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ARTICLE

Beyond the courtroom: innovative models for advancing access to justice

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Abstract

This article develops an evaluative framework for community-rooted justice systems through comparative analysis of South Africa's Community Advice Offices (CAOs) and Bolivia's constitutionally recognised Indigenous jurisdictions. Departing from courtroom-centric approaches that have dominated access-to-justice scholarship, the study employs socio-legal methodology synthesising ethnographic research, constitutional texts and institutional analyses. The examination reveals that both systems derive legitimacy from relational embeddedness rather than formal legal authority, resolve disputes holistically within social networks and navigate ongoing tensions between community autonomy and state regulation. From these practices, five evaluative dimensions emerge inductively: accessibility, responsiveness, legitimacy, empowerment and sustainability. The framework offers conceptual tools for assessing alternative justice mechanisms on their own terms, contributing to a shift from descriptive legal pluralism toward evaluative pluralism attentive to how communities themselves produce and experience justice.

Keywords: access to justice; legal pluralism; community-based justice; Indigenous jurisdiction; paralegalism; evaluative pluralism

1. Introduction

It is difficult to escape the sense (one hears it in policy circles, in community meetings and even in quieter conversations with practitioners) that formal justice systems are steadily losing their grip on the very populations they are supposed to serve. The scale of this crisis has been repeatedly documented: millions of people experience serious, justiciable problems every year, yet they never reach a lawyer or a court, often because the pathways are too expensive, too distant or simply too alien to their lived realities (Sandefur 2019). Courts remain symbolically central, of course, but the everyday infrastructures of access to justice are fraying in ways that feel both predictable and, strangely, still surprising. As Genn observed some time ago, legal problems tend to accumulate precisely where institutions are weakest, producing a silent crisis that is easy to overlook if one focuses only on formal venues of dispute settlement (Genn 1999). The World Justice Project's more recent global surveys confirm that little has changed; perhaps things have become even more complex (Patiño *et al.* 2019).

A more general lesson emerges from this growing body of evidence: the world's justice systems are facing a structural gap between legal need and institutional capacity. Comparative surveys show that most adults encounter one or more justiciable problems every year, yet only a minority obtain any form of legal assistance, and fewer still reach adjudicatory institutions (Patiño *et al.* 2019).

This 'justice gap' has prompted renewed attention to non-court pathways, with socio-legal scholars arguing that meaningful access to justice requires attention to the practical, relational and culturally embedded mechanisms through which communities themselves resolve conflict (Sandefur 2019).

Against this backdrop, the article turns to two quite different, yet curiously resonant, sites of justice practice: South Africa's Community Advice Offices (CAOs) and Bolivia's Indigenous community justice forums. At first glance, the comparison might feel slightly unconventional. South Africa's paralegal movement is rooted in anti-apartheid activism (discussed in Section 4.1), whereas Bolivia's model is rooted in Indigenous epistemologies that long predate the modern state. But both spaces offer something that formal systems often struggle to provide – forms of justice that are profoundly embedded in community life, in language, in social relationships and in practical problem-solving. And both reveal, in ways that are sometimes subtle and sometimes stark, how communities construct normative orders that do not neatly align with the assumptions of Western legal ideology.

The central argument advanced here is that sustained engagement with these two sites enables the development of a practice-grounded evaluative framework – that is, one that moves beyond courtroom-centrism and provides conceptual tools for understanding how justice is produced in settings where state law is only one normative reference point. By focusing on these two cases, the article moves beyond describing legal pluralism as the co-existence of multiple normative systems – a project already carried out with sophistication in socio-legal scholarship (Merry 1987; Santos 1987). What remains underexplored is how such plural systems ought to be evaluated: the existing literature traces normative hybridity but stops short of offering criteria for assessing how these systems function for the communities that sustain them.

This shift toward what might be called 'evaluative pluralism' (an approach attentive not only to co-existence among legal orders but to accessibility, legitimacy, responsiveness, empowerment and sustainability as experienced in practice) is influenced, in part, by the long arc of the legal empowerment movement. Golub's early critique of top-down rule-of-law reforms argued, sometimes provocatively, that community-rooted actors – paralegals, grass-roots advocates and local organisations – often achieve more tangible gains for ordinary people than courts or legal aid programmes built around professionalised legal expertise (Golub 2003). Maru later extended this argument by emphasising the centrality of locally grounded capability building: law as something people use, rather than a distant institution they merely encounter (Maru 2010). These insights, although occasionally overstated, provide a helpful orientation: they remind us that justice is lived, negotiated and enacted long before it is codified.

Bolivia and South Africa, then, appear not as perfect exemplars but as productive vantage points from which to rethink access to justice. They expose the limitations of courtroom-centrism, a theme widely recognised in policy reports such as the UNDP's foundational guidance on access to justice (United Nations Development Programme 2005), and in more empirical discussions of how formalisation can produce exclusion, especially for marginalised groups. At the same time, they offer different pathways for imagining justice systems that are culturally resonant, socially anchored and potentially transformative. CAOs operate through pragmatic problem-solving informed by their activist heritage. Bolivia's Indigenous justice system, by contrast, foregrounds relationality, restorative norms and place-based understandings of authority.

The research focus is therefore deliberately circumscribed: it does not attempt a comprehensive mapping of plural justice in the Global South, but instead examines two well-documented models whose institutional trajectories make visible the tensions between community agency, state authority and transnational rights discourses. This locates the analysis within long-standing debates in socio-legal studies about the limits of court-centric reform, the political economy of rule-of-law interventions and the everyday production of legality (Abel 1982; Carothers 1998; Genn 1999; Santos 1987). By positioning the cases in this broader intellectual landscape, the article aims to offer a theoretically informed yet empirically grounded account of how communities articulate justice claims that do not fully align with liberal legal ideology.

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This article proceeds from a generative proposition: examining these models through a socio-legal lens enables the derivation of a conceptual framework for evaluating alternative justice systems on their own terms. The argument is not that such systems should replace courts, or that they are free from power or contradiction. Rather, the claim is that they illuminate how justice is enacted when communities retain normative agency, offering a more grounded theorisation of justice beyond the courtroom.

2. Methodology and case selection

Explaining how a study like this comes together is never entirely straightforward. The process is rarely linear. One begins with broad questions about justice, only to realise months later that the real substance lies in the small, sometimes easily overlooked details of how people navigate problems in their communities. So what follows is more an attempt to retrace the intellectual path taken than a rigid methodological script. The approach is interpretive, comparative and deeply informed by socio-legal sensibilities.

The analysis rests largely on documentary and ethnographic sources, though not in the sense of conducting original fieldwork. Instead, it draws on an unusually rich body of scholarship that examines how people experience law in everyday life, how community institutions develop internal norms and how those norms interact with formal state systems. Ethnographies, institutional histories, legal texts, policy studies and constitutional frameworks all feed into the account. In this sense, the method aligns with what socio-legal theorists have described as an inquiry into 'law in action', paying attention to the interplay between norms, institutions and social relationships (Pound 1910).

For transparency, the evidentiary base consists entirely of secondary empirical materials: peer-reviewed ethnographies, constitutional and statutory texts, institutional reports on paralegal and Indigenous justice systems and socio-legal scholarship analysing community dispute-resolution practices. No original fieldwork was conducted; instead, the method follows the established socio-legal approach of synthesising multi-sited ethnographic studies to draw out recurring patterns across different normative orders.

2.1 Comparative socio-legal methodology

The comparative element of this study is not driven by a desire to identify uniform variables or to generate cross-national generalisations. Instead, it draws on a more interpretive tradition in socio-legal research, one that treats comparison as a way of unsettling assumptions and illuminating patterns that might otherwise remain invisible (Banakar and Travers 2005). The comparison between South Africa and Bolivia is meant to be generative rather than definitive: each context highlights particular features of community-based justice that complement or complicate the other. This form of comparison also relies heavily on contextual reading. Instead of starting with a pre-set analytical grid, the inquiry moves back and forth between specific practices – how paralegals document social-grant problems in rural offices, how Indigenous authorities deliberate over conflicts in highland Bolivia – and broader theoretical insights. The result is less of a hypothesis-testing exercise and more of a dialogue between cases and concepts. This approach aligns with the comparative socio-legal methodology outlined by Banakar and Travers, which emphasises contextual reading, interpretive analysis and sensitivity to the epistemic distinctiveness of each legal culture (Banakar and Travers 2005).

