On Bringing Alternative Methods to Legal Research Instruction

Tanya M. Johnson

Follow this and additional works at: https://huskiecommons.lib.niu.edu/niulr

Part of the Law Commons

Suggested Citation

This Article is brought to you for free and open access by the College of Law at Huskie Commons. It has been accepted for inclusion in Northern Illinois University Law Review by an authorized editor of Huskie Commons. For more information, please contact jschumacher@niu.edu.
On Bringing Alternative Methods to Legal Research Instruction

TANYA M. JOHNSON*

Legal research is typically taught in a predictable, traditional way, but this doctrinal approach does not provide the skills and techniques needed for research in support of social justice efforts. This essay discusses a legal research course that I teach called Research for Social Justice, which incorporates critical and alternative methodologies that are not usually taught in legal research classes. After describing the content of the course, I focus on explaining what alternative legal research would entail, including a discussion of some alternative methods and strategies that I teach in my course with the goal of introducing students to a wide variety of potential skills and tools that they may have never previously connected with legal research.

INTRODUCTION: BREAKING OUT OF THE LEGAL RESEARCH BUBBLE....... 249
I. RESEARCH FOR SOCIAL JUSTICE ............................................................... 251
II. DEFINING THE ALTERNATIVE (BY REFERENCE TO WHAT IT IS NOT) 254
III. ALTERNATIVE METHODS & HOW TO TEACH THEM .............................. 257
   A. QUANTITATIVE RESEARCH, DATA, AND STATISTICS .......................... 257
   B. NARRATIVE AND COUNTERNARRATIVE ........................................... 258
   C. ETHNOGRAPHY AND AUTOETHNOGRAPHY ......................................... 260
   D. PARTICIPATORY ACTION RESEARCH ................................................ 261
   E. CRITICAL REFLECTION AND REFLEXIVITY ....................................... 262
CONCLUSION AND HOPES FOR THE FUTURE ............................................. 263

“If there’s a glimmer of hope in anything, you should support it.”
— Kurt Cobain

* Research & Instruction Librarian and Adjunct Professor of Law, University of Connecticut Law School, Hartford, Connecticut.

INTRODUCTION: BREAKING OUT OF THE LEGAL RESEARCH BUBBLE

Legal research has been taught in law schools for over a century, and, while pedagogies and technologies have changed drastically over time, the basic content of the course has remained fairly stagnant. Most legal research courses use a prepare for practice approach, including use of skills, techniques, and sources that will (hopefully) be the most helpful for the most students. Traditionally, this has been those students who will be practicing law in a mainstream job, be it as associates at law firms, or in conventional government employment, such as law clerks. This kind of doctrinal research “asks what the law is in a particular area,” for which the researcher collects and analyzes relevant case law, statutes, and regulations. The interpretation and application of that primary law to particular situations is the quintessential task for the lawyer.

This doctrinal approach is not without its merits, and it would be irresponsible and unethical to suggest that any practicing legal researcher can dispose of it entirely. However, there have been many critiques of this pedagogy, and of the legal research process more broadly, which have been detailed elsewhere by eminent critical scholars. For purposes of this Essay, it suffices to say that teaching only traditional legal research methods disadvantages students who wish to pursue alternative employment paths, and particularly disadvantages students who wish to support social justice causes, as those are the techniques and methodologies that tend to be most left out of legal research instruction in law schools.

One practical problem that I have often seen is that legal research, like many other subjects taught in law school, has become its own bubble – an abstract, classroom-only concept that, despite our best teaching efforts, students often do not know how to apply to the real world, where they believe that Google (or the Google-like interface of Lexis or Westlaw) will solve most or all of their research problems. In part, this may be due to the fact that research outside the classroom is not artificially limited to the law itself or related secondary sources, and usually there is no one right answer. Rather, there are many dimensions involved – social, cultural, and individual contexts matter. Yet traditional legal research does not often acknowledge those

2. Ian Dobinson & Francis Johns, Legal Research as Qualitative Research, in RESEARCH METHODS FOR LAW 16, 18-19 (Mike McConville & Wing Hong Chui eds., 2d ed. 2017).
considerations; the connection between research and argument is frequently attenuated while the potential for reform is virtually ignored. It is no surprise, then, that doctrinal research has been described as “tak[ing] an insider’s view of the law” and being premised on studying the law “in isolation from its context.”

