

**REPUBLIC OF RWANDA**



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# **ALTERNATIVE DISPUTE RESOLUTION POLICY**

*September, 2022*

# Contents

ACRONYMS AND ABBREVIATIONS .....	3
DEFINITION OF KEY TERMS.....	4
FOREWORD .....	6
EXECUTIVE SUMMARY .....	8
I. INTRODUCTION.....	10
II. SITUATION ANALYSIS .....	12
2.1. SWOT Analysis.....	13
2.2. Stakeholders' views .....	14
III. POLICY ORIENTATION .....	15
3.1. Vision.....	15
3.2. Mission .....	15
3.3. Objectives.....	15
3.3.1. General Objective .....	15
3.3.2. Specific objectives .....	16
3.4. Guiding principles.....	16
3.4.1. Community Based Processes.....	16
3.4.2. Needs and Interest – Based Approach.....	17
3.4.3. Voluntariness .....	17
3.4.4. Confidentiality .....	17
3.4.5. Safe Space.....	17
3.4.6. Trauma-Informed Approach.....	18
3.4.7. Flexible, Integrated, Interdisciplinary Approach.....	18
3.4.8. Continuous stakeholders' dialogue .....	18
3.5. Benchmarking and best practices.....	19
IV. RECOMMENDED POLICY ACTIONS .....	20

**V. IMPLEMENTATION PLAN .....21**

- 5.1. Detailed activities .....21**
- 5.2. Awareness and Communication Plan .....21**
  - 5.2.1. Objectives of the ADR Communication and Awareness Plan ..... 21**
  - 5.2.2. Phasing of the awareness and communication plan ..... 22**
  - 5.2.3. The key targeted groups for ADR awareness ..... 22**
  - 5.2.4. Stakeholder Messages ..... 23**

**VI. IMPLICATIONS OF THE POLICY IMPLEMENTATION ..... 24**

- 6.1. Financial Impact ..... 24**
- 6.2. Legal Impact ..... 25**

**VII. MONITORING AND EVALUATION ..... 27**

**ANNEXES ..... 28**

## ACRONYMS AND ABBREVIATIONS

<b>ADR</b>	Alternative Dispute Resolution
<b>JRLOS</b>	Justice, Reconciliation, Law and Order Sector
<b>KIAC</b>	Kigali International Arbitration Centre
<b>NST1</b>	National Strategy for Transformation 1
<b>UNCITRAL</b>	United Nations Commission on International Trade Law

# DEFINITION OF KEY TERMS

**1. Adversarial system:** This is a judicial system or mode of dispute resolution in which the competing claims of parties are presented by legal representatives who have interest. In criminal matters for instance, the system is the two-sided structure under which criminal trial courts operate, putting the prosecution against the defense.

**2. Adjudicating approach:** The concept refers to processes of decision making that involve a neutral third party with the authority to determine a binding resolution through some form of judgment or award. The adjudication is carried out in various forms, but most commonly occurs in the court system.

**3. Community-led mediation:** It is a form of mediation that offers constructive processes for resolving differences and conflicts between individuals, groups and organizations, based into their community. In such exercise, participants control the process and create their own alternatives to avoidance, destructive confrontation, prolonged litigation or violence.

**4. Mediation:** A process in which a third party, that is supposed to be impartial, has no stake in the outcome, and has no power to impose a decision, guides disputants through a non-adversarial discussion process that has as its goal the settling of disputes. It is an effort to put the parties in indirect contact, gain trust and confidence in each other, set agendas, clarify issues, arrange venues, reduce tensions, and explore the interests of either party.

**5. Plea-bargaining:** This is the process whereby a criminal defendant and prosecutor reach a mutually satisfactory disposition of a criminal case, subject to court approval. The plea bargaining usually involves the defendant's pleading guilty to a lesser charge, or to only one of several charges. It also may involve a guilty plea as charged, with the prosecution recommending leniency in sentencing. The judge, however, is not bound to follow the prosecution's recommendation.

**6. Pre-filing mediation:** Also known as pre-litigation mediation, this is an attempt to resolve a case before initiating the formal legal process. Conducted prior to filing a formal lawsuit, it is a consensual process whereby the plaintiff and the respondent come together to settle the dispute amicably.

