

<https://doi.org/10.19164/jlrm.v5i1.1784>

First online date: 05/12/2025



Article

Transferring Methods to Law: A Reflection on Using Scoping Reviews

Katrien Steenmans

<https://orcid.org/0000-0002-8701-8494>

Centre for Private Governance, Faculty of Law, University of Copenhagen

Abstract

Explicit engagement and detailing of methods are not always expected or required practices within legal scholarship, as evidenced, for example, by the absence of method sections in many leading legal journals. Yet, methods provide the foundation to scholarship and its description facilitates the review of research reliability and validity. As a result of the oft-absent explicit engagement with methods in law, literature within other disciplines can inform legal scholars on, inter alia, methods outside traditional legal scholarship, their motivations, and their methodologies. Such practices, however, raise questions including: To what extent can legal scholars ‘transplant’ or adapt methods from other disciplines to research in law? How to effect such method transfers to legal research? What adjustments to methods are needed when transferring across disciplines? How are non-traditional legal scholarship methods received within law? This paper aims to contribute to these questions through a retrospective reflection on the author’s own experiences in undertaking scoping reviews within environmental law and their perceived acceptance (and at times lack thereof) in peer review processes. Scoping reviews were first used within health and medical sciences to identify, chart, and summarise data, but are now widely established in other fields. This

paper first examines the value and limitations of scoping reviews as discussed in other disciplines, as well as within the context of legal scholarship. It then reflects on the challenges of using a non-legal research method based on the author's own experiences. The paper concludes by summarising the lessons learnt from transferring a method across disciplines to inform other such adaptations.

Keywords: *scoping review, qualitative research, reflection, legal research method.*

Article Text

1. Introduction

Compared to many other disciplines, there are few resources on research methods in law. This journal, for example, is one of very few journals on methods in law and most of these legal methods journals are quite recently established.¹ Moreover, in my experience to date of mainly environmental law journals, there is usually no required standalone method(s), methodology, research approach, or equivalent section. Even the distinctions between these terms are often blurred and misunderstood. As a result, there is a lack of resources available on research methods in law. Yet, methods beyond doctrinal, black letter law are becoming increasingly central.² There is evidence of 'empirical legal scholarship ha[ving] indeed entered the mainstream of legal academy',³ including within particular fields of law such as a 'new empirical turn in international legal scholarship'.⁴

¹ Law and Method (first published in 2015 by Boom), Legal Methods (first published in 2017 by Saubani Publishing House), and Journal of Law and Empirical Analysis (first published in 2024 by Sage).

² R van Gester and HW Micklitz, 'Why Methods Matter in European Legal Scholarship' (2014) 20(3) European Law Journal 292; TR Tyler, 'Methodology in Legal Research' (2017) 13(3) Utrecht Law Review 130, 130.

³ SS Diamond and P Mueller, 'Empirical Legal Scholarship in Law Reviews' (2010) 6 Annual Review of Law and Social Science 581, 581.

⁴ G Shaffer and T Ginsburg, 'The Empirical Turn in International Legal Scholarship' (2012) 106(1) The American Journal of International Law 1, 1. There is ongoing research exploring the extent to which this 'legal turn' has materialised in international criminal and environmental law: N Ottosson and G Samvel, 'From Doctrine to Empirics and Back: The Iron Rule of Empirical Explanation in International Law' (Nordic Conference on Legal Method 2025, Kalmar, 14-16 May 2025).

The absence of resources on methods in law leads to researchers consulting non-law resources (including in writing this paper). Such practices, however, raise questions of: To what extent can legal scholars transplant or adapt methods from other disciplines to research in law? How to effect method ‘transplants’ or adaptations? What adjustments to methods are needed when transferring across disciplines? How are method transplants received? This paper aims to contribute to these discussions by reflecting on my own experiences of undertaking scoping reviews – a research method developed outside law – to start answering these questions. The contribution in this paper is two-fold: first, it provides a roadmap to assist researchers in conducting scoping reviews within law and, second, it sets out lessons learnt in transferring methods from other disciplines to legal research.

The remainder of this paper is set out as follows. The next section describes the research design of this paper. Section 3 then outlines the method discussed in this paper – scoping reviews – including what it comprises, its contributions, and its limitations. My reflection on the main lessons I learnt in adopting a non-traditional legal research method in legal research follows in Section 4. Section 5 then reflects on the lessons learnt. The final section, Section 6, offers concluding remarks.