At this point, it is necessary to clarify why these two sites were selected from among the wide range of non-court justice mechanisms documented in the Global South. South Africa and Bolivia were chosen because each represents a mature, community-rooted justice system with extensive ethnographic, historical and legal scholarship, allowing for a rigorous comparative socio-legal analysis. Both also exemplify deep tensions between state law and community authority, with

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CAOs operating at the bureaucratic margins of the South African state, and Indigenous jurisdictions in Bolivia situated within a formal constitutional pluralism that is simultaneously enabling and constraining. These features make the two systems analytically productive for inductively deriving evaluative criteria from practice rather than imposing them externally.

2.2 Why South Africa and Bolivia?

The focus on South Africa's CAOs and Bolivia's Indigenous justice system emerged gradually. Both contexts offer unusually well-documented examples of alternative justice mechanisms that have evolved not at the margins but at the centre of community life. Both also illustrate how justice systems develop under conditions of deep inequality and contested authority.

South Africa's CAOs, whose anti-apartheid origins are detailed in Section 4.1, provide a window into how paralegals translate legal norms into usable assistance for people confronting bureaucratic and interpersonal problems – making South Africa essential for understanding justice as accompaniment and navigation rather than adjudication alone (Dugard and Drage 2017; McQuoid-Mason 2013).

Bolivia, by contrast, offers a striking example of constitutionally recognised legal pluralism. Its Indigenous justice systems draw on long-standing normative orders grounded in kinship, land, spirituality and collective responsibility. These practices have been shaped by historical struggles for recognition and by the interplay between Indigenous authorities, state law and international human rights norms. Ethnographic accounts reveal the subtle transformations occurring in these communities as they interact with development programmes, Alternative Dispute Resolution (ADR) mechanisms and evolving constitutional frameworks.

The two cases thus provide complementary vantage points: South Africa highlights community-rooted paralegalism navigating the bureaucratic state; Bolivia foregrounds Indigenous juridical authority embedded in land-based, relational worldviews. Although the institutional logics differ, pairing these two systems follows the socio-legal comparative insight that analytical leverage increases when cases are both comparable and contrastive: comparable because both are community-rooted, non-court forums that mediate between state and local authority; contrastive because they arise from dissimilar political histories and normative cosmologies. This configuration allows the inductive extraction of dimensions that are not artefacts of a single context but resonate across structurally distinct sites (Moore 1973).

2.3 Sources and evidentiary approach

The data for this study come from a range of materials:

i. Ethnographic monographs and articles, which provide fine-grained accounts of disputing practices and legal consciousness (Merry 2006; Nader 1988).
ii. Institutional and historical studies tracing the development of paralegal movements, constitutional pluralism and justice reform initiatives.
iii. Statutory texts and policy documents, especially those defining the interface between state law and community justice.
vi. Critical socio-legal literature exploring pluralism, access to justice and legal empowerment (Berman 2012; Santos and Santos 2002).

The method is therefore synthetic: it seeks coherence not by flattening differences but by drawing out thematic resonances across diverse materials. Attention is given to how communities frame disputes, which norms they consider authoritative and how local practices intersect with state institutions, whether co-operatively, strategically or in friction.

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2.4 Developing the evaluative framework

The evaluative framework introduced later in the article (centred on accessibility, responsiveness, legitimacy, empowerment and sustainability) did not precede the case analysis. It emerged incrementally from repeated encounters with the material. Certain patterns kept reappearing: how trusted intermediaries lowered barriers to engagement; how community authority shaped the moral force of decisions; how some interventions expanded people's capabilities while others subtly constrained them; how institutional fragility threatened programmes that were otherwise effective. These recurring features were first observed separately in the South African and Bolivian literatures and only subsequently consolidated into the five-dimension structure. In other words, the framework emerged bottom-up from patterns visible across distinct ethnographic contexts, rather than from preconceived evaluative categories (Trubek and Esser 1989).

These themes resonate with established strands of socio-legal scholarship. The literature on justiciable problems and help-seeking behaviour makes clear that accessibility is multidimensional, shaped by factors such as knowledge, geography, culture, cost and social networks (Pleasence and Balmer 2014). Procedural justice research emphasises that legitimacy depends on experiences of fairness and respectful treatment (Tyler 2006); developed further in Section 6.6. Legal empowerment theorists emphasise the importance of capability, voice and participation (Golub 2003; Maru 2010). And development governance literature reminds us that institutional stability (often taken for granted in formal systems) cannot be assumed in community-based models (Andrews *et al.* 2013).

The framework thus reflects an effort to distil these insights into a practical vocabulary that can illuminate the workings of alternative justice mechanisms without reducing them to simplified metrics. Taken together, these methodological choices (case-based inductive derivation, comparative socio-legal interpretation and reliance on ethnographically grounded scholarship) enable the article's broader shift from descriptive legal pluralism to evaluative pluralism.

3. Theoretical foundations: rethinking justice beyond courts

The intellectual currents informing this analysis derive from four interconnected scholarly traditions: access-to-justice scholarship, rule-of-law critique, legal pluralism and ethnographic approaches to dispute resolution. Each provides conceptual resources for understanding CAOs and Indigenous justice systems as living sites of normative practice.

3.1 Beyond the three waves of access to justice

Cappelletti and Garth's canonical 'three waves' schema provides a useful starting point: expanding legal aid, experimenting with public interest litigation and redesigning procedural systems (Cappelletti and Garth 1978). Yet its limitations are now evident. These developments mattered, yet they were never enough. Socio-legal research repeatedly shows that individuals confronted with serious legal problems often perceive courts not as gateways but as barriers – expensive, intimidating, distant (Genn 1999). Studies across multiple jurisdictions confirm that most people either take no formal action or rely on local, socially embedded strategies that make more intuitive sense within their daily lives (Pleasence and Balmer 2014).

This insight implies that any study of justice must extend beyond courts to the broader ecology of institutions, relationships and informal supports that shape how people navigate conflict. The UNDP's early framing of access to justice as a multidimensional concept (economic, social, cultural, institutional) captures this shift (United Nations Development Programme 2005). Yet even this broader framing can obscure what emerges so vividly from community-based systems: justice as a socially negotiated practice rather than a discrete service delivered by professionals.

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The contemporary legal empowerment movement, although often presented as a policy innovation, draws on intellectual wellsprings that run considerably deeper. Its central claims (that law is most meaningful when embedded in social relationships, and that justice is produced through everyday practices rather than delivered exclusively by courts) find antecedents in classical legal anthropology. Malinowski's fieldwork in the Trobriand Islands challenged the assumption that law required centralised enforcement, arguing instead that legal obligation derived from networks of reciprocity and relational interdependence (Malinowski 1926). Llewellyn and Hoebel extended this insight, demonstrating that normative order could be maintained through decentralised, community-embedded processes bearing little resemblance to Western adjudication (Llewellyn and Hoebel 1941). These ethnographic interventions destabilised the formalist equation of law with state-issued rules, opening conceptual space for understanding justice as a socially distributed practice.

Moore's subsequent articulation of the 'semi-autonomous social field' consolidated this theoretical groundwork, establishing that communities generate, interpret and enforce norms independently of state law (Moore 1973). It is against this backdrop that legal empowerment acquires its coherence. When Golub argued for shifting resources toward community-based paralegals, he was drawing on a tradition that had long questioned the centrality of courts to the production of legality (Golub 2003). Maru's emphasis on locally grounded capability-building similarly echoes Malinowski's insight that legal effectiveness depends on social embeddedness rather than institutional formality (Maru 2010). Recognising this lineage situates the contemporary turn toward community justice within a broader epistemological tradition that has persistently questioned whether formal institutions capture what law actually does in people's lives.

3.2 The political economy of rule-of-law reform

The rise of the rule-of-law industry in development policy forms a second essential strand of the theoretical foundation. Carothers's seminal critique of the 'rule-of-law revival' revealed how donors began treating courts, judicial training and legislative reform as technical instruments of economic modernisation during the 1980s and 1990s (Carothers 1998). Tamanaha later demonstrated how this agenda rested on an unstable consensus, marked by conceptual ambiguity and political instrumentalism (Tamanaha 2004). Trubek and Galanter's earlier warning about the self-estrangement of law-and-development scholars underscores the epistemic problem: reforms often prioritise institutional form over social practice (Trubek and Galanter 1974). Golub's influential 'legal empowerment' thesis offered a counter-movement by foregrounding the agency of paralegals and community actors (Golub 2003).