**7. Pre-trial mediation:** Also known as pre-trial conference, this is a session that is conducted by an experienced registrar who looks at the case from all sides and can help concerned parties explore options to try to resolve their dispute, rather than proceed to trial.

**8. Restorative circles:** A restorative circle is a technique that builds and restores relationships through equal opportunity sharing and listening. Restorative justice circles provide an opportunity for community members to come together to address harmful behavior in a process that explores harms and needs, obligations, and necessary engagement.

**9. Retributive justice:** A system of criminal justice based on the punishment of offenders rather than on rehabilitation. As a criminal justice system, it focuses solely on punishment, rather than deterrence—prevention of future crimes. Under other perspectives, it is a theory of punishment that when an offender breaks the law, justice requires that they suffer in return.

# FOREWORD

ADR mechanisms are not new in Rwandan history. Traditionally, Rwandans took a problem-solving approach to justice anchored on community participation in a variety of dispute resolution forums. Citizens resolved conflicts of all kinds into families, in the neighborhood and sometimes before leaders at different levels of the administration, in a manner that safeguards peace, rebuilds relationships and consolidates social cohesion.

Leave alone the fact that it is a constitutional principle to constantly quest for solutions through dialogue and consensus, the need for a national ADR policy is reflected in NST1 under priority number 1 of the pillar of Governance that aims to enhance alternative dispute resolution mechanisms, promote the culture of problem solving in families and amicable settlement of disputes.

In line with this priority area, the JRL0S Six-year Strategic Plan 2018/2019-2023/2024 includes among other activities under the outcome of Universal Access to Justice, the development and implementation of an ADR policy to ensure citizens' ownership and participation in quality justice.

With aim to develop an ADR Policy that will harmonize existing frameworks, introduce new ones wherever it will seem suitable and avail an overall guiding document for disputes settlement through alternatives to litigation, existing laws and regulations encouraging or directing parties in dispute to try to reach an amicable settlement were analyzed, informal and formal practices visited, key informants and focused groups discussions organized for consultation. This allowed drafters to align properly ideas and produce a well principled ADR Policy that will guide future initiatives, ensure required coordination of interventions and contribute to the Justice Service delivery.

Various stakeholders including Government institutions, Development Partners, Private and Civil Society Organizations made significant contribution in the preparation of this Policy.

To this end, we are grateful for their time and the invaluable inputs shared to have this policy developed. We believe that all stakeholders will work in close partnership to ensure smooth implementation, monitoring, and evaluation of this policy.

**Ministry of Justice and Attorney General's Office**



# EXECUTIVE SUMMARY

This Policy is a roadmap for Rwanda to continuously improve, coordinate and expand the use of ADR to all dimensions of life in Rwanda. In doing so, Rwanda builds on the strong foundations of its history, culture and national commitment to develop homegrown solutions while enriching its legal system with global innovations in the field.

To formulate the Policy, extensive research was conducted on ADR practice at international, regional and local levels. In addition to an extensive desk review, a citizen consultation was conducted to gather the perspectives of all ADR actors and their beneficiaries. The research produced the following key conclusions that support this Policy:

- **Rwandans prefer ADR:** Although Rwandans appear to have a high reliance on litigation in court, overall, they are very often dissatisfied with it and they would actually prefer the dispute resolution processes in which all stakeholders may participate and dialogue to reach a mutual understanding in the form of a resolution.
- **ADR is viewed as a Rwandan system:** Although the term ADR was developed and applied from a Western context, Rwandans recognize ADR as their own ordinary, historical, and cultural approach for addressing conflict and harm.
- **Mediation is progressively and consistently emerging as the most preferred ADR mechanism both at local and international levels:** There are many kinds of ADR, and although they differ, their terms are often used interchangeably, notably, conciliation, arbitration and mediation.
- **In Rwanda, there is a need for ADR and mediation in particular, to be enhanced and coordinated:** While there are many formal and informal ADR mechanisms applied in Rwanda, they are insufficiently developed. ADR mechanisms need to be linked and integrated with the conventional justice system to facilitate the enforcement of the outcomes in case the voluntary enforcement is not possible.

- **ADR in the post-colonial and post-genocide context needs to be trauma-informed:** Research revealed that the changing profile of conflict and crime in Rwanda reflects the trauma of its history. Fortunately, research also supports the conclusion that ADR is the most suitable approach for effectively addressing the causes and consequences of historical and cultural trauma and fostering societal healing.