2. Research design

The research question underpinning this paper is: what are the key considerations for using a non-traditional research method within legal scholarship? This question is examined through a reflection on adapting scoping reviews in legal research. The motivation for such an

approach is in part the same as the rationale for this journal and the duty of researchers as set out by Dargue and others, the editors, in the inaugural editorial:

To date ... there has been an alarming lack of ‘self-conscious reflection’ upon the methods we employ when conducting all kinds of legal research. Whenever a claim is made that some form of knowledge is being generated or created, which happens in almost all legal research, and certainly all ‘empirical’ research which produces data, it must be asked how that data – information, knowledge or insight – were generated. Authors, we think, have a duty to reflect closely upon the methods they use and what decisions they made and what drove them. Doing so will validate and also strengthen the results if the methods have been sufficiently critiqued.⁵

This echoes a similar sentiment by Boud within the context of adult learning:

We all use mental models to guide our thinking whether we are conscious of it or not. Let us make these explicit so we can make informed choices about what is worthwhile and what we want to change and so that we can make some of our decision-making processes open to critical scrutiny. Learning from experience is for us, not just something we help others with.⁶

This reflective piece therefore both benefits my own learning and understanding of the process of undertaking scoping reviews, as well as informs other legal scholars about scoping reviews through the discussion of my own experience and the critique and development of scoping reviews.

⁵ P Dargue and others, ‘Editorial to the Inaugural Edition of the Journal of Legal Research Methodology on “Virtual Research Methodology”’ (2021) 1(1) Journal of Legal Research Methodology 1, 1.

⁶ D Boud, ‘Conceptualising Learning from Experience: Developing a Model for Facilitation’ [1994] Proceedings of the 35th Adult Education Research Conference 49, 54.

Many different models of reflective practice exist, but generally it is understood as a ‘systematic, intentional, and disciplined meaning-making process’ that facilitates understanding and learning.⁷ This particular paper draws on retrospective reflection, as it is a reflection after the experience of conducting scoping reviews, rather than a reflection of the preparation stages (ie development of the research design) or experience stage (ie while undertaking the scoping reviews).⁸ There are benefits and limitations of reflection at any stage; reflective processes after the event remove the distractions of the milieu and provide the opportunity to take time to view the events in a wider context, but they risk retrospective bias and distortion.⁹

To inform the method for reflection, I draw on literature from both within and beyond legal scholarship, echoing the rationale and motivations for this paper.¹⁰ Reflective practices, including retrospective reflection,¹¹ are adopted in law – particularly in relation to legal education and professionalism¹² – but often draws on non-legal literature in relation to

⁷ I Lindh and S Thorgren, ‘Critical Event Recognition: An Extended View of Reflective Learning’ (2016) 47(5) *Management Learning* 525, 525. See also eg P Jarvis, *Adult Learning in the Social Context* (Routledge 1987); DA Kolb, *Experiential Learning* (2nd edn, Pearson Education 2015) 1984.

⁸ See Boud (n 6) 52-53 for a description of these stages.

⁹ PR Jones, ‘Hindsight Bias in Reflective Practice: An Empirical Investigation’ (1995) 21(4) *Journal of Advanced Nursing* 783; D Gursansky, D Quinn and E Le Sueur, ‘Authenticity in Reflection: Building Reflective Skills for Social Work’ (2010) 29(7) *Social Work Education* 778, 783; K Occhiuto and others, ‘Reflecting on Reflection in Clinical Social Work: Unsettling a Key Social Work Strategy’ (2024) 54(6) *The British Journal of Social Work* 2642, 2645.

¹⁰ See Section 1 on the limited literature available on research methods in law.

¹¹ A Kelly and D Clark, ‘A Retrospective Reflection on RIPL’ (2021) 21 *UIC Review of Intellectual Property Law* 13.

¹² Eg Casey describes stages of reflection, such as competence (eg did you meet the standard of competence; difference and choice), is there more than one way to accomplish your objective, etc, which were not relevant for the purposes of this paper: T Casey, ‘Reflective Practice in Legal Education: The Stages of Reflection’ (2014) 20 *Clinical Law Review* 317. See also eg MM Leering, ‘Integrated Reflective Practice: A Critical Imperative for Enhancing Legal Education and Professionalism’ (2017) 95 *The Canadian Bar Review* 47; MM Leering, ‘Perils, Pitfalls and Possibilities: Introducing Reflective Practice Effectively in Legal Education’ (2019) 53 *The Law Teacher* 431.