3.3 Classical and contemporary legal pluralism

Legal pluralism, introduced briefly above, provides the central theoretical lens for this analysis. Classical formulations, articulated by Moore, Griffiths and the von Benda-Beckmann school, emphasise that multiple normative systems operate simultaneously within the same social space (Benda-Beckmann 2002; Griffiths 1986; Moore 1973). In this view, legal authority is produced by a range of semi-autonomous social fields, each generating rules, expectations and mechanisms of enforcement independent of the state (Moore 1973). Yet classical pluralism has long been criticised for treating normative orders as discrete and internally coherent. Critical legal pluralism, associated with Kleinhans and Macdonald (Kleinhans and Macdonald 1997) and Merry (Merry 2006), reconceptualises law as something that individuals and communities actively construct through daily practices, narratives and identity-work. Post-pluralist theorists, including Berman and Santos, extend this further by emphasising inter-systemic hybridity, translation and 'interlegality' (Berman 2012; Santos 1987). This article aligns with these later strands in treating Bolivia's Indigenous justice and South Africa's CAOs not as bounded systems but as dynamic

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fields shaped by overlapping legalities, state encounters, bureaucratic rationalities and transnational norms. This foundational insight has shaped decades of research into how courts, customary institutions, religious authorities and community actors interact – sometimes complementing, sometimes undermining one another.

More contemporary strands of pluralism go further. Scholars like Merry, Berman and Santos emphasise hybridity, translation and the constant movement between normative worlds. Merry's work on vernacularisation shows how global human rights norms are interpreted through local cultural idioms, producing legal hybrids that carry multiple meanings simultaneously (Merry 2006). Berman's intersystemic approach highlights the permeability of legal boundaries and the productive frictions that occur when state and non-state systems intersect (Berman 2012). Santos introduces the concept of 'interlegality': the layered, overlapping legalities that ordinary people navigate on a daily basis (Santos and Santos 2002).

Such perspectives underscore that neither Bolivia's Indigenous justice system nor South Africa's CAOs can be understood in isolation from wider legal and political structures. They operate in environments marked by colonial legacies, bureaucratic reforms, modern rights discourses and ongoing negotiations over authority. Pluralism, in this richer sense, is not simply the co-existence of legal orders but the dynamic, sometimes uneasy interaction among them.

3.4 Ethnographic approaches to dispute resolution

Ethnographic scholarship complements pluralism by revealing how norms acquire meaning through everyday practice. Nader's work on harmony ideology, Abel's studies of informal justice and Merry's community analyses demonstrate that dispute resolution is simultaneously a legal, moral and political process (Abel 1982; Merry 1987; Nader 1990).

In the Bolivian context, Ellison's study of community mediation provides a particularly striking example. She documents how programmes framed as access-to-justice initiatives sometimes reshaped interpersonal relationships, local political expectations and community perceptions of fairness in ways that were not always anticipated by reformers (Ellison 2018). Rather than treating mediation as a neutral problem-solving technique, she shows it as a site of contestation, translation and negotiation. Similar dynamics appear in studies of mediation and legal empowerment efforts in other countries, revealing patterns of gendered authority, local power asymmetries and creative adaptation of external norms (Cohen 2006).

These ethnographic insights suggest that any analysis of community justice must acknowledge the ambiguities, contradictions and moral tensions inherent in these systems. They remind us that community forums can empower but also exclude; they can create space for participation while reproducing local hierarchies. This perspective becomes sharper when situated within the ethnographic literature that highlights how informal justice is re-shaped by political, developmental and cultural forces. Ellison's study of Bolivia shows how ADR centres funded by international donors subtly re-engineer community moralities, citizenship and notions of responsibility (Ellison 2018). Cohen's work demonstrates how imported mediation models translate, and sometimes distort, gendered hierarchies (Cohen 2006). Merry's vernacularisation framework (discussed in Section 3.3) similarly reveals how global norms acquire local authority through cultural translation (Merry 2006). Together, these studies underline a central theoretical point: informal or community justice systems cannot be understood apart from the political, moral and developmental projects that traverse them. Understanding this complexity does not diminish their importance. It simply makes the concept of justice more textured, more human.

3.5 Toward evaluative pluralism

These theoretical strands converge toward what this article terms evaluative pluralism: understanding alternative justice systems through the values, meanings and capabilities they generate,

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rather than measuring them against court-based benchmarks. The evaluative dimensions developed in Section 6 (accessibility, responsiveness, legitimacy, empowerment and sustainability) emerge from observing how justice unfolds in practice. This approach treats Bolivia and South Africa not as curiosities at law's margins but as vantage points for re-imagining justice itself.

4. Case study I: South Africa's community advice offices

There is something quietly striking about the way South Africa's CAOs have persisted, and in some places even flourished, despite decades of institutional neglect. They are small offices (sometimes nothing more than a room in a community centre or a converted shipping container), yet they have long served as first responders to everyday legal problems: housing, social grants, labour disputes, documentation issues and family tensions. They occupy an interesting space in the justice landscape, neither fully inside nor fully outside the formal legal system, and the ambiguity of that position is part of what makes them so compelling to study.

4.1 Historical and sociopolitical origins

As previously mentioned, the origins of CAOs lie in the anti-apartheid movement, when civic organisations and paralegal collectives emerged to support communities facing evictions, harassment and administrative injustice. Historical work on South Africa's paralegal movement makes clear that CAOs did not emerge spontaneously but formed part of a dense civic infrastructure built by trade unions, advice bureaux, women's organisations and township-based social movements. These groups developed paralegal practices long before they were formally named as such, drawing on traditions of popular education and rights-based organising that characterised anti-apartheid mobilisation. Dugard and Drage describe how early paralegal centres were often linked to broader struggles over land and administrative justice, providing both practical assistance and political consciousness-raising (Dugard and Drage 2013). This genealogy matters because it explains why CAOs continue to occupy a moral position distinct from state institutions – they retain traces of the political cultures that produced them. These early structures were not merely service providers; they were embedded in political struggles over land, dignity and basic rights. The legacy of that history still lingers. Even today, many CAOs retain a distinctive ethos of solidarity and accompaniment, an approach that resonates deeply in communities that continue to feel the distance between themselves and state institutions. In some cases, the paralegals who staff these offices are long-time residents familiar with local histories and social networks, and this familiarity shapes how they interpret problems and craft solutions (Dugard and Drage 2013).

Yet the relationship between CAOs and the state has always been ambivalent. After the democratic transition, there were periodic attempts to formalise or absorb paralegal services into state structures, though these efforts rarely materialised in a stable or coherent way (Dugard and Drage 2013). Funding cycles have fluctuated, often unpredictably, and paralegals have found themselves navigating a patchwork of donor-dependent arrangements. At one point, there were discussions about recognising CAOs under the Legal Practice Act, but these conversations raised concerns about professional monopolies, credentialism and the risk of transforming community-rooted actors into quasi-legal bureaucrats (Mukorera and Martins 2022). This tension between formalisation and informality, recognition and autonomy continues to shape the landscape in subtle but important ways.

4.2 CAOs as intermediaries between law and community

On the ground, CAOs function as intermediaries in the literal sense: they interpret, translate and contextualise legal norms in ways that make them usable. This is not merely an administrative task; it involves moral judgment, negotiation and empathy. People often approach CAOs not

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because they understand their problems as 'legal' but because they trust the office as a place where problems can be listened to and reframed into something actionable. This dynamic echoes the classic socio-legal insight that problems become legal (or do not) through a process of 'naming, blaming, claiming', shaped by local experience and social expectations (Felstiner *et al.* 1981). This intermediary role has been richly documented in ethnographic and socio-legal accounts of advice offices, which show paralegals engaging in what was once described as 'interpretive labour' – that is, translating rules into shared moral idioms, reframing grievances and negotiating with officials in ways that combine legal knowledge with intimate familiarity with local life (Merry 1990). The Comaroffs' writing on law as an everyday discourse also illuminates how CAOs become sites where legality is performed, improvised and occasionally contested (Comaroff and Comaroff 2006). This framing helps capture what policy descriptions often miss: that the authority of CAOs is inseparable from the social trust that paralegals build through conversation, listening and relational engagement with clients. CAOs sit precisely at that inflexion point where an everyday grievance becomes a matter requiring engagement with law or state bureaucracy.

The nature of this translation work becomes clearer when looking at the types of disputes CAOs typically handle. Many revolve around navigating complex administrative systems (social grant delays, ID documentation, housing allocation), which require an unusual blend of legal knowledge, bureaucratic literacy and persistence. CAOs often act as intermediaries between clients and state officials, pushing for accountability in low-visibility administrative processes. In other situations, they help resolve interpersonal conflicts through informal mediation grounded not in abstract doctrines but in community relationships and shared understandings of fairness. These practices reflect Merry's insight that legitimacy arises from social trust and embeddedness rather than formal authority (Merry 1979).

