Ministry of Justice & Constitutional Affairs

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ADVANCING JUSTICE THROUGH ALTERNATIVE DISPUTE RESOLUTION: A NATIONAL POLICY FOR JAMAICA

Concept Paper

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1. INTRODUCTION

In Jamaica, the reform of the justice system has been a focal point of national development efforts which has seen "the Government of Jamaica (GOJ) assigning high priority to improving the justice system as part of its Public Sector Modernization Programme."[1] Central to this reform agenda is ***Vision 2030 Jamaica*** launched in 2007, which articulates a comprehensive blueprint for national development, emphasizing a secure, cohesive and just society through Goal #2[2] and national outcomes focused on facilitating a secure, efficient and effective justice system. Other indications of commitment to justice reform were signalled with Cabinet's Approval[3] of the ***Justice Reform Implementation Plan (JRIP), 2015-2020),*** a strategic implementation plan which "aimed to deliver a justice system that is more trusted, accessible and accountable; and works together with the private sector and civil society to deliver all necessary services efficiently and effectively."[4] In 2016, "the Jamaican Justice System Reform Project (JJSR)was also established by the GOJ to undertake a comprehensive review of the state of the justice system and to develop strategies and mechanisms to facilitate its modernization."[5] This effort produced a Jamaican Justice System Reform Task Force Report[6] which highlighted critical gaps, inefficiencies and barriers to justice which have undermined public trust and accessibility. The report underscored the urgent need for systematic change and advocated for innovative approaches to delivering justice and a need to streamline processes.

The Ministry of Justice and Constitutional Affairs (MOJCA) as the lead administrator of justice in Jamaica, serves as the keystone in providing policy support on justice issues and championing the essential ideals of lawfulness and equity. Its mandate is dedicated to cultivating a society that upholds the rule of law, embodies fairness and guarantees all citizens access to a swift, impartial and effective justice system. In furtherance of this role and towards the achievement of the Vision 2030 goals and outcomes aligned with its mandate, the MOJCA has over time, undertaken and led initiatives towards the advancement, long-term development and modernization of the justice system. A fundamental aspect of this broader effort is the expansion of the use of alternative dispute resolution (ADR) approaches. The MOJCA has sought to expand the utilization of ADR approaches by encouraging and facilitating the use of traditional methods such as mediation to resolve disputes/conflicts efficiently and amicably. In addition, the MOJCA has introduced and integrated other approaches such as Restorative Justice, Child Diversion and Victim Services; referred to as social justice services. While these methods are technically distinct from traditional ADR approaches such as mediation and arbitration, they align with the broader intent of fostering constructive dispute/conflict resolution outside of formal judicial proceedings. By broadening the ADR scope to include these additional approaches, the MOJCA underscores its commitment to ensuring the utilization of diverse and comprehensive

[1] Retrieved from Justice Reform | Ministry of Justice

[2] Vision 2030 Jamaica- Goal # 2- "The Jamaican society is secure, cohesive and just". Retrieved from https://www.vision2030.gov.jm/national-goals-

[3] Cabinet Decision No.35/15 dated September 22, 2015

[4] Darby, D. (2009, January 28). Final Jamaica Justice System Reform Policy Agenda Framework for the Ministry of Justice.p.21

[5] Ibid

[6] Jamaican Justice System Reform Task Force Final Report June 2007;

dispute/conflict resolution strategies that prioritizes collaborative and restorative outcomes. Against this backdrop, ADR has emerged as a progressive mechanism to enhance the dispensation of justice in Jamaica. By placing ADR approaches at the forefront of the justice reform agenda, Jamaica can align its justice system with transformative approaches and wider sustainable develop goals that can be achieved by prioritizing dispute/conflict management and resolution beyond the courtroom.

This Concept Paper articulates a proposal for a national policy aimed at advancing justice through the effective implementation and use of an array of ADR approaches. It posits that a coordinated national approach for advancing justice through ADR is essential for realizing the goals sets in Vision 2030 and other justice system modernization efforts by the GOJ/MOJCA. The Concept Paper will examine the benefits of ADR approaches and its potential role in alleviating judicial burden, facilitating access to justice, fostering a positive dispute/conflict culture and by extension reducing the incidents of violence in the society to bolster citizen trust in the justice system. It will discuss the expansion of the ADR framework and programme as viable to providing a multi-option dispute/conflict management and resolution system that is applicable across various sectors and redefines the delivery of justice in Jamaica to one that is flexible and responsive. It will highlight the broader goals, objectives and key strategic priorities of the Policy that will seek to address systematic and systemic challenges within the justice system and help along the path of making Jamaica, the place of choice to live, work, raise families and do business.

Key Concepts & Terms

To contextualize the issues discussed and the nature and extent of the linkages, key concepts and terms referenced in this Concept Paper are defined as follows:

- ***Alternative Dispute Resolution –*** Although there is no parent legislation in Jamaica that governs or generally defines the term Alternative Dispute Resolution, a definition can be found in **The Disabilities Act (2014)**. According to this Act *"**Alternative Dispute Resolution-includes resolution of dispute by means of settlement negotiations, conciliation, facilitation, mediation or arbitration**"*. There are also specific ADR approaches defined in other legislative enactments (*arbitration is defined[7] in the Arbitration Act 2017*) and rules (*mediation is defined in the Civil Procedure Rules 2002*). Outside of the definition specific to the Disabilities Act and arbitration and mediation defined as noted prior, ADR generally refers to a range of approaches that provide parties in a dispute/conflict with options to resolve their issues without going through the formal court process. Some of the more common approaches such as mediation, arbitration and negotiation are considered as "traditional" approaches. For the purposes of this Concept Paper, outside of the traditional approaches, ADR will also be examined within the context of the MOJCA's social justice services which include approaches that are not classified

[7] **"Arbitration"** means any arbitration whether or not administered by a permanent arbitral institution.

amongst the traditional approaches but are aptly administered as alternative – non- direct court options for managing and resolving dispute/conflict.

- ***Backlog*** – "The standard definition of backlog, which has been adopted by the Jamaican court system is a case that has been in the system for more than two years without being disposed".[8]
- ***Conflict-*** "A competitive or opposing action of incompatibles: Antagonistic state or action (as of divergent ideas, interest or persons)".[9]
- ***Dispute –*** "Is a disagreement, argument or controversy often one that gives rise to a legal proceeding".[10]
- ***Dispute/conflict "management" –*** "Dispute/conflict management is an ongoing process that involves identifying and handling disputes/conflicts in a sensible, fair, and efficient manner. It focuses on mitigating the negative effects of disputes/conflicts by managing the situation rather than eliminating it entirely. This approach is particularly useful in dynamic environments where continuous interaction can lead to frequent disputes."[11]
- ***Dispute/conflict "resolution"-*** "Dispute/conflict resolution aims to find a permanent solution to a dispute/conflict. It involves identifying the root cause of the disagreement and addressing it to prevent future occurrences". [12]
- ***Interpersonal Conflict-*** "Is conflict between two or more individuals. Many individual differences lead to interpersonal conflict including personalities, culture, attitudes, values, perceptions and other differences".[13]
- ***Justice System***- The justice system is understood to comprise "the institutions that are central to resolving conflicts arising over alleged violations or different interpretations of the rules that societies create to govern members' behaviour; and that, as a consequence, are central to strengthening the normative framework (laws and rules) that shapes public and private actions."[14]

PURPOSE

The purpose of a national policy for advancing justice through ADR looks at creating a policy framework to guide the implementation and use of ADR approaches on a wider scale and prescribe a formal arrangement between the different players in ADR namely the government and the private sector. The development of such a policy is meant to address critical issues key among them:

- Escalation of crime and violence

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[8] The Chief Justices Hilary Term Statistics Report on the Supreme Court 2024; pg.4 Retrieved from STATISTICAL REPORT ON THE SUPREME COURT FOR THE HILARY TERM

[9] Retrieved from https://www.merriam-webster.com/dictionary/conflict

[10] Retrieved from https://www.law.cornell.edu/wex/dispute

[11] Retrieved from https://www.sacap.edu.za/blog/management-leadership/conflict-management-vs-conflict-resolution-in-the-work

[12] Ibid

[13] International Journal of Academic Research in Business and Social Sciences 3(5):2222-6990, Authors Malikeh Belhestifar, Elham Zare pg. 400, Retrieved from- https://www.researchgate.net/publication/281175794_Interpersonal_Conflict_A_Substantial_Factor_to_Organizational_Failure

[14] Hammergren, Linn; Dory Reiling and Adrian Di Giovanni (2007), *Justice Sector Assessments – A Handbook,* World Bank (Washington, DC: 2007), Retrieve from http://siteresources.worldbank.org/INTLAWJUSTINST/Resources/ JSAHandbookWebEdition_1.pdf. pg.317

- Burdened judicial system
- Limited access to justice
- Absence of a comprehensive and institutionalized system that fully integrates the use of ADR approaches into the justice system
- Underutilization of ADR approaches due to a lack of awareness

Policy Significance

A national policy on ADR can offer an extensive multi-option dispute/conflict management and resolution framework and programme with ADR approaches as a stand-alone and further integrated with judicial system approaches (court annexed ADR) and can be applied in resolving issues across multiple subject matters and sectors. The Policy will mark a progressive step towards a more responsive, flexible and adaptable justice system that effectively addresses the needs of the Jamaican populace and the critical issues highlighted in this Concept Paper. The Policy envisions the consolidation and standardization of several ADR approaches including those currently being utilised within the justice system and increase the use of other ADR approaches. The significance of the Policy also lies in its potential to transform the way disputes/conflicts are managed and resolved within the country on a path to justice transformation and:

- Supports peaceful dispute/conflict management and resolution
- Empowers local communities
- Strengthens the rule of law
- Supports national development goals
- Enhances access to justice

2. POLICY CONTEXT

3.1 Dispute/Conflict

Though the subject of varying definitions, the words dispute and conflict can essentially be summarized as arising when two or more parties are in discordance or disagreement on a particular issue or issues. As a social phenomenon dispute/conflict can arise in numerous contexts, on numerous levels, and may involve multiple issues that are ongoing. It is also the subject of varying dimensions including social, economic, political, environmental, institutional and health factors. It is important to acknowledge that the words "conflict" and "dispute" are often used interchangeably in ADR discussions generally. However, despite any distinctions or nuances[15], a dispute or conflict in whatever

[15]While acknowledging the nuanced differences, the discussion of ADR approaches within this Concept Paper will not draw this academic distinction and both terms will be treated as one and the same.

context they arise, can lead to societal unrest, and hinders collective progress and sustainable development if not managed efficiently and effectively.