Despite increasing contextualization in doctrinal law school courses, “[d]octrinal legal research traditionally proceeds on the basis that the law can be found without [inquiry] into meaning or origins.” The derivation of rules from authoritative sources and the coherent application of those rules to differing factual situations becomes the paramount concern.

Without critical perspectives, however, legal research effectively becomes a circular endeavor that simply perpetuates the status quo. As one author aptly explains:

Mainstream doctrinal researchers will just analyse and systematize how decision-makers usually operate. Critical researchers, however, will strive to focus on what is usually ignored and will also identify which interests were discarded from the application of the rule, whether these interests can nevertheless be regarded as legitimate in a wider normative context, and how those interests may have been affected in a way that could amount to injustice.

In order to better serve all of our students, and particularly those who will become activist or movement lawyers, we must break out of the traditional paradigm and away from the almost irresistible temptation of the conventional. We must give students the tools that they need not only to critically examine their own research practices, but also to figure out the best ways to get the information that they need, which is not always going to start and end with the doctrinal approach. An excellent effort in this regard was the specialized course focusing on critical legal research created by Nicholas Mignanelli, which covered “the legal research process and its limitations, critical approaches to conducting legal research, critical legal scholarship and how to find it, and emerging legal research technologies and their

7. ERNST HIRSCH BALLIN, ADVANCED INTRODUCTION TO LEGAL RESEARCH METHODS 24 (2020).
8. See Delgado & Stefancic, Same Stories, supra note 3, at 222.
shortcomings. In his blog posts about the course, Mignanelli emphasized the need to engage students concerned with social justice, who in his experience have a tendency to avoid skills-based classes in favor of more theoretical or interdisciplinary courses.

I have noted a similar tendency among students at the University of Connecticut Law School; the skills-based courses that these students tend to choose are usually comprised of clinical or other experiential work. Recently, however, the excellent librarians who teach legal research here at UConn have broken down that barrier, and we now see a mix of students in our Advanced Legal Research classes. To some degree, I believe this may be due to our collective commitment to equity and social justice, which prompts each of us to incorporate some aspects of critical legal research into the class. In fact, in addition to teaching my own section of Advanced Legal Research, I regularly guest lecture in other librarians’ courses to specifically focus on concepts including algorithmic bias and critical legal research strategies. After quite a few students sought me out to further discuss this content, and with his permission, I decided to adapt Mignanelli’s syllabus into a one (or two) credit course that I call Research for Social Justice (RSJ).

I. Research for Social Justice

In my version of this course, I cover a broad variety of both critical legal research strategies and alternative research methodologies in the hope that my students will be able to critically evaluate their own and others’ research practices as well as locate and use helpful information that would not be possible to find using traditional doctrinal methods. The course is primarily asynchronous; students proceed through each of the modules and assignments at their own pace, but I do schedule optional synchronous meetings to promote discussion. As it is presently formulated, RSJ consists of five modules, each consisting of recorded video lectures, readings and other media, and a structured assignment on a social justice topic of the student’s choice.

The first module is an overview of traditional legal research practices, with a focus on methods that are particularly prone to biases and maintaining the status quo. The assessment for this unit was based on a standard first year legal research assignment in which students are required to create a short

---


11. In addition to myself, our reference team includes Anne Rajotte, Adam Mackie, and Maryanne Daly-Doran, each of whose unique views on these issues have been invaluable in developing my own perspective and instructional content.
research plan and then locate certain types of sources, both primary and secondary, in traditional ways, including Boolean searching and Key Numbers. Because of the nature of the topics, however, students often have a lot of difficulty finding relevant primary law, which reinforces the main point of the course.

