers, "Corrupt officials will keep the money for themselves". So perhaps a similar body as the AMM⁵³ can help soothe the anger of the South and convince them that the financial assistance is real. The Mission can oversee actual construction (of premises, schools, expressways, hospitals and equipment and other buildings) and the distribution of the aid to those who should receive them. Such an "ADR" can at once prove that the Thais are serious in combating insurgency!⁵⁴

Afghanistan (and the Taliban?)

There has been constant news about Afghanistan and so I need not add more. Human lives are lost daily. People are killed. Many more innocent "bystanders" are bombed and this is said to be through collateral damage.

But the speech that strikes me most was by Nick Grono⁵⁵ delivered to NATO Euro-Atlantic Partnership Council Security Forum in Astana Kazakhstan on 25th June. He started by saying that "the first thing that needs to be understood is that this insurgency cannot be crushed by brute force." He went on to describe that "a resulting over-reliance on airpower, efforts to kill insurgents have too often resulted in the killing of civilians, causing the population to turn against the government and international forces". Time magazine of July 20th features US Commander Stanley McChrystal and says: "he wants to succeed by winning hearts and minds". Both realise that Pakistan can play a crucial role because both Afghanistan and Pakistan share a long border.

Grono concluded that "with a new US administration now making Afghanistan one of its national security priorities, there is a real opportunity for the international community to come together to work with the Afghan government to address the drivers of insurgency". And I am glad that the Malaysian Government, through the Malaysian Technical Cooperation Programme, assists the Afghan officials with training. I have addressed them on Anti-Corruption at several sessions, organised by INPUMA.⁵⁶

From here, Ladies and Gentlemen, we can see that inputs from external sources can help develop a country. No country is an island and it is our hope that Afghanistan, and so also other countries facing conflicts and crises, can imbibe

⁵³ Call it "South Thailand Monitoring Mission"?

⁵⁴ And in stopping the killings.

⁵⁵ Deputy President of the International Crisis Group.

⁵⁶ The International Institute of Public Policy and Management of University of Malaya.

the lessons and thoughts from your friends. MEDIATION, or in this case more appropriately the "outside view" can help the parties (or players or actors as used by some writers!) realise that above their partisan stand(s) can be found the more altruistic, benign and humane objectives. And I suppose in this way, the practitioners involved in ADR can claim that ADR assists in the settlement of disputes and the reduction of conflicts and lead to the elimination of crises!

And to back my view is the latest International Crisis Group's New Briefing in which they state: "The Partnership for Peace in Burundi, a new mechanism, chaired by South Africa and including the UN, the African Union, Uganda and Tanzania, can play a key role in keeping the peace process moving forward". Such a Partnership can be replicated in other zones and countries afflicted by conflicts.

Pakistan. (and SWAT Valley).

We are now accustomed to reading or listening to news of this Islamic Republic of Pakistan. We have read of the assassination of Ms Bhutto, of bombs meant for their President and the sacking of judges.⁵⁷ of the country's claims in Kashmir and the terrorist attacks and suicide bombings.⁵⁸

I stayed in the Marriot in Islamabad when I attended the Pakistan's International Judicial Conference (as guest of their Chief Justice); a little later, that same hotel was bombed.

The latest was the struggle between the Taliban militants and Pakistani authorities. On July 10, 2007, Army commandos stormed the Red Mosque, resulting in more than 100 dead. The Swat Taliban leader Maulana Fazlullah yelled for revenge.

And soon after, heavy fighting in the Swat valley started. Heavy shelling in the North-West frontier province's Malakand district was followed by helicopter gunships and jet fighters unleashing their heavy artillery on homes and crops⁵⁹. One report estimated that more than 3 million are now IDPs. Fears are growing for thousands of civilians who remained trapped in the war zone, under siege with scant food and medical supplies.

Latest report, I am delighted to add, is that many have returned to their homes in the Swat area and schools have started to operate.

It was reported in mid-July that Pakistan has got the support of G-8 for its fight against terrorism. With such backing, may I respectfully suggest that a way out be found for Pakistan to "talk to" the insurgents (or Talibans) via a third party (whom the G-8 can suggest). With active MEDIATION, I am hopeful that peace can be reachable. Perhaps a Mediation Body⁶⁰ can "offer" its services and be willing to volunteer its members (mediators) into the dangerous territory. No first step means no step at all.