At the same time, CAOs are not idealised spaces. Their operations are influenced by local political dynamics, resource constraints and internal hierarchies. Donor pressure can sometimes steer priorities toward measurable outputs rather than community-defined needs. There are moments when paralegals, despite their best intentions, become gatekeepers themselves, or when local elites exert subtle influence over who receives assistance. These imperfections do not diminish the value of CAOs, but they complicate the narrative and underscore the need to treat community justice as a lived, contested field rather than a romantic alternative to courts.

4.3 How this case informs the evaluative framework

Understanding how CAOs work helps illuminate the evaluative dimensions developed later in the article. Accessibility is not simply a matter of geographic proximity; it emerges from linguistic familiarity, social trust and the absence of intimidating formalities (Pleasence and Balmer 2014). Responsiveness appears in the way CAOs meet individuals where they are, often dealing with problems that fall through the cracks of the formal justice system. Legitimacy stems from relational authority, as paralegals are known, respected and answerable to the communities they serve. Empowerment is visible in the slow accumulation of capability: helping clients navigate bureaucracy, understand their rights and sometimes advocate for others. Sustainability, however, remains precarious, tied to unstable funding and the ongoing struggle for institutional recognition.

5. Case study II: Bolivia's Indigenous justice system

It is difficult to talk about justice in Bolivia without immediately confronting the weight of history. For much of the republican period, Indigenous forms of conflict resolution were either criminalised or treated as backward remnants, tolerated at the margins so long as they did not openly challenge state authority. Yet these systems never disappeared. They persisted in community assemblies, in village-level sanctions, in the quiet but stubborn insistence that conflicts over land, water and family are not merely legal matters but questions of collective life.

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Historical studies note that Indigenous justice in Bolivia survived not only state hostility but also deliberate colonial strategies aimed at dismantling communal authority. Crabtree and Chaplin describe how republican governments entrenched legal invisibility by recognising Indigenous communities only as administrative units rather than juridical actors, thereby restricting the normative space in which they could operate (Crabtree and Chaplin 2013). Scholars of Andean resource governance have similarly documented how state-driven legal regimes surrounding land, water and subsoil resources historically displaced Indigenous authority, creating layered jurisdictions that often ignored community-based governance. Rutgerd Boelens and colleagues show how hydraulic and land governance policies in the Andes systematically subordinated Indigenous decision-making to state-centric models of control, producing enduring tensions between communal authority and state sovereignty (Boelens 2008). These dynamics illuminate why the 2009 Constitution was experienced not merely as institutional reform but as a partial reassertion of normative authority that had persisted despite centuries of attempted erasure. The more recent move toward constitutional recognition does not so much create Indigenous justice as bring into sharper relief a long-standing, and often uneasy, co-existence between state law and community-based norms.

5.1 From suppression to plurinational recognition

The turning point is usually located in the 2009 Constitution, which re-founded Bolivia as a 'Plurinational State' and formally recognised the jurisdiction of 'Indigenous Native Peasant' authorities alongside the ordinary courts (Hammond 2011). This was not an isolated gesture. It followed decades of Indigenous mobilisation, constitutional reform debates and a broader Andean shift toward multicultural and plurinational citizenship regimes that sought to acknowledge community-based governance systems in law (Sieder and Barrera 2017). In principle, the new constitutional framework affirms that Indigenous authorities may resolve disputes according to their own norms and procedures, within their ancestral territories, on matters of internal concern (UC Berkeley School of Law 2020).

At the same time, the constitutional settlement did not eliminate tensions. Subsequent legislation, particularly the 2010 Law of Jurisdictional Demarcation (Law 073), introduced important limits on Indigenous jurisdiction, especially in criminal matters and in conflicts involving non-Indigenous parties (Thornhill *et al.* 2018; UC Berkeley School of Law 2020). Scholars have noted that these limitations, and the way they are interpreted by courts and bureaucracies, often constrain Indigenous justice in practice, narrowing the scope of recognised authority even as the constitution proclaims legal pluralism (Condori 2016). The result is a complex and sometimes contradictory landscape: Indigenous justice is both celebrated as a sign of decolonisation and circumscribed by statutory and judicial techniques of control.

5.2 Normative foundations and community practices

Indigenous justice in Bolivia is not a single, unified system; it is a constellation of locally specific practices rooted in different languages, cosmologies and histories. Yet there are some recurring themes that appear across ethnographic and legal-anthropological work. Community-based forums often emphasise collective deliberation in open assemblies, a strong concern with restoring social harmony and a view of wrongdoing as a disturbance of relational balance rather than a purely individual fault (Wrigley 2013). Sanctions may include public shaming, communal labour, temporary banishment or other measures that signal both disapproval and the possibility of reintegration (Inksater 2010; UC Berkeley School of Law 2020).

Ethnographic work also highlights that these practices are grounded in distinctive Indigenous epistemologies. Aymara concepts such as *qamachi* (authoritative instruction), *iwxas* (collective deliberation) and *sawis* (reciprocity and social repair) help explain why justice is framed less as

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adjudication than as the restoration of relational balance (Albó 1999). These frameworks shape not only procedures but also moral expectations: wrongdoing disturbs communal equilibrium; sanctioning aims to re-establish *suma qamaña* (a good and harmonious communal life). Such principles are not mere cultural background; they constitute the normative vocabulary through which communities evaluate fairness, responsibility and authority.

Authority is distributed among community leaders, elders and rotating officeholders rather than professionalised judges. Legitimacy depends on reputation, fairness and perceived alignment with community interests (Doyle 2021). This embeddedness gives Indigenous justice moral force that formal courts often lack, though it also means conflicts can become entangled with factional politics. The theoretical implications of this relational legitimacy are developed in Section 6.6.

5.3 Normative principles and Indigenous epistemologies

Drawing on the pluralist framework elaborated in Section 3.3, Bolivia's Indigenous forums can be understood as semi-autonomous social fields (Moore 1973) grounded in relational epistemologies. Aymara and Quechua concepts of deliberation, reciprocity and obligation provide the moral grammar through which authority and fairness are reasoned. These forums exemplify Santos's "interlegality', blending ancestral norms with state law, human-rights discourse and development logics to produce hybrid normative orders that cannot be reduced to either tradition or formal legality. What emerges is a dynamic, adaptive jurisprudence shaped by lived experience, political struggle and transnational currents.

5.4 ADR, development and the remaking of community justice

Into this already dense field, foreign-funded alternative dispute resolution (ADR) programmes have introduced new institutional forms and languages of justice. Ellison's ethnography demonstrates how NGO-run mediation centres re-shaped expectations about citizenship, responsibility and proper conduct, encouraging residents to view conflicts as problems to be managed through rational choice rather than as manifestations of structural inequality (Ellison 2018). Mediation sessions became sites where ideas about respectability were negotiated and sometimes reframed in more individualising terms, even as mediators developed strategies to adapt ADR templates to local understandings.

The interaction between ADR programmes and Indigenous or popular justice practices complicates any neat distinction between 'traditional' and 'modern' forms. Community justice in Bolivia is not a static inheritance; it is continually being reworked in dialogue with state institutions, NGOs, churches and political movements. Ethnographic work suggests that this ongoing remaking can empower some actors (women, youth, migrants) while marginalising others, depending on how authority is redistributed within the community (Ellison 2018; Sieder and Barrera 2017).

5.5 Legal pluralism in practice: jurisdictional boundaries and conflicts

The constitutional recognition of Indigenous jurisdiction, and the subsequent effort to demarcate its reach, has generated a dense body of legal and socio-legal analysis. Some scholars focus on the doctrinal questions: which cases fall under Indigenous jurisdiction, how conflicts of competence are resolved and how constitutional courts articulate principles of pluralism and human rights (Cooper 2018; Peréz 2024; Van Cott 2000). Others adopt a more ethnographic angle, examining concrete disputes in which Indigenous authorities, state prosecutors and ordinary courts assert overlapping claims to decide the matter. Doyle's study of the 'Piruani' land dispute provides one such example (Doyle 2021). A conflict within a highland Indigenous community escalated into competing invocations of community justice, municipal authority and national law. The case

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reveals not only the internal diversity of Indigenous normative orders but also the strategic ways actors mobilise different legalities to advance their claims. Similarly, research on the Constitutional Court's jurisprudence highlights how judicial decisions both endorse and limit Indigenous justice, often framing Indigenous jurisdiction in terms of compatibility with constitutional rights and international standards (Condori 2016; Lechat 2020).