> "***Bloody start to 2025 as Jamaica records 34 murders in 11 days"***[16]

News headlines like the above continue to be common place on the reporting scene in Jamaica. With a population of approximately 2.7 million[17] people, Jamaica is said to have one the highest murder rates in the world, ranking 10th in 2023[18] and 2024[19] respectively, on the global list of countries with the highest crime rates. "In the year 2024, Jamaica averaged 22 murders per week ending the year on 1141 total".[20] Additionally, according to crime statistics from the Jamaica Constabulary Force, there have been 167 murders in the Country up to March 2025[21]. Although numbers are trending down, in particular the murder rate[22], the existing numbers no less paint a grim picture of the current state. Previous research on crime in Jamaica has shown that a large percentage of violent crime is caused by interpersonal conflict".[23] A Radio Jamaica News online article dated December 24, 2024 quoted Senior Superintendent of Police and Senior Communication Strategist in the Jamaica Constabulary Force Dennis Brooks, as expressing that "*two main attributions that most Jamaican murders can be categorised in -gang violence, or interpersonal violence*."[24]

In acknowledgment of the violence and dispute/conflict nexus , in a speech presented at a regional symposium in Trinidad and Tobago in 2023, the Prime Minister of Jamaica, the Most Honourable Andrew Holness is noted as expressing that: "*The widespread normalization of violence generally in social interactions and as a means of conflict resolution, the extensive use of violence in crime, and the evolution of organized violence by criminal actors to capture communities, and even states to create space for criminal enterprise, is now at a level where it is no longer a citizen-level or community-level threat, it is now an existential threat to the effectiveness and the legitimacy of the State*[25].

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[16] https://jamaica-gleaner.com/article/news/20250113/bloody-start-2025-jamaica-records-34-murders-11-days

[17] Reports from the Statistical Institute of Jamaica reported a population total of 2,726,667 as at end of year 2018 – Retrieved from https://statinja.gov.jm/demo_socialstats/newpopulation.aspx#

[18] Jamaica Ranked 10th on Global List of Countries with the Highest Crime Rates Posted by Shaloy Smikle | 17 Apr, 2023. Retrieved from https://nationwideradiojm.com/jamaica-ranked-10th-on-global-list-of-countries-with-the-highest-crime-rates/#google_vignette

[19] Crime Rate by Country 2025. Retrieved from https://worldpopulationreview.com/country-rankings/crime-rate-by-country#countries-with-the-highest-crime-rate.

[20] Downward trend in murders continues into 2025 Published: Monday | February 3, 2025 | 12:33 PM. Retrieved from https://jamaica-gleaner.com/article/news/20250203/downward-trend-murders-continues-2025

[21] Jamaica Constabulary Force Crime Statistics. Retrieved from **https://jcf.gov.jm/stats-2/**

[22] JIS- 'Dr. Change Expects further Reduction in Murder Rate. Retrieved from Dr. Chang Expects Further Reduction in Murder Rate Jamaica Information Service

[23] Poverty and Conflict Management in Jamaica, Aldrie Henry Lee, University of the West Indies Mona, 2007 Jamaica. Retrieved from https://jm.vlex.com/vid/poverty-and-conflict-management-915096586

[24]Retrieved from Police Tracking Confrontations Taking Place On Social Media Platforms | RJR News - Jamaican News Online

[25] Speech by Prime Minister Andrew Holness on Crime and Violence at the Regional Symposium: Violence as a Public Health Issue – The Crime Challenge (Trinidad and Tobago)"*Posted on April 19, 2023 by OPM Communications*.Retieved from **https://opm.gov.jm/news/speech-by-prime-minister-andrew-holness-on-crime-and-violence-at-the-regional-symposium-violence-as-a-public-health-issues-the-crime-challenge-trinidad-and-tobago/**

The protagonists in the cycle of dispute/conflict in society are numerous, multifaceted and complex, so too its resultant effects which manifest as negative societal issues. Unresolved dispute/conflict has multi-sectoral impacts and can lead to loss of life and property, overcrowded hospitals and prisons, strained country resources such as the police and military, loss of interest in the tourism product and discourages local and international investment due to low investor confidence; all of which can undermine the stability and development efforts of the Country.

Table 1 elucidates the multi-sectoral impact highlighting the potential consequences of unresolved dispute/conflict on various sectors.

TABLE 1. MULTI- SECTORAL IMPACT

SECTOR	IMPACT OF DISPUTE/CONFLICT	BROADER CONSEQUENCES
Justice system	Burdened judicial system/court backlog, delayed justice, increased incarceration rates/overcrowded prisons	Inefficiency in the delivery of justice, erosion of public trust, increased detention costs and strain on state resources
Public safety & security	Increased crime rate, societal fear, community destabilization	Increased policing cost/strain on state resources, diminished quality of life
Economy	Reduced business activity and investment, decreased tourism, higher security cost/ strain on state and private resources	Loss of income – government and citizens, slow economic growth, higher operational cost
Foreign investment & trade	Perception of instability, reluctance of investors	Lower foreign direct investment, trade disruptions
Healthcare	Rise in injuries, mental health issues, strain on medical facilities, overworked medical personnel	Increase in health care expenses- government and private, long term health impacts, brain drain/migration of essential workers
Education	Disruption in learning environment, school closure due to violence	Lower educational attainment, trauma
Social Services	Increased demand for policing, social welfare, mental health services	Diversion of resources
International Relations	Negative perception internally, potential aid reduction	Reduced foreign aid, diminished diplomatic relations

The multi-sectoral context underscores that a strategic well-structured approach is essential not only for dispute/conflict management and resolution but also for broader social objectives – social stability, violence prevention, economic growth, access to justice and general institutional strengthening.

3.2 Court litigation as the primary dispute/conflict resolution method

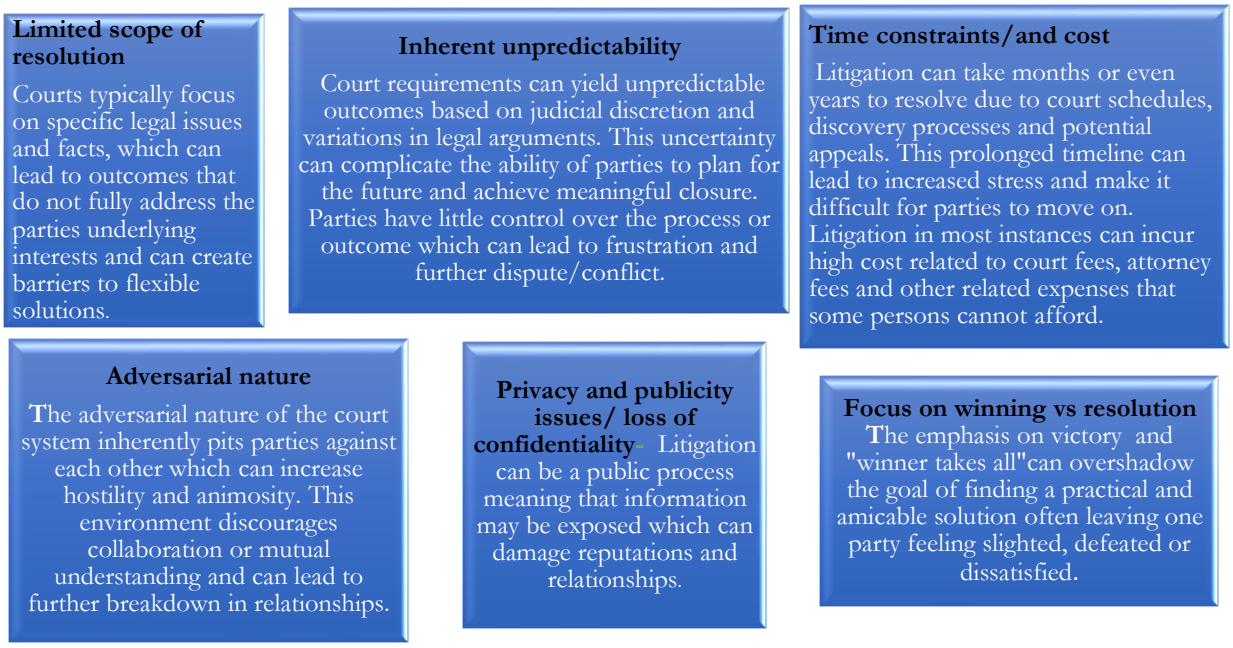
Historically, Jamaica has and still relies heavily on the traditional court system as the primary method of resolving dispute/conflict. While the courts will always remain central and indispensable in its role in the delivery and access to justice in the Country, court litigation as a means of resolving dispute/conflict is used at a point where the dispute/conflict has most likely escalated to an undesirable level. Court procedures can be complex, intimidating and inflexible, deterring individuals from pursuing legal remedies; and often lead to settlements or verdicts that do not address the underlying issues. Additionally, with Jamaica's tiered court system, a dissatisfied litigant can appeal a decision of a lower court. This in and of itself a valuable right, can give rise to further and prolonged dispute/conflict. Court litigation is also inherently adversarial often pitting parties against each other rather than fostering collaboration.