Highlights of the comprehensive recommendations of this Policy include:

- **Creation of Pre-Filing Mediation for family, labor, administrative, commercial and in all other civil matters**
- **Mandatory Pre-Filing Mediation for all civil and administrative matters**
- **Create Restorative Justice Options Across the Criminal Justice Process**
- **Create a trauma-informed ADR system**
- **Create a Mediation Institutional and Legal Framework**
- **Enhance capacity in ADR and raise awareness about proposed schemes and available ADR providers**

This Policy is the result of a national dialogue about justice in Rwanda and how ADR can contribute to it. At the heart of its recommendations is the continuation of this dialogical process by giving the dialogue a home, structured and financed to be self-sustaining so that the conversation and learning can be continuously aligned with Rwanda's ever changing and developing reality. Ultimately, this Policy reflects Rwanda's apparent destiny to make sense of the incomprehensible and to demonstrate the full strength of the human spirit to rise above the difficulties of the past to meet the promises of the future.

# I. INTRODUCTION

This Policy was commissioned by the Government of Rwanda that called for a comprehensive national ADR Policy that is research based, rooted and founded on Rwandan values while at the same time, considering other best practices from elsewhere around the globe. Accordingly, a citizens' consultation was conducted on how dispute resolution has been conducted historically in Rwanda and how it is practiced here today, along with the aspects of Rwandan culture that relate to dispute resolution. In addition, providers and beneficiaries of ADR services were interviewed to identify strengths and weaknesses of the current system and to solicit ideas for improvement. Research was also conducted on ADR practice regionally and internationally and recommendations for practice made for all dimensions of the national life including but not limited to family, commercial, administrative, social and criminal matters to ultimately improve access to justice.

The term "alternative dispute resolution" or "ADR" is often used to describe a wide variety of dispute resolution mechanisms that are short of, or alternative to, full-scale court processes. It is an all-encompassing term which refers to multiple non-judicial methods of handling conflict between parties.

Although the term "ADR" arose from the Western context where anything other than the adversarial system is considered "alternative", resolving conflicts through dialogue, involvement of the surrounding community with the ultimate goal of reaching the most beneficial resolution for the parties and their communities is considered by Rwandans as their approach of justice for long. This is even what is reflected in the Constitution of the Republic of Rwanda of 2003 revised in 2015 where article 10 (6) provides that the State of Rwanda commits itself to upholding the principle of "constant quest for solutions through dialogue and consensus" among other principles.

The purpose of this Policy is to ensure that people in Rwanda effectively and satisfactorily resolve their disputes with mutual understanding and play a key role in finding a collective and appropriate response to conflicts, injustices, and harm in the Rwandan society.

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. The ultimate purpose is for the Justice Sector to design, implement and develop a well - functioning, accessible, coordinated and sustainable ADR system that will operate in complementarity with the court system and contribute significantly to the national goals by furthering the empowerment, productivity, and social cohesion of the Rwandan people.

## II. SITUATION ANALYSIS

For the purpose of developing this ADR policy, a situational analysis was conducted through a literature review that examined aspects of the Rwandan context that call for ADR development both in civil and criminal traditional justice, culture, ADR innovations, ADR related policies, strategies, laws, formal and informal practices, as well as global trends in civil and criminal matters.

A purposive sampling targeting both institutions and individuals with experiences of working with ADR practices allowed in-depth interviews with key informants either individually or through guided group discussions, Focus Groups discussions with beneficiaries of ADR providers. Two hundred and eighty-one (281) respondents out of a targeted population of 300 selected to represent all Provinces and Kigali City, based on age, profession, gender, experience and best ADR practices. A proper analysis of findings revealed key following problems or paradoxes:

- An overreliance on litigation and a dissatisfaction with outcomes of the Courts system;
- An overreliance on a retributive system and serious aspirations for a restorative justice empowering communities and families;
- Existence of various informal ADR mechanisms with no professional guidelines and linkage with the Court system;
- Some ADR providers without basic skills to assist in disputes settlement;
- Lack of proper ADR service providers inter-connection or coordination system to ensure information sharing, data collection, documentation, monitoring and evaluation;
- Many laws recommending ADR in different fields and no effective practice developed;
- Predominance of the conventional court system while Rwandans believe in ADR that addresses rights, needs and relationships;
- Rwandans prefer ADR in all aspects except in capital offences including armed robbery, defilement, rape, corruption,

terrorism and other security related cases that may jeopardize a country's security.