Sri Lanka.

If I do not include Sri Lanka, the Malaysian Tamils will get sore and will ask "why not?". Many ought to be happy that the Bar Council held a public forum with the theme: "Conflict and Humanitarian Crisis in Sri Lanka – What next?"

⁵⁷ Malaysia "sacked" several Judges in 1988. Do you recall that? Recently they were paid some "compensation" (or "guilt coins") for loss of office. Recommended by Datuk Zaid Ibrahim who then resigned from the cabinet and from UMNO and recently joined the PKR.

⁵⁸ In 2009, there are more of these bombings in Pakistan than in Iraq.

⁵⁹ Their mangoes are the best ! And so are their Bismati rice and lamb curry.

⁶⁰ Martti Ahtisaari (at his Nobel Lecture) said that: "Mediators do not choose the conflicts they became involved in but the parties to the conflict choose the mediators."

The LTTE (Liberation Tigers of Tamil Elam) (or Tamil Tigers) launched a campaign in 1972 to create a Tamil homeland in the Sinhalese-majority island. Much of its funding came (and may continue to come?) from Tamils outside Sri Lanka.

While the Sri Lankan Government and its Armed Forces were said to have (i) used heavy artillery on densely populated conflict zone (ii) committed torture, extra-judicial killings and kidnapping (of Tamils), the LTTE fighters were said to have kept civilians from leaving the conflict zone or "effectively using them as human shields" (or Cannon fodder!). Despite all these, Sri Lanka's Foreign Minister told a high-level security forum in Singapore in early June that the global organisation of the LTTE "remained largely intact". (and this may mean that they can reappear at any time?).

The pictures I may screen today are some months' old. You will be glad to know that the American Association for the Advancement of Science (AAAS) had issued an analysis of commercial high resolution satellite imagery of the conflict zone. One has to get the permission of Digital Globe's WorldView and QuickBird to use these. In addition, the US military⁶¹ monitored the Sri Lanka's conflict zones and so can easily provide evidence as to which side committed more crimes. To me, there is no doubt that both sides went out of the legal way to annihilate their enemy.

Because of my stand, you will at once realise that I cannot become a mediator in this dispute! Anyone with a fixed idea of which side has anything against the other ought not to venture to volunteer as a mediator. A Mediator must have a clear mind and one ready to imbibe fresh facts from both parties.

In the case of Sri Lanka, the Government and the LTTE had several negotiations over the past ten years. Finally the clash had to come with full onslaught. It was only after the Government Forces had eliminated the rebel leadership (including Velupillai Prabhakaran⁶²) in Mullaittivu that the Tamil Tigers were defeated. About half a million are stranded or in camps as IDPs. And about 80,000 have died in the conflict.

What started the conflict? The Star of 28th May under "Next mission: Win the Peace" had Dennis Ignatius concluding that "People who are marginalised and excluded will sooner or later push back in one way or another. Witness Northern Ireland, the former Yugoslavia and Pakistan/Bangladesh. The same thing is happening in Palestine, in Southern Thailand, in Southern Philippines and in Tibet". (not forgetting Xinjiang).

When the LTTE chief was alive, no agreement was possible. His intransigence caused any military solution to be impossible. And he had no qualms about using (or misusing) his own people as human shields. He began his infamy by killing the Tamil mayor of Jaffna because the victim was a moderate! Do you recall that in the 30-year War, ten cabinet ministers had been assassinated?

When I reach the Israeli-Palestinian Conflict, think of the LTTE characteristics and compare these with the characteristics of the Israelis and the Palestinians. Then tell me if MEDIATION can sober both sides and help them see some light on their way to Peace? You be the mediator (and in due course, the Judge!).

⁶¹ National Geo-spatial Intelligence Agency (NGA) part of the Department of Defence

⁶² According to Datuk Dennis Ignatius 36-year veteran of the Malaysian Foreign Service: The LTTE chief was a ruthless guerilla leader who pioneered suicide bombing and used that to assassinate Indian PM Rajiv Gandhi and Sri Lanka President Ranasinghe Premadasa.