Currently, the court system faces backlogs, leading to delays in resolving matters expeditiously exemplifying the legal maxim "justice delayed is justice denied". Systematic inefficiencies cause cases to take years to reach a conclusion, resulting in frustration and a sense of injustice among parties involved. Although reports[26] and statistics suggest that case clearance rates have improved in recent times particularly in the Parish Courts and in some areas of Supreme Court jurisdiction, there is more to be

[26] The Chief' Justices Hilary Term Statistics Report on the Supreme Court 2024 Page 2 "*One of the most outstanding findings from the Hilary Term report of 2024 is that the overall case clearance rate was approximately 80%, one the highest in recorded history, a sign of firm strides towards the quantitative targets set out by the judiciary for the Supreme Court"*. Retrieved from https://supremecourt.gov.jm/sites/default/files/THE%20CHIEF%20JUSTICE%27S%20HILARY%20TERM%20STATISTICS%20REPORT%20ON%20THE%20SUPREME%20COURT%20FOR%202024 DRT_.pdf.

done. In response, instituting a broader more accessible ADR framework via policy, presents a strategic solution.

Figure 1. Limitations of court litigation



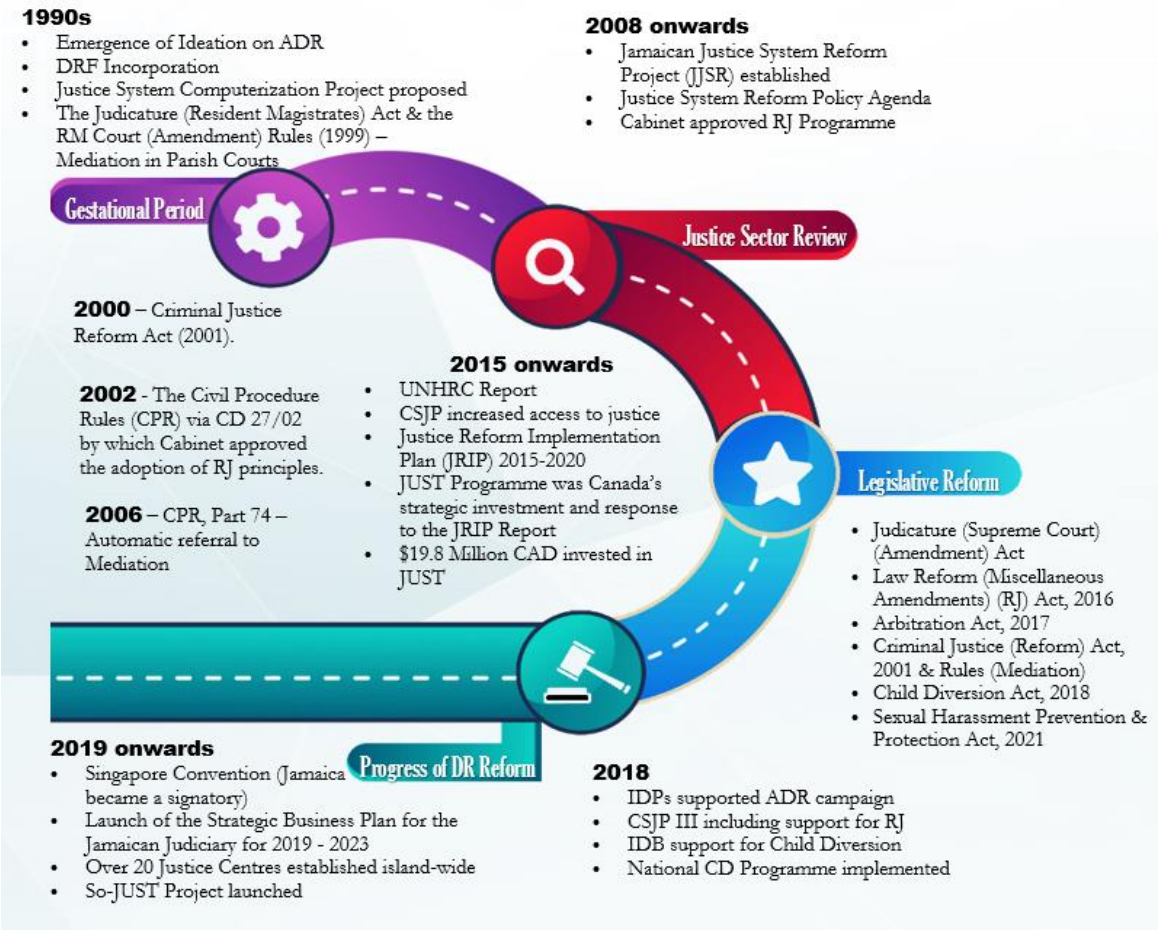
3.3 **Lack of access to the formal justice system –** Many Jamaican citizens lack access to the formal justice system. This can be attributed to many reasons including, proximity to courts or justice services, prohibitive cost, communication barriers, physical access barriers, or a lack of awareness of options for seeking justice. This Policy in particular will seek to facilitate access through public education on the available ADR approaches and how they can be accessed and used for the benefits of the parties. The MOJCA is currently exploring the development of a strategy specifically focused on Access to Justice to all dispute/conflict resolution mechanisms across the justice system.

3.4 **Alternative Dispute Resolution (ADR) in Focus**

(i) **Historical context –** Although the term Alternative Dispute Resolution may not have been referenced, it is not a novel concept within the Jamaican society as its roots run deep in informal practices

such as "village lawyers" etc. However, the 1990's saw evidence of a growing awareness of ADR. Its emergence and continued development can be summarized along the following timelines:

Fig. 1: Timeline of the DR-related development in Jamaica



There has been further notable development in the ADR landscape. This includes institutionalizing diverse and visible ADR options, such as:

1. Community-level ADR through Restorative Justice Centres, Mediation Centres, and Victim Services offices.
2. Statute-authorized ADR, including court-referred Restorative Justice, Child Diversion, and Mediation. It should be noted that by way of practice direction # 20 of 2021, automatic referral of matters to mediation by the Supreme Court was revised. The referenced practice direction indicates that "Parties to the proceedings are encouraged to participate in good faith efforts to settle disputes at mediation conducted pursuant to any provision of the CPR, unless there is an order of the Court dispensing with mediation".
3. Private and public sector ADR mechanisms like mediation, arbitration, and conciliation, facilitated by various legislative enactments.

(ii) Why ADR as a means of addressing justice system and societal issues?

Alternative Dispute Resolution distinguishes itself as an effective mechanism capable of addressing the root causes of dispute/conflict, thereby playing a crucial role in fostering long-term peace and stability. Unlike traditional court litigation which often emphasizes the resolution of specific legal disputes without necessarily tackling underlying issues, ADR promotes dialogues and collaborative problem solving making it a vital tool for long-term sustainable dispute/conflict management and resolution. Although state interventions through the police and the military are also employed to restore order and security in society, these responses are often reactive and primarily serve immediate stability. They do not inherently resolve the deeper underlying social or cultural tensions that tend to underly dispute/conflict. "The JJSR in its review conducted in 2007, identified numerous deficiencies affecting public trust in the current relationship with the formal justice system and citizens. It reported that the current responses to crime and conflict have failed to deal with underlying issues…etc[27]."

It is therefore important to examine approaches that have a strong potential to address underlying causes of dispute/conflict and the related critical issues such as the country's high crime rates and the propensity of citizens towards resolving dispute/conflict in a violent manner. The increased use of ADR approaches may be touted as having this potential by reducing the likelihood of disputes/conflict from escalating to any stage that will give rise to a serious crime and one that requires court litigation in the first instance. Advocacy for the increased use of ADR approaches is not to usurp the jurisdiction of the courts but to capitalize on the potential of ADR as a "preventative buffer" for dispute/conflict escalation and proactively mitigating same from becoming more severe issues. In addition to its potential as a crime reduction tool, ADR has the ability to positively impact the country and society in the following ways:

Government efficiency- Implementing a well-structured ADR policy has the potential to divert appropriate cases away from burdened courts freeing judicial resources to deal with complex matters and increase the overall efficiency of justice delivery – saving money and time.