## **2.1. SWOT Analysis**

A SWOT analysis was made on ADR in Rwanda as presented below:

### **a. Strengths:**

- Existence of formal ADR services grounded in enacted laws, regulations and administrative instructions, that reach to successful results;
- Culturally based homegrown solutions that time to time helped Rwandans finding ways of solving their problems, strengthening their Unity and Reconciliation and reinforcing the social cohesion.

### **b. Weaknesses:**

- Lack of proper policy guidelines, strategic orientations and coordination framework among ADR providers and stakeholders;
- Existence of many informal ADR providers improperly trained and skilled;
- Existence of many laws providing for ADR committees or services without effective operationalization;
- Lack of ADR practice management tools, skills and linkage with the court system.

### **c. Opportunities:**

- Real and express will of the Rwandan Authorities to strengthen ADR as highlighted in NST1, in different policies, strategies and laws;
- Serious aspirations of the people of Rwanda, to see themselves empowered to handle and settle disputes using features and techniques inspired from their own culture and practices, with the involvement of families and communities.

#### **d. Threats:**

- Lack of proper trauma-informed system to support ADR providers;
- Risk of lack of impartiality and neutrality in some cases due to corruption, nepotism or insufficient ADR skills.

### **2.2. Stakeholders' views**

Basing on identified problems and considering the ADR business status, stakeholders expressed different views and wishes as follow:

- The Rwandan ADR System needs to be enhanced, coordinated and continuously improved;
- The Rwandan ADR System needs to be integrated with the existing Court System for a proper complementarity;
- It needs to be a well-resourced System and ADR services be provided by people having skills to assist the beneficiaries in reaching the best outcomes in disputes resolution;
- ADR services should be available, known and affordable for every citizen in each field of law: family, employment, administration, criminal and all other commercial matters;
- ADR System and service providers must be inclusive of gender, youth, and vulnerable peoples.

## III. POLICY ORIENTATION

### 3.1. Vision

The vision of Rwanda's ADR policy is:

"A united, reconciled, inclusive, and problem-solving society where citizens participate actively in resolving their own disputes and addressing harm and crime under the supervision and with the support of institutions having dispute resolution and the enforcement of the resolution's outcomes under their mandate."

### 3.2. Mission

The mission of Rwanda's ADR Policy is:

"To enable the establishment, maintenance and continuous improvement of a well-coordinated, resourced, effective and accessible ADR system that is well integrated with the existing court system."

### 3.3. Objectives

#### 3.3.1. General Objective

The main objective of this Policy is to provide the necessary guidance for the creation of an effective, accessible and coordinated state of the art ADR system, rooted in Rwanda's tradition, values and national objectives and integrated with the court system. Without sacrificing accountability, punishment or deterrence, the thorough integration of ADR into Rwanda's justice system will strike the right balance between the court system and ADR, while creating a justice system that is flexible and reflective of societal values.



### 3.3.2. Specific objectives

In addition to the general objective, this Policy has following specific objectives:

- Strengthen the institutional and regulatory framework for ADR services;
- Establish a well-structured ADR system that draws on existing resources as much as possible;
- Create an enabling legal environment;
- Enhance local capacity in mediation and restorative justice processes;
- Ensure that through awareness programs, ADR benefits and opportunities are known, understood, owned and used by Rwandan citizens irrespective of their social or economic setting.

### 3.4. Guiding principles

#### 3.4.1. Community Based Processes

This policy is intended to expand the use of community-based ADR processes. This means that there should be mechanisms in place to provide effective mediation of conflict in the communities in which the conflict arises. By community, the Policy means not only the place where people live, but in their families and in the places where they work or do business. Not only should mediation or other ADR practices be provided in those communities by members of the same community or by their local officials, but also by involving community members themselves in the resolution of the dispute, where doing so would help in finding sustainable solutions. In effect this means extending the *Abunzi* concept to other kinds of communities as well as expanding the jurisdiction of the *Abunzi* Committees. A corollary of this principle is citizen empowerment. Citizens have both the right and the responsibility to resolve conflict and contribute to societal healing.