Israeli-Palestinian Conflict.

Several of you were expecting me to treat this matter as the central theme. I know you have listened to the broadcasts, watched the TV and read magazines and newspapers. So you are more or less fully fed with information. I shall not cause any more confusion!

I remember the Story of "The Arab and the Camel". It was a cold dark night when an Arab was sleeping in his tent in the desert. The camel inched its head under the tent and explained to the Arab that it needed some warmth for its head. The Arab obliged. An hour or so later, the camel pulled its body inside and explained to the Arab that its belly needed to be covered. The Arab did not say no but moved aside. Then before morning, the camel took over the space under the tent and the Arab had to move out. My African friends shared their problems with me. They said that when the white settlers went to their continent, the Africans had their land while the whites had their Books.⁶³ After a decade, the Whites had the lands and the Africans just hold up some books.

And I repeat: both lands and religions can foment conflicts and killings. But leaders who are sound and decent can stop the crises!

In the case of the Israeli-Palestinian conflict, the British must bear the burden for their choice of "Israel" within Palestinian territory. And I should say the Israeli mind is superior to that of the English if we accept that the Balfour Agreement⁶⁴ was dictated by the wishes of Dr Chaim Weizmann, the principal Zionist leader based in London. He was a Chemist who produced acetone which in turn was used in the production of cordite. Cordite, as most of you from the Science stream will know, is a powerful propellant explosive which fires ammunition without generating smoke. The Germans had enough cordite. So the Zionist contribution to the British war efforts afforded them victory. Hence Weizmann was able to demand for a "Jewish national home", not in Africa but right smack in Palestine with Jerusalem as their priority and focus.

In the UN, majority of nations recommended the creation of independent Arab and Jewish states with Jerusalem placed under International Administration (a corpus separatum). A minority (India, Iran, Yugoslavia) supported the creation of a Federal Union in the style of the USA.

The Israeli Declaration of Independence was made on 14th May 1948 (the day the British mandate expired) and henceforth was born the Jewish State named the State of Israel⁶⁵. Why the UN did not or neglected or failed to create another independent state (the Arab? Palestine State?) at the time is not fully appreciated.

One interesting incident which may give you some inkling of the Jewish mentality was when they debated what words to use in the document: one group wanted "... and placing our trust in the Almighty". But another faction wanted "...God of Israel". Finally they agreed on "The Rock of Israel". Those negotiating with Israel must accept that the Jews may not favour or fear "Almighty" or even "God" but bow to the "Rock". With such psyche, Palestinians must respect the Rock too!

Napoleon wrote on 29 November 1806 to the French Minister of the Interior: "(It is necessary to) reduce, if not destroy, the tendency of the Jewish people to

⁶³ The story mentioned "Bibles" but I do not wish to be anti-Christians as they are my friends too.

⁶⁴ The Jews celebrate 2nd November as the Special Balfour Agreement Day. (signed in 1917.)

⁶⁵ The Arabs had expressed their disapproval since November 1918. The Muslim-Christian Association protested against the formation of any Zionist State. (Any Arab weaknesses? Not knowledgeable and not willing to learn,, inability to engage with the people in power in other states, arrogance, individualistic leaders, discouraging own people from becoming better are among several others.)

practise a very great number of activities that are harmful to civilisation and to public order in all the countries of the world". What did Napoleon know then that we still do not know?

But I know I have overshot my time. I shall now commence my conclusion by reminding ourselves that the Israeli-Palestinian dispute is actually within the large sphere of Israeli-Arab conflict. From the little that I know, the Israel's Mossad⁶⁶ and their IDF (Israeli Defence Forces)⁶⁷ are the best in the World. With their innovative minds and capability, they have advanced Hi-tech weapons and systems, the Merkava tanks, Uzi sub-machine guns and assault rifles. That, my dear Ladies and Gentlemen, is the type of Force that brings strength and power to the nation.

So just after Christmas of 2008 until 18th January of this year, (after just a few years of peace in the region since 1948), the Israelis began bombarding the Gaza Strip. They targeted Hamas⁶⁸ bases, police camps and headquarters, civilian infrastructures including masjids, houses, medical facilities and schools.