In the second module, I cover criticisms of traditional legal research and give students some context for why they had such difficulty in researching their topic in traditional ways. We explore the critical problems underlying traditional legal research identified by Richard Delgado and Jean Stefancic, we discuss problems with categorization in subject headings, and we examine how these difficulties impact law reform efforts. The assessment for this module allows students to critically reflect on their own research practices and consider how the methods that they have been taught previously limit their research in a number of ways. Using an accompanying discussion board, students also place their topics within the Key Number hierarchy, or create a new Key Number entirely, and discuss ways in which this system makes it difficult to find support for arguments that bring up new issues or challenge the status quo.

Building on those criticisms, the third module focuses on how technology compounds these problems and creates new and different ways that research in support of social justice or law reform efforts can be stymied by entrenched and often invisibly biased systems. Students learn the basics of algorithmic oppression, ways in which relevance ranking algorithms affect search results in legal databases, and discuss Sarah Lamdan’s work on the connections between legal research vendors and law enforcement. Students are often most fascinated by crowdsourcing technology, or what I call the popularity problem, i.e., the systematic reliance on the number of times a document has been viewed and/or downloaded to increase its alleged “relevance” in a list of results. The assessment for this unit guides students through breaking down what specific characteristics they look for when

---

12. See Delgado & Stefancic, Same Stories, supra note 3; Delgado & Stefancic, Same Questions, supra note 3.


deciding whether a source is relevant to their inquiry in contrast to the ways that various search platforms construct relevance. Use of the customizable relevance algorithm on Fastcase is crucial to this exercise, since it is the only time that students will be able to see the direct impact of variations in algorithmic relevance ranking systems. 19 Notably, the Fastcase options do not account for all possible ideas of what relevance means, and often students are surprised at what is and is not included.

Module four consists of a selection of critical and alternative legal research techniques that allow researchers to get around, or at least to some extent account for, the problems identified in previous units. 20 The critical legal research techniques are drawn from articles by Stump 21 and Mignanelli 22 and include unplugged brainstorming, concept-based research, the use of legal research platforms and sources other than the “Big Three,” and scholarly and multi-disciplinary resources. Alternative legal research methods are discussed in detail later in this essay but include various techniques originally developed in a wide range of intersecting disciplines, such as biology, sociology, anthropology, critical race theory, feminist theory, and human rights. The assignment for this unit walks students through a few of these techniques in the context of their chosen topic while an accompanying discussion board prompts students to focus on one research question and consider the best research method to find an answer. Students usually gravitate towards qualitative socio-legal techniques, such as narrative-based research, that they have not previously connected with legal research.

Finally, module five turns the view outward to examine applications of critical and alternative legal research in the real world, ranging from Stump’s applications of CLR to contemporary crises 23 to Justin Simard’s Citing Slavery project. 24 For their final project, students submit a research log and critical reflection, along with either an annotated bibliography (for one credit) or a research paper (for two credits).

For the remainder of this essay, I will focus on the unique aspect of my version of this course: an array of techniques and strategies that I call alternative legal research.

---

20. In the future, I plan to break this up into two separate modules and incorporate more alternative legal research methods, some of which are described later in this essay.
II. DEFINING THE ALTERNATIVE (BY REFERENCE TO WHAT IT IS NOT)

I have always loved alternative music, and growing up in the ‘90s, it was hard not to find some so-called alternative band whose sound and lyrics resonated. But what I love about the genre itself is its lack of a cohesive definition; the Oxford English Dictionary calls it “unorthodox or outside of the mainstream.”\textsuperscript{25} It is defined by what it is not. Despite influences as varied as the artists themselves from every other musical genre across the world, and despite employing a plethora of musical styles, to be alternative simply means to be nontraditional, to be different, even to challenge the conventional. And alternative music varies dramatically from artist to artist and over time; you can point to a specific song, or even artist, and say, “that’s alternative,” but there is no true definition of alternative music that does not reference what the genre is not. This is how I conceptualize what I call alternative legal research. These are research methods, techniques, and strategies that are not traditionally taught (and rarely mentioned) in law schools,\textsuperscript{26} methods that are outside of the mainstream, research that can challenge the conventional approaches to law and legal studies.