Promote economic growth and investment – a predictable and efficient dispute resolution system facilitated by an ADR policy which outlines commercial dispute ADR options, procedures and access, can foster a stable business environment. This can attract foreign and local investment, stimulate entrepreneurship and encourage economic development.

Strengthen social cohesion and peace building – ADR particularly in community and family disputes, promotes reconciliation and social harmony. It mitigates conflicts that could escalate, thereby maintaining societal stability – an essential foundation for sustainable development.

Multi-dimensional reach of ADR- ADR can fundamentally operate across sectors with the capacity to be effectively applied to a multitude of subject areas and domains including community conflicts,

[27] Ministry of Justice, The National Restorative Justice Policy, August 13, 2012 pg.10

family disputes, conflict in schools, workplace disagreements, consumer protection, intellectual property rights and climate change and environmental considerations etc. The Policy aims to maximise the use of ADR across these various subject areas and domains. Additionally, with climate change and environment protection as a focal point of Jamaica's sustainable development efforts and related international obligations, the Policy will advocate for ADR processes that can adapt to and accommodate disputes arising from climate related damages such as environmental degradation and resource depletion. Embedding climate change considerations into the Policy on ADR not only aligns with international and national commitments but also enhances the legitimacy, reach and efficacy of dispute resolution through ADR.

. The Minister of Justice, the Honourable Delroy Chuck in his 2022/2023 Sectorial Presentation with title "Access to Justice for a better Jamaica"[28] noted that *"many serious crimes emerge from simple disputes and disagreements which could have been easily cleared up if the parties were referred to a restorative justice facilitator, a mediator or a counsellor to assist them in reaching an amicable settlement". "Our crime and murder rate will not be reduced significantly, unless our citizens can find lawful legitimate and appropriate means to diffuse disagreements and conflicts*."[29]

In acknowledgement of the potential far reaching benefits of ADR approaches, the Honourable Mme Justice Maurine Rajnauth-Lee, Judge of the Caribbean Court of Justice opined the following: *"The benefits of ADR are numerous. It is widely recognized that ADR produces a result superior to that produced by adjudication. "ADR focuses on opening the lines of communication, thereby repairing the distrust in the relationship between the disputants".*[30] The Judge further noted that "*a settlement arrived at through mediation repairs relationships and avoids further emotional turmoil. On the other hand, adjudication fosters distrust as each party is tempted to win at all costs, further souring relationships. Our experience is that after adjudication, these parties are likely to return to the courts to resolve their disputes, until the relationships are mended. I borrow from the criminal law and refer to this as the repeat offender phenomenon. ADR avoids repeat offenders"*[31].

Then Chief Justice Zalla McCalla shared similar sentiments and acknowledged ADR as an indispensable tool. According to Justice McCalla "*ADR is a tool that should be woven into every fabric of life in this country whether in the courts, the workplace, schools"*[32]. She is also noted as expressing how ADR has had a positive impact on the work of the Supreme Court indicating that by working with the members of

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[28] Sectoral Presentation 2022, Wednesday May 4, 2022| Gordon House Access to Justice for a Better Jamaica. Retrieved from https://moj.gov.jm/sites/default/files/publication/documnet/sectorial2022.pdf

[29] Ibid pg. 10

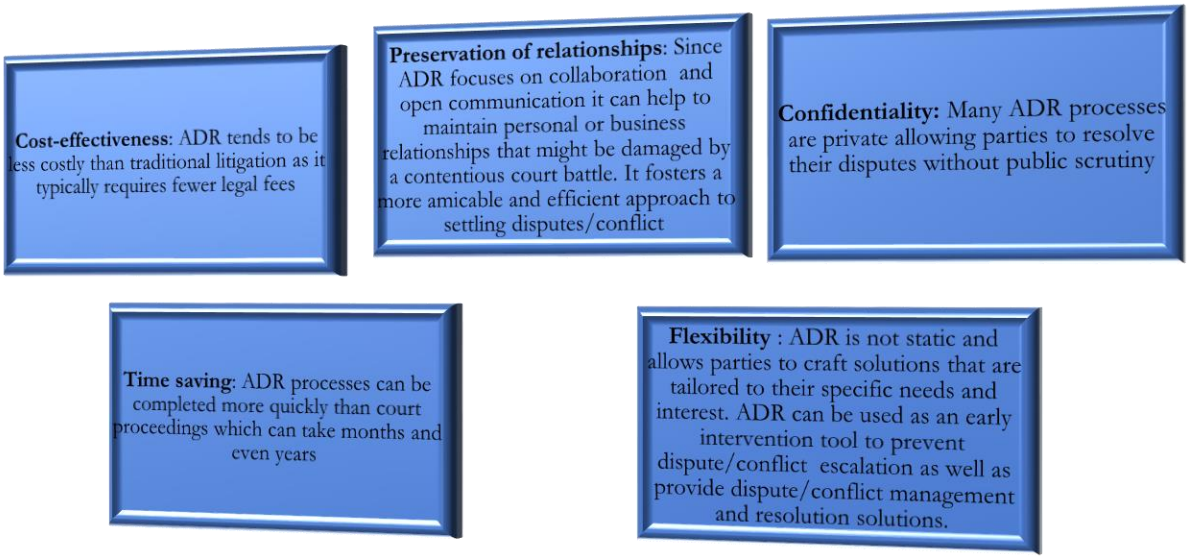
[30] Using Alternative Dispute Resolution Techniques to Enhance Justice-The Caribbean Experience; The Honourable Mme Justice Maureen Rajnauth-Lee, Judge of the Caribbean Court of Justice (International Seminar of Latin America and Caribbean Women Judges and Women Human Rights of the IAWJ) Sao Paulo Brazil 21-22 October 2015.pg.6 Retrieved from Using Alternative Dispute Resolution Techniques to Enhance Justice - The Caribbean Experience.

[31] Ibid pg. 6

[32] "CJ says dispute resolution indispensable tool of Justice". December 11, 2010. Retrieved from https://jis.gov.jm/cj-says-dispute-resolution-indispensible-tool-of-justice-2/

the Judiciary, Attorney-at-laws and civil society it is being promoted as an ideal method for conflict resolution in society.[33]

Figure 2- Advantages of ADR



(iii) Limitations of ADR- like traditional court litigation, ADR too has its challenges and limitations:

- ADR being largely voluntary, hinges on the willingness of participants to engage in the process.
- The current application of ADR in Jamaica includes binding processes, such as arbitration and adjudication and non-binding processes, such as mediation and negotiation**.** The non-binding processes though very useful and as a selling point of ADR due to its informal nature, can also create doubts regarding enforceability and resolution amongst parties who can potentially benefit from the processes.
- ADR is typically most suited for civil disputes
- Certain issues and offences by law require court litigation and are automatically excluded from ADR**.**

Recognizing the limitations is essential, and a judicious approach is required to harness the strengths of ADR while mitigating potential shortcomings. The robust framework –to be developed pursuant to the ADR Policy, will strategically address these limitations. However, emphasis in the Policy will be placed on increasing the use of ADR to the extent that it prevents matters from escalating to a point where court litigation is required.

[33] Ibid

(iv) Legislative framework and current practice of ADR in Jamaica

Arguably, Jamaica has one of the most advanced ADR systems in the region, while nascent systems exist in Trinidad and Tobago, Guyana and the OEC territories which are growing in importance.[34] In Jamaica, options for ADR are operationalized and noted within the following framework:

Table 2. ADR FRAMEWORK

Legislation	Policy/Guidelines/Rules/ Conventions
ARBITRATION 1. ***Arbitration Act, 2017*** 2. ***The Arbitration (Recognition and Enforcement of Foreign Awards) Act, 2001*** 3. ***Judicature Appellate Jurisdiction Act, 1962***	1958 Convention on the Recognition and Enforcement of Foreign Arbitral Awards (New York Convention). The Inter-American Convention on International Commercial Arbitration (Panama Convention), 1976 Jamaica International Arbitration Centre Arbitration Rules Guiding Principles and Codes of the Chartered Institute of Arbitrators in London, England UNCITRAL Model Law on International Commercial Arbitration R. 46.1 of the Civil Procedure Rules, 2002 Article 223(1) of the Revised Treaty of Chaguaramas
NEGOTIATION, CONCILIATION, ARBITRATION ***Labour Relations and Industrial Disputes Act, 1975*** ***Investment Disputes (Enforcement) Act, 1967***	
MEDIATION 1. ***The Civil Procedures Rules of the Supreme Court (Part 74)*** 2. ***The Criminal Justice Reform Act, 2002 (Section 16 and the Second Schedule) for Parish Courts*** 3. ***The Criminal Justice (Reform) Act, Rules under Section 20*** 4. ***RM Court (Amendment) Rules 1999*** 5. ***The Independent Commission of Investigations Act, 2010*** 6. ***The Consumer Protection Act, 2005***	Standards of Practice for Mediation Process and the Mediators Role[35] Singapore Convention on Mediation August 2019

[34] Alternative Dispute Resolution: A viable solution for reducing Barbados' case backlog? Alicia D. Nicholls October, 2012, pg.2 , Retrieved from -adr-a-viable-solution-for-reducing-barbados-case-backlog_nicholls.pdf.

[35] The Standards of Practice for Mediation Process and the Mediators Role, are standards developed by the Dispute Resolution Foundation to guide the practice of mediation.