### **3.4.2. Needs and Interest – Based Approach**

The purpose of meditative processes in Rwanda will be to create solutions that consider the causes and consequences of conflict and crime by developing mutual understanding through dialogue of the underlying needs and interests of the people involved. Though these processes may be designed to uncover the truth of what happened, they also examine the deeper truth of how we Rwandans are interconnected and how we can both hurt, heal and help each other, by meeting one another's basic needs that make up our common humanity, such as the need for dignity, safety, autonomy, understanding and care.

### **3.4.3. Voluntariness**

A basic principle of mediation and restorative justice is that these processes are voluntary. One can be ordered to participate, but ultimately, the parties are empowered to make their own decisions, including whether or not to continue in the process. Ultimately the participants decide the outcome and the agreements need to be voluntary in order to be valid.

### **3.4.4. Confidentiality**

The default assumption should be that the communications within mediation are to be held as confidential. The participants can waive confidentiality, and some community-based ADR schemes may not be designed to be confidential. However, it should be understood that in all conventional mediation, all communications are presumed confidential. Nothing that is said as part of mediation may be introduced in court and no mediator can be compelled to testify as to what occurred in mediation.

### **3.4.5. Safe Space**

Resolving conflict and healing harm requires safe space from where one can freely speak. Often, this means that communication needs to be confidential, and in other

circumstances it means that people need to know that what they say will be effective in gaining the support they need or they will be kept safe from retaliation or other harmful consequences of speaking up. ADR in Rwanda needs to provide a safe space and conducive environment for both men and women, boys and girls to ensure access to justice by all who need it.

### **3.4.6. Trauma-Informed Approach**

Trauma can be both a cause and consequence of both conflict and crime and this operates intergenerationally. The ADR system in Rwanda should be trauma informed to ensure that trauma is not a barrier to participation in ADR processes and to prevent re-traumatization and secondary trauma.

### **3.4.7. Flexible, Integrated, Interdisciplinary Approach**

No one mechanism, format, or discipline can work to resolve conflict or heal the wounds of conflict or crime. An effective ADR system must be flexible and creative to make the best use of available resources in a context most conducive to constructive outcomes. This will vary, from case to case. The ADR system needs to be well integrated into the legal system and Justice Sector as a whole. Success will involve the participation of professional and non-professional actors from a variety of contexts and disciplines. This is why coordination and collaboration is essential for the success of this initiative.

### **3.4.8. Continuous stakeholders' dialogue**

Responsive dialogue is both the subject and methodology of this Policy. Just as the ideas in this policy are the result of dialogue with practitioners, stakeholders and beneficiaries, so will implementation, and all that follows for continuous improvement will proceed through dialogue.

### **3.5. Benchmarking and best practices**

Principles upon which this Policy is designed are drawn from home grown solutions, regional and international best practices.

Nevertheless, a big part of them such as the expansion of the use of community-based ADR processes, the continuous stakeholders' dialogue, the management of possible traumatic effects of the conflict, confidentiality, creating safe spaces, as well as well as special attention on needs and interests of concerned parties are rooted in the Rwandan culture and are part of home grown solutions. On the other side, voluntariness, interdisciplinarity and the necessity of integrating all aspects of life are some of international best practices and standards.

## IV. RECOMMENDED POLICY ACTIONS

This policy will be implemented through a series of detailed activities and sub-activities, with clear indicators and expected outcomes as highlighted in the implementation plan. The latter is extracted from following key recommended Policy Actions:

**4.1. Enhance ADR in Civil and Administrative Matters** by creating pre-filing Mediation for family, labor, administrative, commercial and other civil matters;

**4.2. Mandate pre-filing ADR for All Civil and Administrative Matters** with the support of all ADR service providers from the community-led mediation, private sector members, and mandated public servants and strengthen the culture of problem solving without necessarily resorting to litigation;

**4.3. Introduce Restorative Circles in Criminal Matters** for the victim-offender- families' members and the community involvement in crime prevention and management and mediation of some properly chosen crimes and rehabilitation of both the victim and the offender, and the safeguard of the community values;

**4.4. Establish a Trauma-Informed ADR System** to deal properly with possible traumatic consequences of the crime on the victim, the offender, the community and third parties that intervene for cases handling.