In this regard, research that supports social justice must look outside of existing legal frameworks, and strategies elucidated by CLR scholars, which critique and contextualize traditional methods, help in that endeavor. I see alternative legal research as going one step farther, or perhaps one step backward, to address an important omission in the traditional doctrinal approach, namely, the preliminary question of what the best type of research for the issue is, or in other words, what research method or technique will best promote positive change. Traditional research instruction assumes that the doctrinal method will be used and proceeds from there, regardless of whether another type of research design would be more appropriate. Indeed, “methodological questions are quite unusual” in doctrinal legal research.\textsuperscript{27} The problem is compounded by the fact that “[s]tudent lawyers are not trained in any awareness of research methodologies. They will rely on the hierarchy and authority to support a particular principle.”\textsuperscript{28} However, other disciplines have long recognized that “the selection of the research design depends very


\textsuperscript{26} Although I note that academic legal scholarship has incorporated these kind of research techniques to varying degrees, for the most part, this has been an exercise by law professors and not law students.


\textsuperscript{28} Dobinson & Johns, supra note 2, at 24.
much on the questions the researchers would like to answer in the first place.\footnote{Wing Hong Chui, \textit{Quantitative Legal Research}, in \textit{Research Methods for Law} 48, 53 (Mike McConville & Wing Hong Chui eds., 2d ed. 2017).}

To address this preliminary issue, students need to learn about the range of potential strategies, techniques, methodologies, and research designs that they may encounter or utilize in the course of their future practice. They need to consider the possibilities and make an informed choice that will serve their needs and hopefully further their cause. Alternative legal research requires some level of creativity, which is often difficult for law students to conceptualize in this context. Nevertheless, “[a]n erudite researcher is better equipped for innovation than a narrow-gauge lawyer.”\footnote{Vranken, \textit{supra} note 27, at 119.} Much like alternative music, alternative legal research draws upon a vast range of methods influenced by numerous disciplines and theoretical frameworks, and researchers may use any one or multiple techniques in any combination. “The best research uses a variety of methodologies to provide a more nuanced understanding of law, legal institutions, and legal processes than can be provided by any one methodology alone due to the complex nature of the social world in which they operate.”\footnote{Laura Beth Nielsen, \textit{The Need for Multi-Method Approaches in Empirical Legal Research}, in \textit{The Oxford Handbook of Empirical Legal Research} 951, 955 (Peter Cane & Herbert M. Kritzer eds., 2010).}

Many, but not all, of the alternative techniques that I teach would likely be considered empirical research, which is defined by “the use of systematically collected data, either qualitative or quantitative, to describe or otherwise analyze some legal phenomenon.”\footnote{Herbert M. Kritzer, \textit{The (Nearly) Forgotten Early Empirical Legal Research}, in \textit{The Oxford Handbook of Empirical Legal Research} 875, 883 (Peter Cane & Herbert M. Kritzer eds., 2010).} Empirical legal research is not a new phenomenon,\footnote{\textit{Id.} at 897.} and is actually taught in depth at a few law schools.\footnote{See, e.g., Christine B. Harrington & Sally Engle Merry, \textit{Empirical Legal Training in the U.S. Academy}, in \textit{The Oxford Handbook of Empirical Legal Research} 1044 (Peter Cane & Herbert M. Kritzer eds., 2010) (describing empirical legal research teaching at New York University).} It is important for law students to learn some of these techniques because they can allow researchers to discover or produce “information of a different character from that which can be obtained through other methods of research.”\footnote{Anthony Bradney, \textit{The Place of Empirical Legal Research in the Law School Curriculum}, in \textit{The Oxford Handbook of Empirical Legal Research} 1025, 1033 (Peter Cane & Herbert M. Kritzer eds., 2010).} Moreover, empirical research “answers questions about law that cannot be answered in any other way.”\footnote{\textit{Id.}}
Many of these alternative methods could also be conceived of as interdisciplinary, or socio-legal studies, or as borrowing from various disciplines or theoretical schools, and the benefits of using these non-doctrinal forms of research have been widely recognized. These are disciplines that were looked to by critical legal studies scholars in order to examine and break down legal structures that facilitated unequal power dynamics. There is also some overlap between the methods that I teach and those used in human rights research. Although it is beyond the scope of this essay to fully explore those connections, it suffices to say here that I believe that a healthy appreciation of human rights – substantively, contextually, and methodologically – would be beneficial for all law students, and I encourage students taking RSJ to explore and reflect on the human rights perspectives related to their chosen topics.

