



Presentation by



Senator the Honourable Mark
Golding
Minister of Justice

**Dispute Resolution Foundation's 20th Anniversary and 6th
Caribbean Conference on Dispute Resolution**

Opening Address

Thursday, July 10, 2014

9:00 a.m.

UWI Faculty of Law, Mona Campus

Salutations/Protocol

- Hon. Mrs. Zaila McCalla, OJ, Chief Justice of Jamaica and Conference Patron
- Members of the Judiciary
- Mrs Carol Palmer, Permanent Secretary, Ministry of Justice and Executives of the Ministry
- Mr Chairman – Mr John Bassie
- Paul Hines, Chief Executive Officer, Dispute Resolution Foundation
- Mr Novar McDonald, former Chair, Dispute Resolution Foundation
- Mrs Donna Parchment Brown – Former CEO of the DRF and Director of the Justice Reform Implementation Unit, Ministry of Justice
- Representatives from the Mona School of Business and Management
- Members of the Bar
- Mediators and Arbitrators

- Specially invited presenters and participants from Jamaica and overseas
- Youth participants
- Ladies and gentlemen,

Good morning,

It is with great pride that I welcome and salute the declaration of 2014 as the National Year of Dispute Resolution, by His Excellency The Most Honourable Sir Patrick Allen. I also want to use this opportunity to congratulate the Dispute Resolution Foundation for twenty years of committed and unwavering service to the reform and advancement of justice, peace and unity. As a partner of the Ministry of Justice, the DRF has provided mediation, Restorative Justice processes, and negotiation and arbitration services that have enhanced the justice sector. Through your advocacy, the methods of conflict resolution now available in the justice system provide alternatives that are complementary to the traditional court system.

Indeed, this is a time to celebrate the best as we chart the future, and I wish to specifically highlight that foundation of the DRF was a

collaborative effort among the President of the Court of Appeal, President of the Supreme Court, Jamaican Bar Association, United Way of Jamaica and the Private Sector. I commend the work of the various stakeholders and members of the DRF whose unswerving commitment to Jamaica's Justice System has led, through community outreach and training, to the development of conflict-resolution services, including among youth, both in and out of schools, for some of whom violence is an ever-present threat.

The breadth of the scope of the DRF is impressive. It delivers services to the Courts and Judiciaries in Jamaica and the wider Caribbean – and its services are utilised by the Bar, the business community and litigants using the Court. I laud the work being done by the DRF's Chairman, Mr John Bassie, and its CEO Mr. Paul Hines, and entreat you and your team to continue in your efforts to make Jamaica a “more just secure and cohesive” society in keeping with our national Vision 2030 goals.

I am sure that this 6th Caribbean Conference on Dispute Resolution will be a wonderful learning and sharing experience for all the

participants. We welcome the contribution to be made by Justice Kokaram who, as a mediator, Judge and Chair of the Mediation Council of Trinidad and Tobago, has tremendous experience and great insight on the many areas elements of alternate dispute resolution. I note also that there will be presentations on SMEs, Negotiation, Ethics and Credentialing, all very relevant in today's context. With us are presenters and participants from across Jamaica and several other countries. I welcome all our visitors to Jamaica and to this Conference. I trust that it will prove to have been a worthwhile and edifying event.

Alternative Dispute Resolution has become recognised across the World as an important arsenal of effective tools for settling conflict. Current trends in Europe, North America, Asia, Africa and Australia show that citizens and Courts are utilizing a variety of alternative processes, as these are seen as encouraging a more constructive, non-confrontational way of dealing with disputes. The benefits to be derived from Arbitration, Negotiation, Mediation and Restorative Justice have been well documented.

The Ministry of Justice launched its pilot programme in Restorative Justice in 2012 after several years of preparatory work which emerged from the 2001 report of the Western Kingston Commission of Enquiry. Given the culture of violence that has emerged in Jamaica, Restorative Justice is an important focus of the Ministry, as it seeks to de-escalate conflict and avoid the spiraling reprisals that have plagued vulnerable communities. Restorative Justice is relationship-centred, harm-focused, inclusive, participatory, democratic, and culturally grounded. Through this process, satisfactory outcomes are achieved which enable productive relationships.

Restorative Justice provides an opportunity for the parties affected by an offence – the victim, offender, and relevant community members - to identify and address their needs in the aftermath of the wrong that has been committed, and to heal fractured relationships for better, more lasting outcomes than the formal criminal justice system can achieve. The programme is now moving beyond the pilot phase, and is active in over 10 communities across Jamaica and is taking cases on the ground. The next phase is to establish

Restorative Justice in legislation, so that it becomes an integral part of the solutions recognized and facilitated by our criminal justice system.