The above studies suggest that legal pluralism in Bolivia is not merely a descriptive fact but a terrain of contestation. Indigenous authorities, community members, lawyers, judges and political actors all participate in defining, in practice, what Indigenous justice is allowed to be. The 2009 Constitution and Law 073 provide the formal vocabulary, but the actual configuration of powers emerges from ongoing negotiations, conflicts and accommodations across multiple scales.

Seen through the evaluative lens developed in this article, the Bolivian material reveals a patterned set of concerns. Accessibility is rooted in linguistic and cultural intimacy, though conditioned by internal hierarchies. Legitimacy flows from ancestral authority and constitutional recognition, yet remains vulnerable to factionalism and judicial reinterpretation. Responsiveness appears in the emphasis on restoring relational balance rather than allocating individual fault. Empowerment is visible in collective mobilisation around land, territory and autonomy, though it is unequally distributed across gender and generational lines. Sustainability depends simultaneously on political will, judicial deference and the resilience of communal institutions. These features provide not only a description of Indigenous justice but a set of conceptual anchors for evaluating justice practices beyond the courtroom.

5.6 Gender, power and internal contestation

Any account of Indigenous justice in Bolivia that focused only on collective autonomy would miss an important part of the picture. Internal critiques, particularly around gender, have become increasingly prominent. Sieder and Barrera's work on Indigenous governance systems in the Andes shows that community-based institutions often embody both participatory and exclusionary tendencies: they can foster deep engagement in collective decision-making while simultaneously reinforcing patriarchal norms that limit women's voice and leadership (Sieder and Barrera 2017). Similar concerns appear in studies of legal pluralism and Indigenous women's rights in Latin America more broadly, which highlight the risk that appeals to custom may legitimise unequal treatment unless interpreted through critical, historically informed lenses (Sieder 2016).

In Bolivian contexts, women's organisations and Indigenous feminists have engaged in a complex dialogue with both state and community authorities, sometimes invoking constitutional and international rights instruments to challenge practices they experience as discriminatory, while still affirming the importance of Indigenous jurisdiction and autonomy (Sieder 2016; Sieder and Barrera 2017). This dual strategy underscores the ambivalence of pluralism: it can open spaces for reinterpreting norms in more egalitarian directions, but it can also entrench power relations if left unquestioned.

The implication is not that Indigenous justice is uniquely patriarchal (state systems have their own entrenched biases) but that any evaluative framework must take seriously the internal diversity and contestation within community institutions. Legitimacy, in this setting, cannot be equated simply with local control; it has to be considered in light of whose voices are heard, whose grievances are recognised and whose vulnerabilities are addressed.

5.7 Implications for evaluating Indigenous justice

Taken together, these strands of scholarship portray Bolivian Indigenous justice as a dense, evolving field of practice rather than a neatly bounded legal subsystem. Accessibility is shaped by linguistic proximity, physical closeness and cultural familiarity, but also by intra-community

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hierarchies and factional conflicts. Responsiveness depends on the ability of authorities to adapt norms to new circumstances, including migration, economic change and shifting gender roles. Legitimacy rests on the community's recognition of authorities and procedures, yet that recognition is itself contested and renegotiated over time. Empowerment is visible when community members can mobilise Indigenous institutions to protect land, defend collective rights or contest abusive state actions; it is more fragile when power imbalances within the community limit who benefits from these mechanisms. Sustainability, finally, hinges on the broader political and legal environment: constitutional guarantees, jurisdictional demarcation and the willingness of state actors to respect, or at least accommodate, Indigenous decisions.

Bolivia's experience, therefore, offers more than a case study of legal pluralism; it provides a window on to how justice is continually made and remade at the intersection of community life, state power and transnational norms. It shows that evaluating Indigenous justice cannot be reduced to a checklist of institutional features. Any serious assessment must reckon with history, with the lived practices that give norms their meaning and with the tensions that arise when multiple visions of justice inhabit the same legal and political space.

6. From practice to principles: an evaluative framework

As outlined in Section 2.4, the evaluative framework proposed here emerges from practice rather than from externally imposed theory. The case studies reveal recurring concerns despite divergent histories: CAOs foreground accessibility, responsiveness and empowerment through relational, navigational work (Dugard and Drage 2013), while Indigenous jurisdictions foreground legitimacy and sustainability through ancestral authority and collective deliberation (Albó 1999; UC Berkeley School of Law 2020). Both confront institutional fragility (Condori 2016; Mukorera and Martins 2022). These patterned recurrences (accessibility, responsiveness, legitimacy, empowerment and sustainability) were distilled from recurring patterns visible across both systems rather than deduced from abstract design. These dimensions are neither exhaustive nor neutral, but they capture features that matter to communities engaging with justice beyond courts. They also resonate with longstanding debates in access-to-justice scholarship, socio-legal theory and development studies.

6.1 The five dimensions in theory and practice

Each dimension finds resonance in established scholarship. Accessibility reflects Cappelletti and Garth's access-to-justice waves and Genn's mapping of help-seeking behaviour (Cappelletti and Garth 1978; Genn 1999). Responsiveness draws from Moore's relational fields and Galanter's analysis of structural asymmetries (Galanter 1974; Moore 1973). Legitimacy aligns with Tyler's procedural justice findings and Beetham's account of normative authority (Tyler 2006). Empowerment resonates with Sen's capability approach and Maru and Golub's legal empowerment strategies (Golub 2003; Maru 2010; Sen 2000). Sustainability draws from Andrews, Pritchett and Woolcock's analysis of institutional fragility (Andrews *et al.* 2013).

6.2 Epistemological foundations: Western assumptions and their alternatives

To claim that community-rooted justice systems unsettle dominant evaluative epistemologies requires specifying what epistemological commitments are being challenged and what alternatives emerge from practice. Without such specification, assertions about epistemic difference risk becoming rhetorical rather than analytical. This section, therefore, articulates, with as much precision as the material permits, the contrasting epistemological orientations that distinguish Western institutional frameworks from the community systems examined in this article.

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Western legal epistemology, as it has developed within liberal institutional frameworks, rests on several identifiable commitments (Tamanaha 2004). First, it presupposes an individualist ontology: legal subjects are conceived as autonomous, rights-bearing individuals whose claims can be adjudicated independently of the relational and communal contexts in which disputes arise (Nedelsky 1989). Second, it privileges propositional knowledge (codified rules, precedents and doctrinal categories) as the authoritative basis for legal reasoning, treating experiential, narrative and embodied forms of knowing as epistemically subordinate (Valverde 2003). Third, it operates through what Santos termed a monocultural logic of scientific knowledge, which positions formal legal rationality as universal while relegating other normative rationalities to the status of custom, tradition or pre-legal social practice (Santos 2014). Fourth, Western evaluation frameworks characteristically disaggregate justice into discrete, measurable variables (efficiency, throughput, cost, delay) amenable to quantification and comparison across institutional settings. These commitments are not arbitrary; they reflect the historical co-evolution of liberal legalism with Enlightenment epistemology, which privileged abstraction, universality and the separation of knowledge from its contexts of production (Kennedy 2004).

The South African and Bolivian case studies reveal alternative epistemological orientations that do not merely differ in content but operate according to distinct logics of knowing and evaluating justice. Three contrasts merit particular attention:

i. Relational versus individualist ontology

Both CAOs and Indigenous jurisdictions presuppose that legal subjects are constituted through relationships rather than prior to them. In Bolivian Indigenous epistemology, this orientation is explicit: Aymara concepts such as *suma qamaña* (living well together) and *ayni* (reciprocity) frame personhood as inherently relational, such that wrongdoing is understood as a disturbance of communal equilibrium rather than a violation of individual right (Albó 1999). Justice, on this account, is not the vindication of pre-existing individual entitlements but the restoration of relational balance. South African CAOs operate within a different idiom but share the relational premise: paralegals approach problems as embedded in webs of kinship, neighbourhood and bureaucratic dependency, and their interventions aim to repair relationships with officials and institutions as much as to secure discrete legal outcomes (Dugard and Drage 2013). This relational ontology challenges the foundational Western assumption that justice can be evaluated by aggregating individual outcomes; it suggests instead that the appropriate unit of analysis is the relationship or the community.

ii. Situated versus propositional knowledge

Western legal epistemology privileges codified, abstract rules as the authoritative source of legal knowledge. The community systems examined here, by contrast, foreground situated knowledge – knowledge that is context-dependent, experientially acquired and embedded in particular histories and places (Haraway 1988). Bolivian Indigenous authorities derive their competence not from mastery of written codes but from accumulated experience of community life, familiarity with local genealogies and land relations and participation in deliberative practices that transmit normative understanding across generations (Ellison 2018). Similarly, CAO paralegals possess a form of practical wisdom (knowledge of which officials are sympathetic, which bureaucratic pathways are navigable, which framings resonate with particular audiences) that cannot be reduced to propositional legal rules (Leach 2018). This epistemological orientation implies that evaluation cannot rely solely on formal metrics derived from institutional outputs; it must attend to the experiential and narrative dimensions through which communities themselves assess whether justice has been done.