**4.5. Enhance International Commercial ADR Practice** to expand KIAC services to mediation and other ADR forms that combine mediation and arbitration, following the global trend in international commercial dispute resolution for non-adjudicatory processes.

**4.6. Create an ADR Institutional Framework** to Coordinate a Phased Rollout of Policy Implementation and Oversight and ensure stakeholders synergy and complementarity.

**4.7. Develop ADR Capacities** to ensure training programs for different audiences and creation of ADR management tools.

**4.8. Enhance ADR Awareness** to inform citizens on the benefits of ADR and their roles and opportunities to contribute in justice delivery, as well as on the availability of ADR services providers.

**4.9. Develop ADR IT Tools** to ensure simple, quick and smart ADR service and support ADR activities management and monitoring among all stakeholders.

## **V. IMPLEMENTATION PLAN**

### **5.1. Detailed activities**

Following recommended policy actions, a detailed implementation plan with clear objectives, activities, sub-activities, targets, timelines and concerned institutions was drawn put into annexes of this policy. Year after year, it will be reviewed basing on continuous evaluation avoid forgetting any important component, and upgraded to consider any innovation.

### **5.2. Awareness and Communication Plan**

- The ADR Communication and Awareness Plan will be premised on the findings from Citizen Policy Consultations regarding their experiences, practices, lessons, fears and aspirations.

#### **5.2.1. Objectives of the ADR Communication and Awareness Plan**

- The first objective of the ADR Policy Communication and Awareness Plan is to ensure that people understand, own, and utilize dispute resolution mechanisms in their family, workplaces, business, labor, administrative and other civil matters.
- The second objective is to increase awareness and knowledge on the benefits of using ADR services instead of the court system.
- The third objective is to create awareness on existing ADR best practices that can be leveraged to promote a well-

functioning, accessible and sustainable ADR system in Rwanda.

### 5.2.2. Phasing of the awareness and communication plan

- The first phase will be carried out to communicate and create awareness of the ADR Policy, the reasons for its existence, ADR practices, and existing service providers. This phase will aim to prepare the Rwandan community for ADR practice, including community and professional mediation as well as restorative justice processes by describing the benefits of these ADR processes.
- The second phase will be to prepare citizens for implementation of the policy, orient citizens on existing professional service providers, required regulations and standards of operation as ADR service providers. Awareness will also inform service providers on capacity building services available, as well as providing information on the operation of the ADR institutional framework.
- The third phase will be to carry out ADR communication impact assessment for the Justice Sector.

### 5.2.3. The key targeted groups for ADR awareness

Targeted groups include parties who are directly affected by and/or can influence ADR processes.

- **Litigants** will be targeted with more interactive educational communication sessions on a monthly basis to create awareness of the availability of court mediation. It will be the role of the judiciary to inform litigants on the benefits of using mediation not only during the court proceedings but also through regular educational and information sessions held at the court.
- **The Private Sector and Private Sector Committees** to discuss the existing ADR practices in the commercial sector, what works, the link with the court system and the role of self-organized committees of dispute resolution.
- **The public Sector / Government**, particularly decision makers, senior officials and ADR providers in the public sector.

- **General Community (general public)**, particularly people who are able to use their influence to sensitize other community members of the public on ADR practices.
- **Civil society organizations**, particularly organizations that are directly involved in ADR services or related interventions and those that are able to influence stakeholders.
- **The Media** has more influence to create understanding and feedback interactive discussions as well as influence policy makers.

#### 5.2.4. Stakeholder Messages

- Messages will reflect and respond to the audience's concerns, needs and expectations. Multiple messages will be produced for different groups. Customized messages will target specific groups' needs and aspirations to capture their attention through interactive education sessions.
- Messages will be aired in different forms including radio and TV infomercials, slogans, mini documentaries, radio spots, policy dialogue groups, jingles, media briefings, handbooks and newspapers, community sensitization and linkage meetings.
- Key messages for the private sector will relate to the opportunities associated with use of ADR.
- Key messages for the public sector will focus on gains in terms of cost, time and faster delivery of justice and citizen participation in justice delivery.
- Messages to Civil Society Organizations will focus on collaboration and creating synergy with government institutions on ADR services and linkage with the court system to make the outcomes from ADR dispute resolutions processes legally binding. A detailed list of activities to be undertaken is provided in the Implementation Plan in annex.
- A specific message for the service providers and beneficiaries on gender equality consideration in ADR and link it to the family conflict resolutions.



