

“I don't think there will be a legal system for me.”

**Meeting the legal needs of South Sudanese communities
in Australia**

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ABSTRACT

Access to justice has traditionally meant access to lawyers and courts. However, over the past fifty years, access to justice has evolved to include access to alternative dispute resolution, non-lawyer advice and self-help remedies. It has been claimed that these services have allowed people who could not access lawyers or courts to access justice. Through a critical evaluation of the concepts of access to justice and legal needs, this thesis argues that the current access to justice framework is too formalistic, creating structural barriers to access to justice for vulnerable groups. In addition, the concepts are insensitive to cultural difference, and so create additional barriers to migrants and refugees.

The thesis examines the legal needs of South Sudanese refugee background communities in Adelaide, South Australia. Through a qualitative analysis, it investigates the legal and everyday problems experienced by 22 participants, and the actions taken to resolve those problems. It is argued that due to their unique pre-arrival experiences of war and human rights violations, participants have low levels of confidence in the formal legal system, viewing the system as alien and disconnected from their daily lives. Furthermore, the thesis explores the South Sudanese customary resolution process, arguing that it is still widely utilised throughout the suburbs of Australia. Therefore, rather than accessing formal legal services available to resolve problems, participants more often seek advice from their communities and community leaders.

It is concluded that this customary system of dispute resolution should be recognised by the Australian legal system. However, this system is based on patriarchal values and prone to human rights violations. Therefore, recognition of plural legal orders is not necessarily easy, and it is important that the inclusion of legal plurality does not further marginalise vulnerable groups within refugee background. The thesis concludes that the access to justice framework needs to expand, recognising and responding to the plurality of legal orders and multiple concepts of justice, and explore culturally appropriate methods of meeting the legal needs of diverse groups.

DECLARATION

I certify that this thesis does not incorporate without acknowledgement any materials previously submitted for a degree or diploma in any university; and that to the best of my knowledge and belief it does not contain any material previously published or written by another person except where due reference is made in the text.

Signed: _____

Date: _____

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