Alternative methodologies are often perceived as an academic endeavor, yet they have been used in many different contexts to support law reform and social justice efforts, particularly in the policy-making context. The purpose of introducing alternative legal research methods to students is to show them how these techniques have been used in legal social justice work, to enable them to critically assess research that they encounter in the future, and to shine a light on potential options when traditional research fails them. As one scholar has stated, “the researcher is more than someone who just translates and integrates new developments in law and society in one or more of the many systems. Researchers also have an independent position in furthering the law. The wide view – the knowledge and the overview that a research has or should have – is the essential inspiration for finding new perspectives that can contribute in improving the law.” In the quest for social justice, “the means must be consistent with the desired ends,” and students cannot be successful without some grounding in critical approaches and alternative methodologies. “Research that seeks to free the oppressed must first

37. See Mike McConville & Wing Hong Chui, Introduction and Overview, in Research Methods for Law 1, 5 (Mike McConville & Wing Hong Chui eds., 2d ed. 2017).
38. See id. at 6.
42. Vranken, supra note 27, at 118-19.
vocalize the oppressed,” and it must be “rooted in the creative, authentic participation of the oppressed themselves.”\(^{44}\)

### III. ALTERNATIVE METHODS & HOW TO TEACH THEM

Having some definition of alternative methods generally, the question becomes what specific techniques to incorporate and how to teach them. Because RSJ is somewhat of a survey course, I do not teach students the ins and outs of all of these methodologies. Rather, I teach them about these methods and their theoretical foundations, about the potentially useful tools that they may one day need to dig deeper into and how these can supplement and enhance their traditional research. I teach them how to approach research projects and studies critically so that they will be prepared to counter unethical or biased research. I want my students to have a broad scope of knowledge about research so that they can use the methods, skills, and sources effectively and ethically in their future advocacy.

Indeed, students do not need to understand the intricacies of every possible research method, even if it was possible to teach all of that in one course. Rather, students should learn how to conceptualize, criticize, and use research – both its processes and its results. In this sense, students need to be exposed to a wide variety of research methods and techniques along with an appropriate critical framework. I believe that it is paramount to begin from the perspective that no research method is neutral and to interrogate the sources and processes on which you want to rely. In this vein, pedagogical techniques stemming from critical legal information literacy, including problem posing, are useful to “encourage students to develop a critical consciousness about legal information and help them realize their potential to advocate for justice and change current legal systems.”\(^ {45}\) In each section below, I will describe the research techniques and methodologies that I teach in RSJ.

#### A. QUANTITATIVE RESEARCH, DATA, AND STATISTICS

The first method that I teach in my course is quantitative research, which “relies on data that are appropriate for statistical analysis,”\(^ {46}\) or in other words, measurable characteristics.\(^ {47}\) There are many research designs and a wide variety of statistical tests that are used in quantitative studies, ranging

---

44. \textit{Id.}
46. \textit{Herbert M. Kritzer, Advanced Introduction to Empirical Legal Research § 3.1 (2021).}
from true experiments in which randomized assignment to experimental or control groups allows for statistically based causal inferences to correlation studies that describe the relationship between two or more variables. Quantitative research can be descriptive, documenting or describing a fact or event; exploratory, examining a specific problem or issue; or explanatory, focusing on why something happens.