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iii. Holistic versus disaggregated evaluation

Western performance frameworks characteristically isolate variables (case volume, processing time, cost per case) and evaluate them independently. The community systems examined here resist such disaggregation. Accessibility, in both settings, is inseparable from legitimacy, because people approach forums they perceive as morally authoritative and culturally intelligible; responsiveness cannot be abstracted from empowerment, because problem-handling simultaneously builds the capabilities that enable future engagement; sustainability is embedded in legitimacy, because institutions endure only when communities perceive them as meaningful (Luhmann *et al.* 2004). This holistic interrelationship is not merely a descriptive observation but reflects an epistemological commitment: that justice is a gestalt phenomenon, apprehensible only through attention to the interconnections among its dimensions rather than through measurement of isolated variables (Taylor 1971).

The above contrasts do not imply that community epistemologies are incommensurable with Western frameworks, nor that one is simply superior to the other. Both CAOs and Indigenous jurisdictions interact continuously with state law, bureaucratic rationalities and transnational rights discourse; their epistemological orientations are not hermetically sealed but dynamically constituted through these encounters (Merry 2006). The claim advanced here is more modest: that attending to these epistemological differences reorients how evaluation is conceived. It suggests that frameworks developed within Western institutional assumptions may systematically misrecognise what community justice systems are doing and why they matter to those who sustain them. The evaluative framework proposed in this article thus does more than organise empirical findings; it invites a partial epistemological reorientation – one that takes seriously relational ontology, situated knowledge and holistic evaluation as legitimate grounds for assessing justice beyond courts.

6.3 Inductive emergence and the limits of metrics

Before turning to each dimension, it is worth acknowledging a tension that runs through any evaluative exercise of this kind. The language of 'dimensions' and 'criteria' can easily slide into technocratic metrics, suggesting that complex social practices can be reduced to checklists or numerical indicators. That is not the ambition here. The framework is better understood as a set of orienting questions derived from practice: questions that community members, practitioners and researchers might use to examine whether a particular justice initiative is doing what it claims. The framework thus operates as 'thick' evaluation – attentive to meanings, histories and power relations (Trubek and Esser 1989) – while avoiding a purely descriptive pluralism that never assesses whether arrangements work, and for whom.

A methodological tension warrants acknowledgement: the framework claims inductive derivation yet proposes evaluative dimensions that could judge community systems against standards they did not articulate. The resolution lies in recognising that these dimensions emerged from observing what community actors themselves treat as salient – what they struggle to maintain and invoke when assessing whether justice has been done. The framework thus articulates evaluative logics already operative within the systems studied, consistent with Geertz's 'experience-near' concepts (Geertz 1974). It operates as immanent critique: holding systems accountable to standards implicit in their own self-understandings (Scheuerman 2017).

Two implications follow. First, the framework should be understood as provisional and contestable. If community actors reject the salience of a proposed dimension, or articulate evaluative concerns the framework fails to capture, the framework must be revised accordingly. It is an interpretive hypothesis about what matters, not a fixed metric. Second, the framework cannot resolve hard cases where community norms conflict with commitments that external actors (including the analyst) hold as non-negotiable, particularly concerning the treatment of serious

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violence or the protection of vulnerable individuals within communities. In such instances, the appropriate response is not to deny the tension but to acknowledge that plural justice systems operate within broader normative environments, including constitutional orders and international human rights frameworks, that constrain what can be legitimated through community practice alone (Sieder 2016). The framework does not pretend to resolve these boundary questions; it provides a vocabulary for identifying them with greater precision.

6.4 Accessibility: beyond physical proximity

Accessibility has long been central to access-to-justice debates. It is often framed in terms of cost, distance, delay and procedural complexity (Cappelletti and Garth 1978). Studies repeatedly show that most people with justiciable problems either do nothing or rely on informal strategies, in part because they find formal institutions intimidating or incomprehensible (Genn 1999; Pleasence and Balmer 2014; Sandefur 2008; Sandefur 2016). CAOs in South Africa and Indigenous forums in Bolivia speak directly to this problem, but they do so in ways that go beyond geographical closeness or low fees.

In South Africa, accessibility manifests through the social embeddedness of CAOs. Many paralegals are drawn from the communities they serve, share the same languages and are familiar with local bureaucratic landscapes (Dugard and Drage 2013; McQuoid-Mason 2013). People walk into an advice office because they know someone there, or because neighbours did so before them, not because they have a sophisticated understanding of legal remedies. The threshold to entry is low in that there is no court dress, no arcane procedural rituals and the interaction feels more like a conversation than a formal appearance.

In Bolivia, Indigenous justice is accessible in a somewhat different, though related, sense. It is geographically close (often literally in the village assembly or communal space) and linguistically and culturally familiar (Ellison 2018; Inksater 2010). People understand the procedures, not because they have read a procedural code, but because they have grown up observing how elders and authorities handle conflicts. Access here is as much about belonging as it is about logistics: one participates as a member of a collective, not as an isolated rights-bearer. This suggests that accessibility, in an evaluative sense, should be read broadly: it includes material factors (cost, distance), but also cognitive, cultural and relational accessibility. A system is accessible when people can approach it without fear, understand what is happening and feel that their presence makes sense within it. That is a higher bar than simply locating a service point closer to where they live.

6.5 Responsiveness: listening to the shape of problems

Responsiveness concerns the degree to which a justice mechanism is able to recognise, interpret and address the problems people actually experience, rather than the problems institutions presume they have. In doctrinal settings, responsiveness is sometimes equated with flexible remedies or progressive jurisprudence. In community justice, it looks more like attentiveness to the social context of disputes.

CAOs illustrate this in the way they handle what might seem like mundane administrative issues: a delayed child-support grant, a missing ID, an unfair dismissal from casual employment. These are not spectacular cases, but they deeply affect everyday life. Paralegals often know which official is likely to be sympathetic, which office has a backlog or how to reframe a complaint so that it fits within bureaucratic categories without losing its substance (Dugard and Drage 2013; Leach 2018). Responsiveness here means navigating bureaucratic structures while still hearing the lived experience underneath.

In Bolivia, Indigenous authorities respond to disputes in ways that are often oriented toward restoring relational balance between families, between humans and land and between community

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members and authorities. Sanctions are chosen not only to deter or punish but to re-establish a sense of communal order (Inksater 2010). Sometimes this produces outcomes that sit uneasily with liberal notions of individual rights, particularly where public shaming or corporal elements are involved; at other times it offers a depth of repair that formal courts, with their emphasis on individual liability, struggle to match.

Responsiveness, then, is not a simple virtue. It raises difficult questions about which aspects of a conflict are foregrounded (material harm, symbolic injury, structural inequality) and which are sidelined. An evaluative framework needs to ask not only whether a mechanism responds quickly, but what it is responding to: symptoms or causes, individuals or relationships, immediate grievances or longer histories of exclusion.

6.6 Legitimacy: authority, trust and contestation

Legitimacy is perhaps the most elusive dimension, yet it is central to understanding why people turn to one forum rather than another. Socio-legal research on procedural justice suggests that individuals are more likely to accept decisions, even adverse ones, when they perceive procedures as fair, neutral and respectful (MacCoun 2005; Tyler 2006; Thibaut and Walker 1975; Tyler and Huo 2002). In community settings, legitimacy involves these procedural aspects, but it is also tied to histories of struggle, identity and recognition.

Before proceeding, a conceptual clarification is warranted. Legitimacy, as deployed in this framework, is not a unitary concept but operates across multiple registers that must be distinguished if the analysis is to maintain coherence. Three dimensions are particularly salient. *Procedural legitimacy* concerns the perceived fairness of decision-making processes – that is, whether participants experience respectful treatment, voice and neutrality in how disputes are handled. This dimension, extensively theorised by Tyler and colleagues, emphasises that individuals accept outcomes, even adverse ones, when they perceive the procedures generating them as fair (Tyler 2006). *Source legitimacy* concerns the origins of authority – that is, the historical, political or customary foundations that ground an institution's claim to resolve disputes. This dimension attends to whether authority derives from constitutional recognition, ancestral tradition, political struggle or professional credentialing (Raz 2009). *Relational legitimacy* concerns the ongoing social relationships through which authority is sustained – that is, the trust, familiarity and moral standing that decision-makers cultivate through embedded participation in community life (Nonet and Selznick 1978).

