Where do we go from here?
A Quote to Start us off....

“How can human rights be sufficiently universal to make them appropriate subjects for meaningful international regulation and yet consistent with, and appropriate to, the world's diversity? Can international organizations effectively promote and protect universal rights and yet respect and accommodate local preferences reflecting genuine cultural, political, religious, and moral diversity? Should they?”

Douglas Lee Donoho, Autonomy, Self-Governance, and Margin of Appreciation
The River of Justice in Kenya

Dispute arises

- Resolved via Customary models
- Resolved Personally
- Resolved via Administrative review
- Resolved via ADR
- Resolved via Religious Institutions
- Resolved Social Dialogue and Arbitration Mechanisms
- Resolved during court proceedings.
**FIVE Imperatives for AJS**

- **Effectiveness**: The lived realities of most Kenyans
- **Social Engagement**: The delegitimization of the Kenyan State
- **Legal Imperative**: The Constitution commands it
- **Efficiency and comparative advantage**: The court-carrying capacity and access to justice
- **Competence**: The courts lack technical competence to ascertain customary law
Measures by the Judiciary to ensure that third parties (individuals, states, lawyers, various levels of courts, etc.) do not deprive right-holders of their access to justice that is possible under AJS.

- Framework for due diligence
- Sanction
- Regulation
- Adjudication

Duty not to take regressive action diminishing AJS mechanisms and processes

- Addressing adverse impacts

Duty to facilitate AJS Mechanism to meet the core contents expressed in Article 159 (3)

Figure 1: Based on the Report to the AJS Taskforce by Hon. Prof. Joel Ngugi & Dr. Steve Ouma Akoth, 2017
Engaging Users/Citizens - How?

- Consult citizens in designs
- Involve them in implementation/monitoring
- Share information with them and explain their entitlements
- Get their freedom routinely
- Address their grievances
- Provide incentives to respond to their needs
- Create a culture of ‘serving clients’