The Ministry of Justice is also working to enhance and modernize the Arbitration System in Jamaica. Our existing Act is over a century old, and lacks many of the features that have been developed since 1900 to make arbitration more beneficial and effective to litigants. New arbitration legislation will facilitate the conduct and practice of both domestic and international arbitration in Jamaica. A draft bill has been prepared, using the UNCITRAL model which regulates international trade in cooperation with the World Trade Organisation.

In response to stakeholder feedback received on that draft Bill, Cabinet has mandated the Office of the Parliamentary Counsel to include additional elements derived from the Ontario Arbitration Act to strengthen the domestic arbitration processes under the new legislation. The process is on-going, and the new arbitration

legislation will add value to the options of alternative dispute resolution available in Jamaica.

The MOJ is indebted to UNCITRAL for its technical assistance, and to the DRF for its leadership in this reform, and its collaborative approach with other important stakeholders.

The Department of Justice Canada's recent review of the Automatic Mediation Service provided by the DRF has led to proposed reforms involving the various stakeholders, Jamaican Bar Association, Courts, General Legal Council, Mediators and the Ministry. The Ministry has begun the reform process, and this will continue over the next two years. It includes training, public education and technological improvements.

The recent increase in the Civil Jurisdiction of the Magistrates Court from J\$250,000 to J\$1 million dollars provides an opportunity for Automatic Mediation in those courts, and this will be the subject of the concurrent workshops for Resident Magistrates and Clerks of Courts on Saturday, July 12th.

These initiatives form part of the Ministry's overall Justice Reform Agenda that was developed out of the 2007 Jamaican Justice Reform System Task Force Review, chaired by the late Professor Barry Chevannes. In executing the Reform Agenda, we are improving the processes and capacities within the justice sector for speedier conclusion of cases in the court system.

For example, the process of jury duty through this programme is being restructured for greater efficiency. Jury reform will modernize the system of selecting and compensating jurors. The categories of persons who are exempt from jury duty is also being reduced, and the law will protect employees from adverse action by employers in connection with absence for jury service.

The removal of minor offences from the overburdened formal court system is a priority. This is one of the drivers that has led to recently-announced proposed changes to the law relating to the possession of small quantities of ganja, which is to become a non-arrestable, ticketable infraction dealt with outside the court system and not attracting the blight of a criminal record. The past approach to the

criminalization of ganja has placed a significant burden on Jamaica's criminal justice system, and contributes to the large caseload in the Resident Magistrate Courts. The new approach should ease the pressure on this important tier of the court system, and shorten the time for other cases to move through the courts.

The Ministry is also facilitating video conferencing solutions under the Evidence (Special Measures) Act, utilizing live audio-visual links to receive testimony during trials from remote locations. We will also introduce digital electronic recording of evidence in the Resident Magistrate's Courts this year.

We are about to bring a Bill to Parliament to amend the Evidence Act to allow the introduction of agreed evidence in criminal trials, which will allow expert reports and certificates to be admitted in evidence where these are not in dispute and the parties so agree, without having to go through the expensive and wasteful formality of calling the expert. The Bill will also simplify and modernize the rules governing the admissibility of computer-generated evidence and the admission of child evidence, and will introduce a new optional

procedure for defendants who are in custody to designate counsel to represent them at pre-trial administrative hearings (like bail applications and mention dates) without requiring the defendant to be brought before the court.

We are therefore working to modernize the Court and related aspects of the Justice system, and we seek the continued support of all stakeholders as we roll out these initiatives. Change is not always easy to embrace, especially where old, inefficient practices have become hardened like barnacles on the hull of the Justice System, but if we acknowledge that the system that we have is less than that which we need and deserve, we will open our minds and hearts to accept the need for doing things differently and better than we have before.

As we push through these reforms, the Ministry of Justice has built valuable relationships with our International Development Partners, in particular Canada, the European Union, the US and the UK. Their contributions to the Justice Sector Reform are irreplaceable at this time, as Jamaica undertakes a programme of sustained fiscal

consolidation in order to overcome our chronic high level of public debt.

In closing, I want to reiterate my appreciation for the contribution of the Dispute Resolution Foundation. Your organization has stepped in to bridge an important gap in a justice sector, and I know that your role will only expand and deepen as we improve our complex and increasingly multi-faceted justice system. I want to recognize the continued efforts of all the mediators and arbitrators whose professional services continually supplement and lubricate the machinery of the court system.

We all need to become facilitators in meeting the ends of justice in this time, and my hope is that the Dispute Resolution Foundation will move into the future with the same energy, creativity and sense of mission that has lit the lamp which has been brightly burning for the past two decades.

Thank you.