These dimensions are analytically distinct but empirically intertwined. In formal court systems, source legitimacy (state authorisation, professional qualification) typically predominates, with procedural legitimacy operating as a secondary concern and relational legitimacy largely absent. Community justice systems invert this hierarchy. In Bolivia's Indigenous jurisdictions, source legitimacy derives from ancestral practice and constitutional recognition, but its effective operation depends heavily on relational legitimacy – the moral standing of authorities within dense networks of kinship and reciprocity. Procedural legitimacy, understood in Tyler's sense, is present but refracted through culturally specific understandings of what constitutes respectful and fair treatment. In South African CAOs, source legitimacy is historically and politically constituted through anti-apartheid activism, yet paralegals must continuously regenerate relational legitimacy through their daily interactions with clients and officials. Procedural legitimacy emerges from the conversational, non-adversarial character of advice-giving rather than from formal procedural guarantees (Dugard and Drage 2013).

Acknowledging this multidimensionality has evaluative implications. A system may exhibit strong relational legitimacy while lacking formal source legitimacy (as with CAOs, which operate without statutory recognition); conversely, constitutional entrenchment may provide source legitimacy without guaranteeing relational trust (as when Bolivian Indigenous jurisdiction is formally recognised but locally contested). Evaluating legitimacy, therefore, requires attention to

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all three registers and to their configuration in particular contexts, rather than assuming that legitimacy is a single variable amenable to uniform measurement.

As discussed in Section 4.1, CAOs derive legitimacy from their anti-apartheid roots and ongoing solidarity with marginalised communities – seen as allies helping people navigate hostile bureaucracies (Dugard and Drage 2013). That perception of alignment is powerful. It means that when a paralegal advises a client to compromise, or to pursue a particular strategy, the advice is heard not as an imposition from above but as guidance from a trusted ally. In Bolivia, Indigenous justice draws legitimacy from different, though overlapping, sources: ancestral practices, communal rituals and the constitutional affirmation of Indigenous jurisdiction. Decisions are framed as expressions of collective will, rooted in shared understandings of right conduct and social harmony (Ellison 2018). At the same time, legitimacy is not uncontested. Internal disagreements over leadership, gender roles or the appropriate severity of sanctions can erode trust; external actors, including state officials and NGOs, sometimes question Indigenous decisions on human-rights grounds (Sieder and Barrera 2017).

These frictions point to an important caution. Legitimacy cannot be presumed simply because a mechanism is 'local' or 'traditional'. It must be continuously earned and renegotiated. An evaluative framework should therefore treat legitimacy as an empirical question: who experiences the forum as fair and authoritative, and on what basis? It should also remain alert to the possibility that legitimacy for some may mean marginalisation for others.

6.7 Empowerment: capabilities, voice and collective agency

Empowerment has become something of a buzzword in development and legal-aid circles, but the concept retains analytic value when used carefully. Drawing on Sen's capability approach, empowerment can be understood as an expansion of the real freedoms people have to pursue lives they value (Sen 2000). In the justice domain, this includes the ability to understand and invoke rights, to challenge abusive authority and to participate meaningfully in decisions that affect one's life.

In South Africa, CAOs contribute to empowerment in at least two ways. First, they enhance legal capability by explaining procedures, drafting letters, accompanying clients to offices and demystifying state processes (Leach 2018). Over time, repeat interactions can build confidence; people learn how to insist on entitlements, how to recognise unacceptable treatment and sometimes how to support others in similar situations. Second, CAOs act as nodes in broader networks of advocacy, sometimes escalating systemic problems to NGOs or litigation partners, thereby linking individual grievances to collective strategies.

In Bolivia, empowerment often appears in struggles over land, territory and communal autonomy. Indigenous justice mechanisms can provide platforms for asserting collective rights against encroaching state or corporate actors, framing conflicts not as private disputes but as threats to the community's way of life (Doyle 2021). At the same time, internal power asymmetries (especially along gender and generational lines) mean that empowerment is uneven. Indigenous women, for instance, have sometimes had to mobilise both community and state-based forums to challenge practices they experience as unjust (Sieder 2016).

An evaluative approach to empowerment must therefore ask not only whether a mechanism resolves disputes but whether it leaves people better positioned to influence future conflicts and institutions. Does it strengthen or weaken their capacity to organise, to speak, to be heard? Does it open up space for critical reflection on power, or does it naturalise existing hierarchies?

6.8 Sustainability: institutional fragility and political context

Sustainability may sound bureaucratic, but it becomes a pressing concern when one looks at the precarious institutional lives of many community justice initiatives. Without some degree of

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stability, such as financial, organisational and legal, it is difficult for such mechanisms to maintain staff, retain knowledge and build trust.

CAOs again offer an instructive example. Many operate on short, donor-funded project cycles, with limited core funding or state support (Mukorera and Martins 2022). Staff turnover can be high; experienced paralegals move on when funding dries up, taking with them hard-earned knowledge and relationships. Attempts to secure more stable recognition, such as proposals to integrate paralegals into the legal profession under the Legal Practice Act, have stalled or raised concerns about bureaucratisation and loss of community character (Dereymaeker 2016; Leach 2018). Sustainability here is not just a technical issue but a political one: it reflects the state's ambivalence toward community-based actors who sit at the edge of formal structures.

In Bolivia, sustainability is entangled with the broader fortunes of the plurinational project. On paper, Indigenous jurisdiction enjoys constitutional protection; in practice, its scope depends on how courts interpret jurisdictional boundaries, how political coalitions shift and how conflicts with extractive or development projects are managed (Condori 2016; Cooper 2018). Indigenous justice can be profoundly resilient at the local level, drawing strength from long-standing traditions and communal institutions, yet still be vulnerable to national-level legal and political shifts. Thinking about sustainability in this way underscores that community justice cannot simply be 'scaled up' like a technical innovation. Its survival depends on the alignment (or at least non-interference) of wider legal, political and economic structures. Evaluating sustainability, then, means paying attention to both internal organisational dynamics and external enabling (or disabling) environments.

6.9 Distinctive contributions of the framework

Three features distinguish this framework from conventional approaches. First, it locates evaluation within a plural legal ecology rather than measuring alternative forums against court-based benchmarks. Second, it treats legitimacy and empowerment as central concerns rather than subordinate to efficiency metrics. Third, it integrates sustainability as essential, recognising that short-lived initiatives may create unfulfillable expectations. The framework remains deliberately open-ended, inviting adaptation rather than closure.

7. Comparative analysis: what Bolivia and South Africa reveal

It is only when the two case studies are placed side by side (almost tentatively at first, as though one is not entirely certain whether comparison will illuminate or distort) that certain shared patterns begin to surface. And, just as quickly, important divergences assert themselves. I have found, in returning repeatedly to the material, that the real value emerges not from perfect symmetry but from the uneven edges: the places where each system does something slightly unexpected or where an assumption seems to falter. Perhaps that is precisely what makes the comparison productive.

7.1 Convergences

Both systems exhibit community-rooted legitimacy, drawing authority from everyday relationships rather than formal legal texts. In South Africa, this legitimacy anchors in histories of struggle and civic organising (Dugard and Drage 2013); in Bolivia, it flows from ancestral ties and territorially grounded deliberation (Albó 1999). As elaborated in Section 6.6, this relational legitimacy distinguishes both systems from court-based authority. And then there is the matter of holistic dispute resolution. Neither system treats disputes as discrete legal problems. Instead, both seem to fold them (sometimes gently, sometimes insistently) back into social relationships, obligations and the complicated webs of reciprocity that characterise community life. Moore long

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ago suggested that law in such settings functions as social practice rather than a technical craft (Moore 1973), and the cases here appear to reaffirm that idea with almost uncanny clarity.

A third shared thread is their non-adversarial orientation. It is not that conflict disappears; rather, contestation is reframed as something to be managed, absorbed or transformed rather than 'won'. The emphasis lies on restoring equilibrium, maintaining group cohesion and navigating bureaucratic or political structures in ways that feel coherent to those involved. There are moments, of course, when adversarial logics creep in (particularly when state officials or external funders shape expectations), but the gravitational pull of communal resolution remains strong. In short, both systems reveal justice as something enacted relationally, not declared authoritatively. And perhaps this is why they seem to unsettle familiar categories so easily.