Legislation	Policy/Guidelines/Rules/ Conventions
ADJUDICATION **The Registration of Titles, Cadastral Mapping and Tenure Clarification (Special Provisions) Act, 2005** **The National Insurance Act 1966**	
RESTORATIVE JUSTICE 1. ***The Law Reform (Miscellaneous Amendments) (Restorative Justice) Act, 2016***	National Restorative Justice Policy, 2012 Handbook on Restorative Justice Programmes 2nd Ed. Criminal Justice Handbook Series. United Nations: Office on Drugs and Crime
JUDICIARY – COURTS OF JAMAICA 1. ***The Supreme Court of Jamaica Civil Procedure Rules, 2006*** 2. ***The Criminal Justice Reform Act*** 3. ***The Justices of the Peace Jurisdiction Act***	
CHILD DIVERSION ***The Child Diversion Act, 2018***	National Child Diversion Policy (2015)
PERSONS WITH DIABILITIES ***Disabilities Act 2014***	

(vi) Application of ADR in Jamaica:

Mediation Defined

The practice of Mediation in Jamaica has been legislated under the Civil Procedure Rules of the Supreme Court and the Criminal Justice Reform Act for the Parish Courts. Mediation as defined in part 74.2 (1) of the Civil Procedure Rule[36] is a "dispute -resolving process in which a neutral third party called the 'mediator' facilitates and co-ordinates negotiations by parties in a dispute with a view to resolving or reducing the extent of the dispute. "Matters eligible for referral to mediation may include personal injury litigation; complex contract cases, professional liability actions; commercial litigation; cases with cooperative parties who have been unable to reach settlement on their own; and instances for mediation as outlined in legislation. It is of note that a Mediation Act is being developed for Jamaica pursuant to the Singapore Convention on Mediation. This Convention is a multilateral treaty that offers a framework for the enforcement of international settlement agreements resulting from mediation.

Mediation services can be accessed privately by citizens. Additionally, the MOJCA, in partnership with the Dispute Resolution Foundation (DRF) promotes the use of mediation as an alternative means of dispute resolution by funding a short-term mediation pilot programme for matters referred by the Parish Courts.

[36] Government of Jamaica. Supreme Court of Jamaica Civil Procedure Rules 2002. [Revised 2006]

Section 10(3) of the Criminal Justice Reform Act indicates that…. '*A register of mediators who meet the criteria … shall be kept by every mediation centre, in respect of the mediators attached to that centre, and the inclusion of the name of a mediator in the register shall be subject to the approval of the Chief Justice*'. The names of all trained mediators are to be sent to the Chief Justice to be gazetted, authorizing them to mediate cases that are referred from the Parish Courts.

Mediation Service Providers/Facilitators

- Ministry of Justice and Constitutional Affairs – Justice Centers, MOJ Head Office at 888-JUSTICE **(**888-458-7842)
- Referral from Court to Victim Services and Child Diversion Parish Offices
- Dispute Resolution Foundation
- Private Sector

Arbitration Defined

The practice of Arbitration in Jamaica is legislated under the Arbitration Act (2017)[37] recognizing the practice of *"domestic arbitration and international commercial arbitration, subject to any agreement in force between Jamaica and any other State or States"* [section 2(1) of the Act]. Arbitration is a mechanism for the resolution of disputes, whereby two or more parties agree to transfer the adjudication of a dispute from the civil courts to an agreed or appointed arbitrator, and to be bound by that arbitrator's decision. Arbitration is mainly used in Jamaica in cases with commercial agreements such as leases, insurance contracts, mergers and acquisitions and is a standard feature in some contract, including: construction and telecommunications contracts; and intellectual property agreements.

The existing legal framework refers commercial disputes to arbitration by simply agreeing to submit an existing dispute to arbitration, or by including arbitration clauses in legal contracts. Arbitration proceedings are generally governed by the terms of the agreement between the parties.

Arbitration Service Providers/Facilitators

- Dispute Resolution Foundation
- International Court of Arbitration – Jamaican representative a member of the court
- Jamaica International Arbitration Centre
- Private Sector

Conciliation Defined

Conciliation is a voluntary proceeding, where the parties involved are free to agree and attempt to resolve their dispute by conciliation. The process is flexible, allowing parties to define the time, structure, and content of the conciliation proceedings. These proceedings are rarely public. They are interest-based, as the conciliator will when proposing a settlement, not only consider the parties' legal positions but also their commercial, financial and/or personal interests[38].

[37] Government of Jamaica. The Arbitration Act, 2017

[38] Conciliation Definition. Jamaica ADR Society

In instances of labour dispute, an employee who feels wronged, their representative, or the employer must send a formal letter to the Permanent Secretary in the Ministry of Labour and Social Security (MLSS) to report the dispute. After that, the dispute is evaluated, and a conciliation meeting scheduled. The parties in dispute then meet to try to resolve the issue. When conciliation fails to resolve a dispute, it is typically referred to the Minister, who has the option to take the matter to the Industrial Disputes Tribunal (IDT) for resolution.[39]

Conciliation Service Providers/Facilitators

- Ministry of Labour and Social Security
- Industrial Dispute Tribunal
- Private Sector

Med-Arb (Hybrid mediation-arbitration approach)

Med-Arb has features of both mediation and arbitration. The parties first try to resolve their disputes through mediation. If that does not resolve it, then the process switches to a binding arbitration.

Med-Arb

The existing legal framework, The Arbitration Act [Part V], allows for the appointment of a mediator to facilitate mediation proceedings. The court may also appoint a mediator on the application of any party.

Adjudication

In adjudication, a neutral third party hears a dispute and issues a ruling that, unless altered in an arbitration or trial, is binding on the parties. Typically, the parties select the adjudicator, who is a subject-matter expert with contractual authority to investigate the merits of the dispute. In the building and construction sector, adjudication is growing in popularity and is incorporated in several standard form construction contracts. Even though the adjudicator's ruling is regarded as temporary, few adjudication decisions are actually followed up with arbitration or litigation. Rather, the parties consider the ruling to be conclusive.[40]

Privately, standard terms of a contractual agreement may include clause for disputes to be referred to adjudication. For example, the agreement may state that: 'If any dispute of any kind whatsoever shall arise between the Employer and the Contractor, at any time after execution of this contract, arising out of or in connection with this Agreement or the construction of the works, then such dispute or difference shall be referred in writing by either party to and be settled by the Adjudicator'.

Further, in Jamaica, the Adjudication Services Division of the National Land Agency was established to assist landowners who have been in open, undisturbed and undisputed possession of their land for

[39] Ministry of Labour and Social Security. Conciliation and Pre-conciliation

[40] Adjudication. Jamaica International Arbitration Centre Limited. https://jaiac.org/practice/adjudication/#:~:text=Adjudication%20involves%20a%20process%20where,an%20arbitration%20or%20at%20trial.

twelve years or more, to claim ownership. The Adjudication Committee comprises of persons with specialized skills and knowledge who deliberate on the rights and interest of any person in relation to land within an area declared under The Registration of Titles, Cadastral Mapping and Tenure Clarification (Special Provisions) Act, 2005. The Committee adjudicates land tenure issues arising from Ad-Hoc registration and the Systematic Land Registration process and issue an Adjudication Certificate as conclusive proof of ownership where ownership is determined. Any person dissatisfied with the decision of the Adjudication Committee may proceed to Court.

Adjudication Service Providers/Facilitators

- National Land Agency
- Jamaica International Arbitration Centre

Negotiation

The most direct and common type of ADR is negotiation[41], in which the parties and their legal advisors try to settle the disagreement by coming to a written agreement or by having a face-to-face meeting with all parties involved. Negotiations are typically conducted "without prejudice", which essentially means that any remarks made by either party in an attempt to resolve the conflict cannot be presented to the court or utilized as a basis for decision-making.

Neutral Evaluations

Each party makes their case to a neutral third party during the neutral evaluation[42] process, which determines how best to resolve the disagreement based on the strengths and weaknesses of each party's arguments and supporting documentation. It works well when the dispute's subject matter calls for a subject-matter expert. Settlement talks frequently start with the evaluator's assessment. When there are not many substantial emotional or personal obstacles to reaching a settlement and when there are technical issues requiring an expert, neutral evaluation works best.

Neutral Evaluation Service Providers/Facilitators

- Jamaica International Arbitration Centre

(vii) **New or "non-traditional" approaches that have been incorporated into the ADR framework of the MOJCA as social justice services.**

Restorative Justice Defined

Restorative Justice[43] (RJ) is a distinct system which has been incorporated into the realm of traditional law whilst being a resolution mechanism for conflict and social intervention. It offers a safe and just process whereby all the parties with a stake in a particular offence come together to collectively address the aftermath of the offence and its implications for the future. RJ allows victims to meet or otherwise

[41] Negotiation Definition. Jamaica ADR Society

[42] Miller Law. Common Forms of ADR. October 10, 2022. https://millerlawpc.com/alternative-dispute-resolution/

[43] Ministry of Justice. Restorative Justice Policy – Green Paper [Edited: October 24, 2023]

communicate with their offender and is shown to both reduce re-offending and improve the experiences of victims within the justice system.

Accessing RJ is done via a referral body/person or agent at each stage of the process and includes: Pre-Charge Stage: Police, Community, Schools, Church, Civil Society; Post-Charge Stage: Courts; and Post Sentence: Commissioner of Corrections and Parole Board.