# VI. IMPLICATIONS OF THE POLICY IMPLEMENTATION

## 6.1. Financial Impact

- This policy promotes financial efficiency by promoting the use of existing resources in the community to resolve disputes within those communities. The Policy promotes no cost ADR through emphasis on Pre-Filing Community Service Mediation Schemes. In large part, these schemes place the responsibility for sponsoring the ADR programs on the community in which the conflict arises through the use of Community Service ADR volunteers. To the extent that these schemes require the participation of government actors, they rely on pre-existing government actors. Eventually the ADR Institute will generate its own income from training services, accreditation and continuing education.
- KIAC will continue organizing services and capacity building in arbitration. The ADR Institution will be designed to address the need for capacity building in mediation and restorative justice both domestically and abroad and thereby become financially self-sustaining. The Institute will also generate income through fees and dues of those ADR providers who are regulated, apart from volunteers who will be providing services on a pro bono basis, who will be waived from these fees.
- While relying on existing institutions and resources at community level and in private practice will help to reduce operational costs, capacity building and awareness will require funding from either the Government or Development Partners, more specifically the creation of an ADR coordination institute to implement policy actions will need additional funding. In total, the activities that will require additional funding have an estimated cost of Rwf 2,478,400,000 over a period of five years from 2021/22 to 2026/27.
- An indicative cost estimate and major items of savings is attached in annexes.

## 6.2. Legal Impact

A significant law reform effort will be needed to enable the implementation of this Policy, and the body referred to in Objective I will be responsible for following through with this law reform initiative. The key features of this law reform initiative will include:

- Comprehensive enabling legislation that establishes meditative processes as the term that refers to non-adjudicative processes that create needs-based solutions to conflicts and harm; including mediation for civil matters and restorative justice and plea bargaining in criminal matters.
- The primary term to describe restorative justice mechanisms will be restorative circles. Among other key aspects of this enabling legislation will be the enforceability of ADR outcomes. The legislation will provide guiding principles, establish ADR schemes and provide guiding principles. It will establish an ADR Institute to guide the implementation of this Policy.
- The Law of 2008 Governing Arbitration and Conciliation in Commercial Matters will be repealed, and two separate laws will be enacted: a law governing arbitration and a new law governing mediation. The law governing arbitration will address the gaps in the current legal framework for arbitration and allow KIAC to be a default appointing authority in ad hoc arbitration.
- The law on mediation will adopt the UNCITRAL Model Law of 2018 on Mediation amending the UNCITRAL Model Law of 2002 on International Commercial Conciliation to adopt the use of the term of mediation in place of conciliation, and to modernize mediation procedure.
- Rwanda will ratify the United Nations Convention on Enforcement of International Settlement Agreements arising from Mediation – The Singapore Convention.
- Abunzi Law will be reviewed to increase the value competency of the Abunzi within their area of jurisdiction and to clarify the two phases of the Abunzi process, the first phase on mediation and the decision phase when there is no settlement reached between the parties.

- The Civil Procedure Code will be amended to reflect this Policy and related legislation.
- All laws referring to ADR mechanisms will be amended as required and harmonized to enable the coordination, localization of ADR providers, ease of capacity building (training) and the predictability of outcomes throughout the country.
- The Penal Code will need to be modified to allow for the operation of restorative justice and plea-bargaining. The Criminal Procedure Code will also need modification to allow for restorative justice mechanisms.

## VII. MONITORING AND EVALUATION

Monitoring and evaluation of this ADR policy will be a joint effort by all stakeholders coordinated by the Ministry of Justice. More precisely, monitoring and evaluation will be achieved through:

- Setting and operationalizing an electronic reporting system of gender disaggregated cases mediated in court;
- Producing annual reporting of cases mediated in courts and out of Courts;
- Producing Annual report on diverted cases from Prosecution
- Conduct and impact assessment of the ADR system throughout all stakeholders' activities and listening to ADR service beneficiaries.

# ANNEXES

1. ADR Policy Development Research document;
2. Major Items of Savings
3. Major Items of Costs