While doing fully-fledged quantitative empirical studies is certainly beyond the scope of my RSJ course, I believe that it is extremely important, particularly in our data-driven world, for students to be familiar with quantitative methodologies and to be able to effectively and ethically use and evaluate data and statistics that they encounter. Students, particularly those with no or little background in science, are often averse to using quantitative methods because they associate these techniques with difficult mathematics, but I have found that students are more likely to engage with this material when it is transparent from the beginning that they will not be expected to do any statistical calculations or even understand beyond the surface level.

In teaching about quantitative methods, it is paramount to begin from a critical perspective. Students commonly view quantitative research as objective, but data and statistics, like any other form of information, are not neutral and often are produced or used in biased ways. Indeed, “in many cases, numbers speak for White racial interests; their presentation as objective and factual merely adds to the danger of racist stereotyping where uncritical taken-for-granted understandings lie at the heart of analyses.” As one scholar explains, “the best protection against being misled by statistics is to not ignore the numbers.”

B. NARRATIVE AND COUNTERNARRATIVE

Storytelling and narrative have been used as persuasive tools by critical race theorists to break down “walls of social complacency” and “challenge and expose the hierarchical and patriarchal order that exists within the legal

48.  See id. at 1166-71.
49.  See Chui, supra note 29, at 52-53.
50.  Id. at 51.
52.  Id. at 130.
53.  Chui, supra note 29, at 65.
academy and pervades the larger society." Narrative thus can be a way of understanding and communicating lived experience, a way of demonstrating the dire need for radical social and legal change, and a research method to critically interrogate dominant stories while providing counternarratives. Narrative research asks questions like: “For whom was the story constructed and for what purpose? How is it composed? What cultural resources does it draw on or take for granted? What storehouse of cultural plots does it call up? What does the story accomplish? Are there gaps and inconsistencies that might suggest preferred, alternative, or counternarratives?”

Narrative analysis in this sense can be done through various methodological techniques, including interviews, case studies, historiography, and autobiographical storytelling. The focus, though, should be on lived experiences that challenge the stock story or widely accepted narrative. Narrative research has particular import for social policy-making endeavors, as it “is uniquely positioned to illustrate the complex and nuanced ways in which policies shape and are shaped by individuals’ everyday lived experiences,” and “has the potential to illustrate the negative consequences of limiting and discriminatory policy or demonstrate the need for new policies that support the rights of individuals left out of existing policies.”

Students tend to be drawn to narrative methodologies in particular because they are often exposed to some of the ways in which these techniques are used in other courses. Most students have seen storytelling used in legal writing or trial advocacy courses, some students have learned critical interviewing practices in a clinic or externship program, and others have

56. See, e.g., PRESUMED INCOMPETENT: THE INTERSECTIONS OF RACE AND CLASS FOR WOMEN IN ACADEMIA (Angela P. Harris, Carmen G. González, Gabriella Gutiérrez y Muhs & Yolanda Flores Niemann eds., 2012); PRESUMED INCOMPETENT II: RACE, CLASS, POWER, AND RESISTANCE OF WOMEN IN ACADEMIA (Carmen G. González, Gabriella Gutiérrez y Muhs, Yolanda Flores Niemann eds., 2020).
62. Id. at 153.
discovered the value in counternarratives through studying critical race theory. In teaching about narrative research methods, it is important to connect with students’ prior knowledge yet make sure to emphasize the critical perspectives that are necessary to support not just effective advocacy but also social justice and law reform efforts.