Benefits of RJ

- RJ processes when applied to the criminal justice system can be effective in, reducing re-offending (recidivism), increasing victim satisfaction rates and preventing the re-occurrence of crime;
- RJ re-integrates and restores the offender to become a productive member of the community;
- RJ can result in increased public confidence and trust in the justice system by fostering greater participation by the public; and
- Eliminate the reprisal culture by enabling individuals to have access to a dispute resolution process at the early stage of conflict and avoid escalation to violent reactions.

RJ Service Providers/Facilitators

The services under the RJ Programme are delivered from twenty (21) locations island-wide: ten (10) RJ Centres (RJCs)– Tower Hill, Trench Town, August Town, Denham Town, Tivoli Gardens, Greenwich Town, Spanish Town, May Pen, Pembroke Hall and Bunkers Hill (to commence in 2023/24); and eleven (11) Parish Justice Centres (PJCs) – St Ann; St Mary; Portland; Trelawny; St James; Westmoreland; St Elizabeth; Manchester; St Thomas; Westmoreland; and St Andrew.

The implementing Branch for RJ and the National RJ Programme, under the Ministry of Justice and Constitutional Affairs, is the Restorative Justice Branch (RJB) which comprises a Director, RJ Officers and Community Liaison Officers situated in established RJCs and/ or PJCs (referral centres for RJ) in targeted high crime communities across the island. The RJB has responsibility to designate and assign RJ facilitators.

Child Diversion Programme

The Child Diversion Programme[44] established in keeping with The Child Diversion Act, 2018[45] aims to redirect a child from the criminal justice system. It speaks to the process of implementing measures for dealing with children who are alleged, accused of, or recognized as having infringed the penal law without resorting to the formal judicial proceedings.

A child can receive a referral to the programme by the police or the courts. A child can only be referred to the programme three times and may not be considered as eligible for diversion if he/she commits or attempts a second offence within three years of starting a diversion programme.

Benefits of Child Diversion

- Reducing stigma around justice system involvement

[44] Ministry of Justice and Constitutional Affairs. The National Child Diversion Programme. https://moj.gov.jm/national-child-diversion-programme

[45] The Child Diversion Act, 2018. https://moj.gov.jm/sites/default/files/pdf/Child%20Diversion%20Act%202018.pdf

- Preventing association with delinquent peers
- Holding youth accountable for their actions
- Providing proportionate responses to delinquent behavior
- Improving relations between youth, community, and the police

Child Diversion Service Providers/Facilitators

Under the programme, a Child Diversion Committee has been established in all fourteen parishes, with Kingston and St Andrew sharing a committee. These Committees are designed to keep (or "divert") children who are accused of minor offences away from the criminal justice system. Further, at least one Child Diversion officer is assigned to each parish located at a Justice Centre or Child Diversion Office.

Victim Services

The Victim Support Programme of the Ministry of Justice and Constitutional Affairs was established to assist victims of a crime by identifying their needs and advocating for their rights through the creation of a corrective balance to the Criminal Justice System.

Persons can simply call and reach the Victim Services Division via their toll-free number 888-VICTIMS (888-842-8467) or at 876-946-0663 and 876-618-3620. Information on the Division and its parish offices can also be found on the Ministry's website. Victim support Services are provided through the fourteen (14) Victim Services Division parish offices island-wide.

Benefits of Victim Services

Ensures victims have means of recourse and redress; facilitate reparation in some cases; ensures that the victim is informed of his/her rights and the means through which justice may be attained; and promotes structural changes in the justice system that facilitate victims attaining their rights.

In summary, there is an array of ADR approaches currently used in Jamaica both in the public and private sphere. The Policy will further provide an opportunity to examine the feasibility of other approaches not discussed herein that are utilised across other jurisdictions for adoption in the local ADR framework and programme. New and innovative approaches that are relevant and culture sensitive will also be determined.

(viii) **A look at ADR around the world**

Around the world, the adoption and integration of ADR mechanisms have become an integral component of national justice systems as part of efforts to increase access to justice, reduce judicial burden and promote peaceful dispute/conflict resolution. In this regard, some countries have promulgated legislation to codify various forms of ADR while others have opted for rules, practice directions, policies and programmes to strengthen their ADR framework. The diverse approaches underscore a global commitment to giving recognition to the potential of ADR not merely as an alternative to court litigation but as a complementary pillar of justice systems.

- **Regional perspective**

Examples of Countries that have ADR related legislation within the Caribbean region include **Trinidad and Tobago** (Mediation Act 2004, Community Mediation Regulations 2007, Arbitration Act, 2023), **Guyana** (Alternative Dispute Resolution Act, 2010, Arbitration Act 2024), **Barbados (**International Commercial Arbitration Act 2007, Mediation Act 2015), **Bahamas** (Arbitration Act 2009, Conciliation and Mediation Act 2017.

International perspective

Many countries beyond the Caribbean region have made significant strides in the development and codification of ADR. These jurisdictions have established legal frameworks to promote, regulate and institutionalize processes such as mediation and arbitration. Notably, like Jamaica, many of these countries have instituted arbitration legislation in accordance with the UNCITRAL Model Law. **Singapore** in particular has gained recognition for its arbitration laws, positioning itself as a leading hub for international dispute resolution. Similarly, **Hong Kong** is strategically establishing itself as a prominent international hub for mediation and cross border dispute resolution. A comprehensive ADR policy for Jamaica can propel the Country along a similar path to advancing as a leader in ADR, and being recognized as a hub for mediation and arbitration in the Caribbean.

As ADR recognition and use continues to grow, some Countries are adopting modern and unique approaches to ADR. **China** for example has modernized its ADR framework to allow for the use of online dispute resolution and has instituted regulations to allow for the electronic filing of arbitration claims. ADR related legislation in **Bulgaria** is contemplating the introduction of financial incentives to encourage mediation where "If the parties reach a court approved settlement through mediation, 75% of the paid state fee will be refunded to the claimant". [46]

- **ADR Policy development in other Countries**

The development of ADR policy to address country specific issues continues to gain traction. In 2022, the Ministry of Justice in **Rwanda** launched its Alternative Dispute Resolution Policy. Therein, this Policy indicates that "the Policy provides guidance and a coordination structure for all stakeholders in dispute resolution in ways that will help the Rwandan society build on its tradition of using justice mechanisms to uproot the causes of conflict and harm".[47] Country specific issues for which this Policy was developed to address include overburdened courts – case backlog, unresolved disputes and access to justice.

[46] Penkov, Markov & Partners

[47] index.php, pg. 11

Nigeria

National Policy on Arbitration and Alternative Dispute Resolution for 2024-2028- This Policy was introduced in February 2025 by the Federal Ministry of Nigeria. The policy was introduced to "bolster commerce and establish Nigeria as a regional and international arbitration hub.

Case Studies – effectiveness of specific ADR approaches

In Liberia, an ADR campaign was conducted and later evaluated for its effectiveness in relation to violence and property rights in that Country. According to the author of this review, **"**We evaluated the ADR campaign using a randomized controlled trial. The government of Liberia nominated 246 eligible communities, 85 of which were assigned to and received ADR. Implementers invited a sixth of all adults to participate in eight days of training spread over several months. Treatment increased the rate of dispute resolution in the first year, but after three years this effect appears to decay. Treatment communities did, however, witness a substantively large and statistically significant drop in threats and violence associated with disputes after three years. Relatedly, there is suggestive evidence that ADR worked in part by promoting norms and skills related to managing emotions and avoiding violence".[48] Additionally, "While the training did not reduce the incidence of land disputes, it did increase the rate of resolution in the short term".[49]

Another case study[50] review was done "to assess the impact of mediation on outcomes and experiences of parties in the United States, Canada and Australia, compared with outcomes secured through court-based processes.". The study assessed various reports from the respective countries specifically on the results of mediation processes on varying cases and the outcomes for the parties through mediation compared to outcomes secured through court-based processes. The results in many instances were positive with some key finding reported as follows: "Key Findings: In small claims, mediation has both a short-term and a long-term positive impact on outcomes for parties compared to court-based processes. Moreover, ADR participants are more likely than trial participants to report that outcomes have resolved the issues completely. In cases with reported intimate partner violence, outcomes for parties in mediation were perceived to be similar to outcomes for parties in court. Further, court-based processes were more likely to reach a final resolution than mediation, but took three times longer than mediation".[51] However, of note is that though the author in reviewing the studies quoted varying results which highlighted the positive impact of mediation, the Author in the recommendation

[48] Engineering informal institutions: Long run impacts of alternative dispute resolution on violence and property rights in Liberia Alexandra C. Hartman ∗ Robert A. Blair † Christopher Blattman August 19, 2019. pg.1. Retrieved from Engineering_informal_institutions-JOP.pdf

[49] Ibid pg.1

[50] Rapid Evidence Review: The impact of Mediation on Outcomes, experience and Bias- Comparing the Impact of Mediated vs Court based processes and outcomes, experience and bias, Dr. Daisy Ogembo, October 2021 (The Legal Education Foundation. Retrieved from https://research.thelegaleducationfoundation.org/wp-content/uploads/2021/10/FINAL-Rapid-Review-Mediation-4-SINGLE-PAGES.pdf-)

[51] Ibid pg. 14

expressed a need for more research in the area and further, the need for clear policy to mainstream mediation in the context of the issues discussed in the case study review.