What was the score? Israel had about 170,000 soldiers backed by tanks, artillery, gunboats and aircrafts while Hamas had total 20,000 men. And with IDF's expertise (and support from other nations?), 1,417 Palestinians were killed of whom 926 were civilians. And the Israelis lost only 13. Yes, I'll spell that out for you: thirteen 10 soldiers and 3 civilians.

I am no strategist and neither am I a militarist nor, in today's world, a terrorist. But from press coverage, it was peculiar that Hamas (or the Palestinians) sent more than a thousand rockets and mortar into Israel. Can you imagine Kuala Lumpur city, quite dense with buildings and few open spaces or fields. Yet those rockets and bombs landed principally in those non-populated areas. And the Israeli Press jokingly claimed that "one accidentally struck a house".

On the other hand, 100% (or if you want to disbelieve numbers, give them 95% success rate), of the Israeli's bombs hit their targets killing around 140 Hamas security forces including their chief Tawfiq Jabber. 80% of the bombs used by the IAF (Israeli Air Force part of IDF) were precision weapons, aided by GPS.

If the Israeli wanted to eliminate a certain individual, that person is dead. The bombs know where to locate and hit him. Does that not prove that Israeli intelligence is superior and spies abound in the Palestinian territory? But that does not seem to be the case in reverse.

I was told that in the 1950s, the UN had appointed a Mediator to try and settle the issues. Sadly the mediator could not help both parties to see the folly of their ways or convince them that PEACE was the best way forward. And so today, Ladies and Gentlemen, the Palestinians continue to suffer and eat humble pie. The humanitarian crisis is eating up the country and if they continue to have no "Independent State" of their own, side by side the Israelis, then they cannot nurture their young, educate their youth and develop their people. If that be the case, it is a picture of one people going down the drain.

The former British Prime Minister, Tony Blair, was appointed by the US President as Peacemaker for the Middle East. Having given up Protestantism, he became a

⁶⁶ Formed in December 1949. It coordinates the functions and results among Israel's security services.

⁶⁷ In order to show their fire-power and prove they can fly into Iran, (1300 kms distance) the IDF procured 100 F-161s and flew to Poland which is 1600 nautical miles away. So Iran: get ready or...!

⁶⁸ Formed in 1987. (Acronym for Arabic: Harakat Al-Muqawama Al-Islamia" and a word meaning zeal)

Catholic. Both individuals forgot that a MEDIATOR⁶⁹ must be (i) accepted and (ii) chosen by the two parties in dispute.

So there is need for the NEGOTIATORS on the side of the Israelis and on the side of the Palestinians to think of an individual or a group of people whom they like, respect and can trust. When they have such a person(s), AND PROVIDED both parties genuinely want to reach a settlement, then the MEDIATOR(s) can assist both to succeed. And with that another humanitarian crisis can be removed from the face of the earth. And ADR can triumph!

EGO in nEGotiator !

I shall stick my neck out by suggesting that in all these conflicts, those negotiators who have been at their tasks for more than eight years must step back and forthwith surrender your tasks to fresh experts, who are more knowledgeable, better educated, more in tune with today's demands for a better world. Believe me, once a negotiator has been at his table for more than five years, his EGO in "nEGotiator" takes over. If indeed he wishes his side to succeed, mark my words. Give the young and vibrant set their chance. It is now their world!

I share with Martti Ahtisaari, who when accepting the Nobel Peace Prize for 2008 in Oslo, recounted that:

" All my peace assignments have taught me that a peace process is largely a matter of cooperation and partnership between different actors, parties to a conflict, peace mediators, governments, the civic society and international organisations".

I hope I have been able to indicate some trouble spots in the world and provided you with the sticky points which keep their leaders⁷⁰ from settling their disputes or from harming their own populations. ADR can help and I wish all who practice ADR the success you richly deserve.

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⁶⁹ See footnote 6.

⁷⁰ The people who make peace are the parties themselves. If one does not want peace (remember the LTTE commander in Sri Lanka?) for any reason, then peace is elusive. Then it must be the members or the groups in the country who should get rid of such trouble-totting persons!