C. ETHNOGRAPHY AND AUTOETHNOGRAPHY

Ethnographic methods are similar in many ways to narrative research, but the focus of ethnography is on social and cultural context and behavior rather than individuals’ lived experiences. Ethnography relies on observation and fieldwork to describe behaviors from an insider perspective and can provide insight into the effects of particular processes, programs, or social forces.63 Autoethnography is even closer to narrative inquiry, as it uses the researcher’s lived experiences as data in order to “reflect deeply on, and make sense of, their own struggles as well as exploring cultural practices and beliefs.”64 Critical approaches to ethnography apply “a subversive worldview to more conventional narratives of cultural inquiry” in order to consider “the relationship between knowledge, society, and freedom from unnecessary forms of social domination.”65 Ethnographic methods have been used in numerous respects, particularly in the human rights context, to examine not only the ways in which law impacts people, but also the ways in which people impact the law.66

Students who have not previously studied anthropology or sociology often have difficulty grasping the usefulness of ethnographic methods for legal research, but it helps to give them concrete examples. For instance, one researcher’s work walks through the ethnographic methods used to examine the impact of international investment law on domestic governance and explains how these methods can complement doctrinal legal research.67 Another researcher used ethnographic methods to study “the regulation of hate speech online by examining the infrastructure of social media platforms, the

content of speech acts (including coded speech) and their offline effects.” I also discuss the colonial history of ethnography and emphasize the ethical dimensions of this form of research.69

D. PARTICIPATORY ACTION RESEARCH

Participatory Action Research (PAR) is a collaborative methodology that alters the nature of the traditional research study. Rather than an outside researcher imposing their views and methods on a community, in PAR, community members, people affected by the topic being studied, and other stakeholders come together to design, conduct, implement, and disseminate the research and proposed solutions to social problems. These co-researchers, as experts to be respected, are actively engaged in every aspect of the study and hold involved academic and institutional researchers accountable.70 As a methodology based on principles of equity and autonomy, PAR challenges the conventional view of academic researchers as objective experts and instead requires them to acknowledge their positionality and subjective experiences.71 In this way, PAR “collaps[es] artificial boundaries that define who can create new knowledge” and “promotes an inclusive research paradigm.”72

Social justice is both a value and an aim of PAR. Indeed, the word “action” in the title indicates a distinctive feature of PAR, namely, that the research will necessarily involve taking concrete and genuine steps towards social change. Thus, PAR can be iterative: researchers and co-researchers may begin with one idea to try out; reflect on the events and results; change and refine ideas along the way, perhaps multiple times; until the end goal is reached, and, hopefully, some positive change is implemented. The specific research techniques used in a particular PAR effort may be quantitative or qualitative, and can be context dependent, but ultimately, “[t]he aim of PAR is ‘to understand and improve the world by changing it.’”73

70. CAROLINE LENETTE, PARTICIPATORY ACTION RESEARCH: ETHICS AND DECOLONIZATION 1-3 (2022).
71. This aligns with critical legal studies’ emphasis on examining law and justice “from the position of groups who have suffered through history,” Matsuda, supra note 58, at 325, by “put[ting] the voices and concerns of community stakeholders and research partners at the center of the work itself,” as they “are presumptively best situated to identify, analyze, and solve the problems that directly affect them.” See also Emily M. S. Houh & Kristin Kalsem, It’s Critical: Legal Participatory Action Research, 19 Mich. J. RACE & L. 287, 294 (2014).
72. LENETTE, supra note 70, at 2.
73. Id. at 1 (quoting Fran Baum, Colin MacDougall, & Danielle Smith, Participatory Action Research, 60 J. EPIDEMIOLOGY & CMTY. HEALTH 854, 854 (2006)).
In the context of legal research, PAR “can help us develop a ‘way of being’ that always asks what we are giving back and how we are using our legal knowledge to further a bottom-up approach to creating a more just world.”\(^74\) Legal PAR studies have explored the role of race and gender in fringe banking,\(^75\) facilitated training for judges on best courtroom practices in domestic violence cases,\(^76\) and has resulted in the implementation of new procedures for testing sexual assault kits and related police investigations.\(^77\)

Teaching about PAR in a course called Research for Social Justice seems commonsensical, yet PAR is an entirely new concept for law students, who have generally been told that it will be their job to be the expert on the law once they graduate. Nonetheless, once students understand a bit about how PAR works to break down barriers and power structures, it inspires fantastic discussions about where laws come from, how social policy making could be more inclusive, the role of lawyers in social justice efforts, the nature of democracy, and even the bureaucracy associated with the law school itself.