4. POLICY GOALS & OBJECTIVES

4.1 Goals

- Develop a comprehensive, institutionalized ADR framework;
- Regionally and internationally recognized ADR policy and programme that is integrated into the Jamaican justice system and is well accepted by public and private stakeholders;
- Enhance accessibility and awareness of ADR approaches and services and;
- Establish and standardize all ADR processes and protocols;
- Facilitate continuous improvement and evaluation of the ADR programme

4.2 Objectives:

- Reduce and mitigate societal dispute/conflict and foster harmony by creating a cultural shift in views on dealing with dispute/conflict;
- Reduce the #of cases initiated for litigation or lag ("backlog") within the formal court system;
- Increase the use of ADR approaches.

4.3 Strategic Priorities

(1) **Assessment of ADR framework**

- **Legal Foundation**: a thorough examination of the existing ADR framework including relevant legislation and rules to identify gaps. This will assist in assessing the need for an enhanced enabling legislative environment that better supports and promotes existing and new ADR approaches. Establishing more enforceable ADR outcomes can also elevate the status of ADR and build public confidence in ADR utilization.
- **Institutional Structure**: to support the promotion of ADR approaches, multi-door (one-stop shop), dedicated, all-encompassing ADR centres throughout Jamaica to ensure wide access and consistent delivery of justice services.

(2) **Monitoring and Evaluation**: establish benchmarks and metrics to assess the Policy prescription implementation progress and the strategies identified for success within the Policy framework and programme. This will allow for:

- The establishment of a comprehensive data collection system to track the effectiveness of the ADR programme and initiatives on violence and crime reduction, access, case litigation statistics and overall dispute/conflict resolution outcomes.
- Rate the level of readiness of ADR service provision.
- Periodic assessments of ADR programme to analyse its overall impact with findings used to inform policy review and adjustments.
- The evaluation of outcomes and a continuous improvement and adaptation of strategies based on empirical evidence.

- Regular assessment and analysis of dispute/conflict trends within the Country to tailor ADR approaches and programme to current needs and challenges, ensuring they remain relevant and effective.
- Regulatory body/authority to oversee ADR practitioners in the public and private space to ensure quality and ethical standards are maintained.

(3) **The establishment of a Steering Committee**: to facilitate the implementation, monitoring and evaluation of the Policy.

(4) **Capacity building and training**: examine training needs for legal professionals, community leaders, training persons as "first responders" or first point of contact for ADR services, mediators, arbitrators, counsellors and other personnel in specialist areas integral to the ADR process.

(5) **Stakeholder mapping and engagement/cross sectoral integration**: establish cross-sectoral partnerships/ public/private partnerships – technology companies and community organizations, academic institutions to harmonize efforts and enhance ADR services. Interdisciplinary collaboration to include partnerships between legal experts, ADR professionals, mental health professionals, community leaders etc. to create holistic ADR strategies.

(6) **Robust nationwide public awareness**: organize campaigns and create key programme messaging and resource material to educate the public about the benefits of ADR approaches and the options available to assist with dispute/conflict management and resolution with specific outreach programmes targeting marginalized communities, vulnerable groups and youth. Utilize frequently visited government service spaces to provide ADR information.

(7) **Schools and youth –** advocate for the inclusion of ADR teachings in the school curriculum to facilitate dispute resolution in schools and promote cultural shift towards peaceful resolution.

(8) **Short term and long-term system integration**: develop strategies for integrating ADR policy prescriptions on a phased basis and towards being a fully institutionalized and permanent aspect of the justice system ensuring its relevance and adaptability over time.

(9) **Funding and resource allocation**: secure and mobilize funding through public/private partnerships to ensure adequate funding and resources are allocated to support ADR initiatives including the continued improvement of existing justice centres and the establishment of additional centres. Explore various funding models to ensure sustainable support for the ADR programme and the incorporation of technological infrastructure to facilitate online dispute/conflict management and resolution and other technology-based solutions to facilitate ADR.

(10) **Costing Framework:** what services could potentially cost for the various rollouts.

(11) **Develop incentive for stakeholders**: create incentives to elevate and support the use of ADR approaches.

6.4 FUTURE OF ADR IN JAMAICA

Facilitated by policy development and implementation of the policy prescriptions, a first-class justice system with ADR fully institutionalized will reflect:

Legal Underpinning

- **Legislation –** where necessary and applicable, promulgate clear and robust legislation governing ADR practices, ensuring enforceability and consistency across various sectors to include provisions to support electronic transactions and technological advancements, protection of personal information/data, individual rights and fee structures for ADR services. This will also include giving sufficient consideration to including ADR provisions within all new legislation to be promulgated where the subject matter lends itself to the application of ADR for any dispute/conflict that may arise pursuant to that legislation.
- **Judicial Endorsement -**strong collaboration between ADR processes and the Judiciary facilitating referrals from courts to ADR.
- **Recognition of outcomes-** agreements reached through ADR processes are enforceable fostering trust in the system.
- **Standards and Guidelines-** established universal standards for ADR processes and practitioners.

Specialized ADR Services

- **Sector specific ADR -** specialized ADR approaches for different subject matter areas and sectors (family disputes, commercial disputes, labour disputes, environmental disputes etc.).
- Jamaica as a hub for arbitration and mediation in the Caribbean

Accessible & Inclusive System with technological innovations

Integrated Multi-modal access

- **Nationwide access points-** a network of ADR centres established for ADR services transformed and equipped with technology for in-person and virtual ADR sessions, ensuring flexibility and accessibility.
- **Special needs considerations-** Justice centres and spaces to be used to facilitate ADR retrofitted to accommodate persons with special needs.
- **No or low-cost options** – free or low-cost ADR services funded by government grants, international grants or public/private partnerships to ensure equitable access for all citizens.
- **Multi-channel access** – users can initiate, manage and resolve disputes/conflicts using ADR through multiple channels (websites, mobile app, in person with various methods of communication -tailored to their preferences.
- **Travelling justice –** use of functional mobile units with scheduled operations to reach underserved communities in remote areas to provide onsite dispute/conflict resolution services.
- **24 hr support services:** Round the clock access to support teams and automated systems for immediate assistance. **Chatbot support-**AI driven chatbots available online to provide instant

assistance, answer FAQs and guide users through the process of accessing ADR services and conflict de-escalation hotlines.

- **Language Services-** tailored to cater to persons with disabilities and speakers of other languages – audio, braille, text to speech, sign language interpretation, and mechanisms to address other language or communication barriers (info in simplified local dialect) assistive technologies etc.
- **Use of AI driven tools** -to assist in case analysis (types of conflict: intensity (low, medium, high) etc.

Confidential systems

- **Secure communication channels –** secure communication channels for parties to discuss their issues and encrypted databases for storing case information electronically.
- Trained ADR practitioners who understand and uphold the standards of confidentiality.

Diverse ADR Options and Resolution Pathways

- **Tailored and adaptive processes**- offering a variety of ADR approaches and hybrid models suited to different types of disputes/conflicts and stages of dispute/conflict, allowing parties to choose what best suits their needs.
- **Community based ADR programmes** – workshops for ADR approaches and services that empower communities to resolve dispute/conflict.
- **Feedback** - mechanisms implemented for persons engaged in the use of ADR to provide feedback post services to enhance ADR processes and practitioner skills.

ADR practitioners and specialists

- A cadre of fully trained ADR practitioners and specialists (incorporating soft skills and empath training) in various areas of practice and domains.
- Mentorship and support networks for mentorship programmes connecting experienced ADR professionals with new commers for guidance and support.

Quality Assurance

- **Accreditation systems**- a certification process for ADR practitioners to ensure they meet established competency and ethical standards.
- **Independent oversight body**- that monitors the effectiveness and fairness of ADR processes ensuring accountability and transparency.

Culture shift towards resolution

- Dispute/conflict management and resolution curriculum with skills training incorporated within education systems from early childhood through to higher education to foster a proactive approach to disputes/conflicts management and resolution.
- Dispute/conflict management and resolution skills training in workplaces so that persons can handle disputes/conflicts peacefully and proactively.

EVALUATION OF THE FEASIBILITY AND POTENTIAL STRENGTHS AND WEAKNESSES OF INCORPORATING COMPREHENSIVE ADR IN JAMAICA

4.5 SWOT ANALYSIS

The strength, weaknesses, opportunities and threats (SWOT) analysis of ADR in Jamaica must be developed to better understand the context and culture that ADR will be designed to foster. See SWOT analysis for ADR in Jamaica at Table 3.

Table 3. SWOT Analysis of ADR in Jamaica

Strengths	Weaknesses	Opportunities	Threats
Goal: **Develop a comprehensive, institutionalized ADR programme**			
Relatively consistent track record of successful outcomes (Mediation Programme) **Institutions and legislation to support ADR/AJS programmes**	Absence of national policy/ legislative framework Fragmented application of ADR resulting in weak buy-in and coordination.	Develop a National Policy and strategy to address local and international dispute/conflict.	Changing political landscapes may impact the commitment to institutionalizing ADR. Environmental constraints related to building facilities. Potential for litigation to undermine confidence in ADR processes.