7.2 Divergences

The divergences, however, complicate any temptation to treat these cases as versions of the same thing. Bolivia offers a form of constitutionalised pluralism, where Indigenous authorities are formally recognised, and their jurisdiction delineated (contestedly, sometimes reluctantly) through national law. The 2009 Constitution, along with subsequent jurisprudence, situates Indigenous justice within the plurinational state, even if political shifts periodically threaten its autonomy. Recognition is therefore double-edged: it protects and exposes at the same time. South Africa, by contrast, reflects institutional precarity rather than constitutional entrenchment. CAOs depend on fragile funding arrangements and a civil society landscape that oscillates between collaboration and tension with the state. Mukorera and Martins's analysis lays bare how paralegals navigate this unpredictability, with sustainability never fully secured (Mukorera and Martins 2022). Here, legitimacy is deep but structurally vulnerable; authority is relational but materially constrained.

The divergences are therefore not only institutional but epistemic. Bolivia's systems are grounded in normative cosmologies with centuries of depth. CAOs, though embedded in their own political histories, operate within a bureaucratic world that constantly shapes what they can and cannot do. Neither model is 'purer' or more authentic; they simply reveal different trajectories of community justice under different political settlements.

7.3 What they reveal about justice beyond courts

When taken together, the cases suggest that justice beyond courts is more complex (and perhaps less aesthetically tidy) than the categories of ADR or conventional legal pluralism typically allow. ADR, for instance, often presents itself as procedural innovation, a softer counterpart to adjudication. Yet both CAOs and Indigenous jurisdictions reveal something qualitatively different: they reframe the very meaning of dispute, responsibility and resolution. These are not simply alternative procedures; they are alternative epistemologies.

Western frameworks tend to prioritise metrics such as efficiency, speed or case volume. It is difficult not to feel that these fall short here. What matters in both contexts is something more relational, and sometimes less immediately legible: the capacity to interpret grievances, maintain trust and enable communities to act collectively in the face of bureaucratic or political obstacles. Genn's work on pathways to justice hints at this mismatch, showing how people understand and navigate problems in ways that defy formal categories (Genn 1999). Sandefur's empirical research on everyday justice problems extends this point further, demonstrating that most people's experiences of justice occur far outside formal institutions (Sandefur 2019).

A caveat is necessary here. This article does not offer systematic comparative evidence that community justice systems outperform formal courts on responsiveness or cultural resonance; such a comparison would require methodological resources (matched case studies, controlled variables, comparable outcome measures) that exceed the scope of an interpretive socio-legal

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analysis (Cappelletti and Garth 1978). The claim advanced is more circumscribed: that CAOs and Indigenous jurisdictions exhibit forms of responsiveness and cultural embeddedness that formal court metrics typically fail to capture, and that these features matter to the communities that sustain them. Whether this constitutes 'better' justice depends on evaluative criteria that are themselves contested. The comparative analysis undertaken here illuminates how these systems operate and what they prioritise; it does not purport to demonstrate their superiority across all dimensions or for all purposes.

The cases thus invite a reorientation. Justice beyond courts cannot be captured solely through institutional performance indicators; it must also be evaluated through the moral, relational and epistemic grammars that communities use to make sense of disputes. This is not a tidy conclusion, but perhaps no tidy conclusion is possible. Still, it suggests something important: that justice, when viewed through the lived practices of communities, is as much about capability, belonging and recognition as it is about resolution.

8. Normative and institutional implications

It is always tempting, when moving from case studies to broader implications, to slip into the language of policy guidance – lists, recommendations, tidy imperatives. But I have tried, perhaps with some effort, to resist that here. The cases do not point toward a programme of reform so much as invite a different way of thinking about what states, development actors and scholars imagine justice to be. Some insights feel intuitive once stated; others remain uncomfortably open-ended.

8.1 How states might engage plural justice thoughtfully

If there is one lesson that emerges with some clarity, it is that engagement cannot mean assimilation. States often assume that plural justice needs to be absorbed into a single, coherent system, usually their own. Yet the Bolivian and South African material suggests something more cautious: coordination rather than incorporation, and coordination that respects the epistemic grounding of community systems. Santos warned long ago that interlegality requires translation rather than domination, a movement across normative worlds that keeps their differences intact (Santos 1987).

Some form of referral mechanism is probably necessary in any plural system (cases will inevitably traverse institutional boundaries), but such mechanisms need safeguards. They should prevent ordinary courts from overriding community decisions simply because they rely on different normative grammars. Moore's reminder that semi-autonomous social fields maintain internal regulatory capacities is helpful here; plural forums must be able to preserve the logic that makes them legitimate (Moore 1973). At the same time, and this is the difficult part, referral pathways must also protect individuals from exclusion or abuse within community settings. A symmetrical solution is unlikely. But a reflective, dialogic one remains possible.

8.2 Lessons for development actors

Development interventions often arrive with their own normative assumptions, usually framed as technical improvements. As Ellison's Bolivian ethnography demonstrates, such interventions risk redrawing the moral terrain in ways that undermine community-built authority, even when well-intentioned. Standardisation poses a related danger. When disputing practices are formalised into handbooks or training modules, the elements that make them culturally legitimate (tone, embodied habits, expectations of reciprocity) are easily lost. As Merry's vernacularisation framework demonstrates (Section 3.3), practices lose legitimacy when detached from local cultural grammars.

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8.3 Rethinking justice reform methodologies

Perhaps the more fundamental implication concerns method. Justice reform tends to rely on quantitative indicators (case-processing times, backlog reduction, throughput). These have their place, but they rarely capture the relational and epistemic dimensions of justice that the case studies have brought into view. Genn's research on how people navigate everyday problems shows that knowledge about justice is mostly experiential, shaped by norms of trust, capability and recognition rather than procedural metrics (Genn 1999). This suggests that reform methodologies might benefit from integrating ethnographic insight with evaluation approaches that foreground community perspectives, what some scholars term 'participatory evaluation' (Cousins and Whitmore 1998). Such approaches involve community members in defining evaluative criteria, interpreting findings and assessing institutional performance, rather than treating them solely as objects of external measurement (Patton 2023). This article does not itself conduct participatory evaluation in the methodological sense; it synthesises existing ethnographic scholarship to derive dimensions that appear salient from a practice-grounded perspective. The aspiration is more modest: to develop an evaluative vocabulary that could inform genuinely participatory processes, should practitioners or communities choose to employ it.

9. Conclusion

It is sometimes only at the end of a project (after moving back and forth between cases, concepts and what felt like competing interpretive frames) that the central questions regain their original clarity. This article began with a pair of deceptively simple inquiries: how do community-rooted justice systems actually work in practice, and what might a careful reading of those practices offer to the broader field of access-to-justice scholarship? The comparative examination of South Africa's CAOs and Bolivia's Indigenous jurisdictions has not produced tidy answers, but it has generated a clearer sense of what is at stake when we look beyond courts to understand how people experience and pursue justice.

Both cases show, in their distinct ways, that justice is never merely an institutional design problem. It is relational, situated and shaped by normative grammars that rarely align with the assumptions embedded in court-centric frameworks. CAOs reveal justice as an act of interpretation – that is, translating bureaucratic rules into terms that make sense in people's lives, building capability almost incidentally through conversation and accompaniment. Bolivia's Indigenous forums, by contrast, situate justice within a wider moral terrain of reciprocity, territorial belonging and collective responsibility. Taken together, they remind us that justice can look strangely familiar and unfamiliar at the same time: familiar in its concern with fairness and restoration; unfamiliar in the forms through which those concerns are enacted.

The evaluative framework developed here (accessibility, responsiveness, legitimacy, empowerment and sustainability) offers a mode of evaluation grounded in ethnographic attention and pluralism theory yet flexible enough to recognise that normative authority is produced differently across contexts. The contribution is as much methodological as conceptual: it may help reorient justice scholarship toward the lived textures of problem-solving rather than performance metrics inherited from courts. This, in turn, raises broader questions, some of which I can only gesture toward here. What might access-to-justice research look like if community epistemologies were treated not as exceptions but as central to how justice is conceptualised? How might states design institutions that acknowledge rather than flatten normative diversity? And how might evaluation practices become more attuned to the relational, moral and political dimensions of justice that conventional indicators often struggle to capture?

Although the above questions remain open, the comparative analysis undertaken here offers at least one conclusion: that justice beyond courts is neither derivative nor marginal. It is a domain rich with insight, capable of challenging long-held assumptions and revealing patterns that only

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become visible when one steps outside the legal forms that dominate scholarly attention. Future research might extend this approach to other settings (urban informal networks, migrant communities or environmental governance spaces) where legal authority is shared, contested or quietly reinvented. For now, what the cases show is that expanding access to justice requires more than institutional reform. It demands a shift in how justice itself is understood: not as the property of courts, but as a practice continually produced through the everyday work of communities navigating law, power and social life.

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