E. CRITICAL REFLECTION AND REFLEXIVITY

Reflection is a part of all research; researchers must reflect on their research design to choose the best course of action and reflect on the data that they have collected in order to make inferences and draw conclusions. This is equally true of doctrinal legal research, where advocates must reflect on the best arguments and most appropriate sources. Critical reflection, by contrast, is a deeper inquiry, “a process of identifying and analysing how our use of language, participation in discourses and social practices are imbued with dominant power relations and discourses.”\(^78\) In clinical legal practice, critical reflection has been described as, “asking questions and looking for answers, specifically, but not exclusively, in relation to power.”\(^79\)

As a research method, critical reflection is closely related to both narrative and participatory action research and requires deconstruction of

---

74. Houh & Kalsem, supra note 71, at 343.
75. See id. at 287.
77. See Rebecca Campbell, Giannina Fehler-Cabral, Steven J. Pierce, Dhruv B. Sharma, Jessica Shaw, Sheena Horsford & Hannah Feeney, Changing the Criminal Justice System Response to Sexual Assault: An Empirical Study of a Participatory Action Research Project, 67 AM. J. CMTY. PSYCHOL. 166, 166 (2021).
restrictive assumptions and reconstruction of alternative ways of thinking about problems and our relation to them. “Critical reflection may therefore be used for any research that is interested in unearthing different ways of knowing about how we might connect individuals with the means of social change, and in highlighting our own personal agency to respond to structural issues.” Reflexivity, a process examining how the researcher’s own biases and assumptions can influence the research and conclusions, was largely developed as a feminist research method and is also a crucial part of this methodology.

I have found the practice of critical reflection useful in RSJ not only as a research method, but also as a pedagogical technique. Students not only learn and retain information better when they reflect upon it, they also practice the skills of self-evaluation and reflexivity, which I believe are important tools for any lawyer who wants to support social justice efforts. I have found that students seem willing and able to practice reflection as a general matter, but they are often reluctant to engage critically with their own role in the research process. They are usually very quick to point out potential biases and assumptions in sources and documents, but they have difficulty identifying their own. Challenging and deconstructing those biases, as well as contextualizing your own position within the systems, are essential pieces of research for social justice because “[i]f we don’t engage in critical reflection, we risk letting our own values and judgment guide our lawyering, and we fail to recognize our own reactions to a client’s story as just that: our own reactions.”

CONCLUSION AND HOPES FOR THE FUTURE

It has always been my goal to show students, in my RSJ course and otherwise, that there is almost always a way to do what you want to do, to find the information that you need to find. You may need to stray outside the proverbial box quite a bit, but there is almost always a way, and I truly believe that “break[ing] the cycle of repetitive thought” is the best path towards “achiev[ing] genuine innovation.” The feedback that I have gotten about RSJ has been overwhelmingly positive, and students have told me that they are able to bring some of the concepts and methods that they have learned in RSJ to other courses, and even to their workplaces.

81. Id. at 268.
83. Grose & Johnson, supra note 79, at 217.
84. Delgado & Stefancic, Same Stories, supra note 3, at 222.
In the future, I would like for students to actually design and conduct their own research projects from start to finish without being led through assignments step by step, for them to think critically and make important decisions along the way. I would like to reimagine RSJ as a community partnership of sorts, where students work with local organizations, or even centers or clinics at the law school, to conduct critical and alternative research that would directly serve social justice causes. I am not certain that this vision is feasible, but I do believe that this kind of experience would allow students, particularly those who do not follow traditional paths of employment, to begin doing what most of us wanted when we decided to become lawyers: to help people.