Strengths	Weaknesses	Opportunities	Threats
Goal: **Regionally and internationally recognized ADR policy and programme that is integrated into the Jamaican justice system and is well accepted by public and private stakeholders**			
Largely time and cost efficient compared to formal court proceedings **Reduced litigation burden in traditional Court**	Low interest/ priority based on limited knowledge. Perceived legitimacy - some parties may still view ADR as less formal or legitimate than Court processes.	Promulgate legislative reforms and develop practice directions that foster a cultural shift towards appropriate use of ADR options. Ability to engage more in international dispute resolution using UNCITRAL model and other best practices. The familiarity with ADR by Legal Practitioners has potential for increase in revenue and can enhance options offered through their practice.	Limited legal finality Inability to create legal precedence due to limited use and/ or unavailable data. Judicial Resistance to use of ADR to treat with matters before the Court. Resistance from some segments of the legal profession – pushback against ADR as a legitimate alternative because of potential to lose on monetary gains attached to use of traditional Court litigation due to view that ADR could diminish need for legal representation.
Goal: **Enhance accessibility and awareness of ADR approached and services**			
Existing Justice Centers and offices across the island and use of mobile units	Limited public knowledge about the Justice Centers and awareness of ADR services.	Launch robust awareness campaigns to highlight ADR. Technology integration to expand access to ADR especially in remote and underserved areas. Emergence of conflict management training courses offered by Academic Institutions.	Economic downturns or competing priorities could lead to less funding for Justice Centers and other related ADR facilities.

Strengths	Weaknesses	Opportunities	Threats
Goal: **Establish and standardize ADR processes and protocols**			
Existence of Training Institutions (Dispute Resolution Foundation) and existence of MOJCA/DRF partnership	Resource intensive: developing and implementing standardized ADR processes can be time consuming and requires substantial human and financial resources.	Work with policy makers to promote a framework that supports the adoption of standardized ADR processes and the recognition of certifications provided by training institutions.	Existing practitioners may be resistant to adopting new standardized protocols, preferring established methods.
Goal: **Facilitate continuous improvement and evaluation of ADR Programme**			
Recognition and application of ADR approaches worldwide can be used as precedence and guidance for improving local standards	Requires ongoing funding and resources to conduct evaluation.	Technological advancements can facilitate data collection and analysis. Potential to collaborate with universities and research institutions.	Lack of uptake or continued underutilization of ADR may limit resource commitments to ADR.

By resolving the inherent challenges that affect the wholesale use of ADR in Jamaica, steps can be taken to realize the justice outcomes of *Vision 2030 Jamaica.* The development of the national ADR Policy is essential to ensure that access to justice is increased. It will also aid in promoting Jamaica as a place where optimal participation in international trade, investment and commerce is fully supported by a well-appointed dispute/conflict management and resolution system.

5. EXPECTED MULT-SECTORAL OUTCOME AND IMPACT

Table 4. POLICY IMPACT MATRIX at the national level

DIMENSIONS	OUTCOME/IMPACT
SOCIAL	i. Increased use of ADR approaches to resolve and manage disputes/conflicts. ii. Reduction in reprisal homicide. iii. Significant change in the reprisal/retribution culture towards greater dialogue and active participation in dispute/conflict management and resolution, before escalation into violence. iv. Community Peacemaking
ECONOMIC	i. Positive economic growth rate with single digit percentile (%) should the crime and violence levels be contained and reduced from upscaling the use of ADR.

DIMENSIONS	OUTCOME/IMPACT
	ii. GDP contribution from regulatory fees and service charges for international and local engagements. iii. Increased employment opportunities through the expansion of the ADR sector. iv. Increased savings for firms and regular citizens that resolve disputes/conflicts. v. Improved performance and "Doing Business Ranking" for cost and time taken to enforce contracts. vi More attractive and predictably business environment for investors. vii Increased utilization of ADR by 2026.[52]
POLITICAL	i. Strengthened rule of law ii. Government's success in providing accessible and effective dispute/conflict management and resolution services through ADR will be demonstrative in enhanced public trust in government initiatives and engagement.
INSTITUTIONAL	i. Positive results in case clearance rate above 100%, due to the reduction of new cases entering the courts as a result of the positive effects of the use of ADP approaches. - A 2018 assessment[53] of the impact of ADR on the justice system reveals that mechanisms such as RJ has contributed to approximately 65% reduction in court backlog. - "An internal study conducted by the MOJCA, which garnered data from the Programme during financial year 2022/2023, revealed that **92%** of mediated cases were resolved within just **40** days from the point of referral with an overall success rate of **87%**. Of the participants who benefitted from the financial support provided, **79%** felt that the mediation process was fair while 88% indicated that they would recommend mediation as a way of resolving disputes". [54] ii. Resolution of court cases within two (2) years, as courts are allowed time to dispense with court cases at trial, due to the use of ADR for court annexed resolution.

6. POLICY OWNER

The Ministry of Justice and Constitutional Affairs is the policy owner. However, various Ministries, Departments and Agencies as well as private entities, including but not limited to the following, are

[52] Strategic objective number 2 outlined in the MOJ Strategic Business Plan 2023/2024 – 2026/2027.

[53] Ministry of Justice. (2020). Data and Analysis: Alternative Dispute Resolution programmes across jurisdictions. The above is a research paper prepared by Research, Modernization and Reform Unit on utilization of ADR services in Jamaica.

[54] From Sectorial Debate Presentation May 21st, 2024

stakeholders that comprise the justice system and have a role within the landscape for ADR and will be engaged to provide technical support for policy issues, objectives, strategic priorities and outcomes: -

- Judiciary - Courts of Jamaica[55]
- Office of the Director of Public Prosecutions
- Office of the Parliamentary Counsel
- Attorney General's Chambers
- Legal Reform Department
- Legal Aid Council
- Ministry of National Security and Peace
- Jamaica Constabulary Force
- Department of Correctional Services
- Dispute Resolution Foundation
- Jamaica International Arbitration Centre Limited
- Jamaican Bar Association

Operations, training and partnership support via Memorandum of Understanding will coalesce around the following entities to build awareness of ADR approaches in the public:

(1) Departments under the auspices of the Ministry of Justice and Constitutional Affairs
(2) Office of the Director of Public Prosecutions
(3) Attorney General's Chambers;
(4) Legal Aid Council
(5) Justice Training Institute
(6) Court Administration Division (previously Court Management Services);
(7) Dispute Resolution Foundation
(8) The Jamaica Chamber of Commerce
(9) Jamaica Constabulary Force
(10) The Ministry of Education, Youth, Skills and Training
(11) The Jamaica Council for Persons with Disabilities
(12) Parish Justice Centres
(13) International Development Agencies and NGOs

The Ministry of Justice and Constitutional Affairs will monitor the continuity of engagements by citizens of ADR services across both the public and private sectors and use evaluation methods selected to examine the use and effectiveness of these ADR services offered by the Government under its Social Justice programme to settle disputes/conflicts amicably outside the courts.

[55] Includes the Court Administration Division. In January 2020, the Judiciary launched the Strategic Plan for the Courts which outlines a new Mission being to provide sound, timely judgments and efficient court services and Core Values of fairness, accountability, integrity, impartiality, respect, commitment, courtesy, accessibility, responsiveness and empathy.

7. TIMELINE – ACTION PLAN FOR POLICY DEVELOPMENT

Activities	Timeline
⏳ Development of Concept Paper	March –November 2025
⏳ Continue Research (Primary and Secondary) and initiation of stakeholders' engagements /consultations	April- November 2025
⏳ Submission of Concept Paper to Cabinet	December 2025
⏳ Cabinet Approval of Concept Paper	January 2026
⏳ Naming of the Policy Steering Committee	February 2026
⏳ Draft Policy Prepared – Inclusion of three (3) year Implementation Plan	May 2026
⏳ Policy tabled in Parliament as a Green Paper	August 2026
⏳ Consultations- Engagement of Stakeholders	August -November 2026
⏳ Submission of Final Policy as a White Paper	March 2027
⏳ Policy Implementation	2027-2031 Financial Years
⏳ Develop standard operating procedures (SOPs) for all ADR processes	
⏳ Quality Control Accreditation: Establish a national accreditation body for ADR practitioners to maintain high standards of professionalism and ethics	
⏳ Strengthening Interagency Collaboration: Foster stronger collaboration between ADR centers, law enforcement agencies, courts, and victim support services to ensure seamless case management and referrals.	
⏳ Evaluation and Feedback Mechanism: Annual Implementation of a formal monitoring and evaluation (M&E) system to assess ADR program outcomes. Collect feedback from users, including disputants and victims, to refine processes and improve service delivery	
⏳ Proposal to construct two Fit-for-Purpose Justice Centres	
⏳ Educational Campaign/Public Awareness Impact Survey	

The life cycle anticipated for the Policy -Advancing Justice through Alternative Dispute Resolution for Jamaica is five (5) years with a three (3) year requirement to review the Policy to assess impact and where necessary adjustments to new information and or circumstances.

8. FINANCIAL CONSIDERATIONS

The requisite budgetary provision of one million dollars ($1,000,000.00) has been included in the budget for fiscal year 2026/2027 to support activities and consultation to advance the development of the Policy. During the stages of Green Paper to White Paper this will allow for national consultations and the production of the policy document, which is estimated at eight million dollars ($8,000,000.00).