particular reflective methods.¹³ There are four methodological steps to retrospective reflection: (1) identify the experience, (2) return to experience, (3) attending to feelings, and (4) re-evaluation of the experience.¹⁴ First, the experience identification can be seen as providing a case study. Case studies facilitate the in-depth study of the particularity and complexity of a phenomenon within a real-life context.¹⁵ Similar motivations therefore apply: focusing on an experience allows for detailed examination of particular issues within their specific context. The experience reflected upon in this paper is the use of scoping reviews as a research method in law. I draw on three different experiences to triangulate between them to limit retrospective bias and distortion.¹⁶ Second, the return to these experiences provides the foundation for re-acquaintance with and recapturing of them within their context to consider what happened and how it was experienced at the time. Third, in the return to the experiences, I focused on any feelings and emotions as these can inhibit or enhance the possibilities for further reflection and learning. This is especially relevant as some of the experiences were initially negative, as a result of receiving what I perceived at the time as negative reviewer comments and paper rejections. Such feelings can block understanding.¹⁷ This is another reason why retrospective reflection is useful for the purposes of this paper, as the negative feelings regarding the paper rejection have receded and I am (in my opinion) able

¹³ Eg Casey (n 12).

¹⁴ Boud (n 6) only explicitly refers to three steps, but identification of the experience is implied, so I have identified it as one of the steps.

¹⁵ RE Stake, *The Art of Case Study Research* (SAGE 1995) xi; RK Yin, *Case Study Research: Design and Methods* (4th edn, SAGE 2009) 2 and 20.

¹⁶ The experiences of using scoping reviews in law resulted in the following outputs: K Steenmans, 'A Systematic Scoping Review of Climate Finance Law in Guyana: Opportunities and Challenges within the Context of Significant Oil Discoveries' (2020) 2 OGEL; K Steenmans, 'A Scoping Review of Climate Finance Law within the Core Legal Acts of the EU 2030 Climate and Energy Framework' (2021) 23 Irish Journal of European Law 87; K Steenmans, 'Perceived Legal Risks of Extended Producer Responsibility' (2025) 34 Review of European, Comparative & International Environmental Law 337.

¹⁷ Boud (n 6) 52-53.

to reflect more clearly on the value of the critical reviewers' comments and the experiences. Fourth and final, the previous two steps facilitate interlinked elements considered as part of the reevaluation:

association – relating new information to that which is already known; *integration* – seeking relationships between new and old information; *validation* – determining the authenticity for the learner of the ideas and feelings which have resulted; and *appropriation* – making knowledge one's own, a part of one's normal ways of operating. These aspects should not be thought of as stages through which learners should pass, but parts of a whole.¹⁸

The particular components as relevant and applied to this research are summarised in Table 1. Even though these are presented as discrete stages, they were conducted as whole and it is only in this reflection that they are separated in order to communicate the research approach clearly.

¹⁸ Boud (n 6) 53.

Step	Description	Sub-category	Applied to this research
1	Identify the experience		My experiences of undertaking scoping reviews as part of research in law.
2	Return to experience		Recollection of the experiences by drawing on memories and revisiting my own notes, reviewer comments, and my responses and rebuttals to comments.
3	Attend to feelings		Consideration of whether any particular feelings or emotions surfaced in the previous step. None did, which was likely helped by the perceived negative comments from the reviewers being received more than two years ago. This has given me time to reflect on the content and value of these comments.
4	Re-evaluation of the experience	Association	Identification of relevant literature.
		Integration	Triangulation between the three different experiences on which I reflected and literature.
		Validation	Reflection with others through discussions, conference presentation, and listening to other presentations, as well as the time taken to write this paper allowing for internal validation of perceived experiences.
		Appropriation	Incorporation of lessons learnt in subsequent projects and now – between the three projects there was integration of previous feedback of adapting a non-law research method to law, and such reflection and development continues in ongoing research.

Table 1. Overview of the methodological stages of the retrospective reflection undertaken for this paper.

3. Overview of scoping reviews

This section provides an overview of scoping reviews by covering their methodological steps, their perceived value, and their limitations. Different forms of exploratory research exist, which refers to ‘broad-ranging, intentional, systematic data collection’.¹⁹ Scoping reviews are a particular type of such research focused on collecting data from extant literature. They are

¹⁹ RA Stebbins, R Prus and RA Stebbins, ‘Exploratory Research’ in LM Given, *The SAGE Encyclopedia of Qualitative Research Methods* (SAGE Publications 2008) 327.

an increasingly popular knowledge synthesis method, particularly within health and social sciences,²⁰ though they are still emerging in law-related areas.²¹ Despite their increased use, there is not yet a uniform understanding. Generally, scoping reviews are understood as a method for providing an evidence base of existing literature and identifying gaps to inform research agendas, and for supporting policy makers and researchers in asking the ‘right’ questions.²² There are, however, some discrepancies between some of the descriptions of scoping reviews. Mays and others, for example, argue that scoping reviews ‘aim to map *rapidly* the key concepts underpinning a research area and the main sources and types of evidence available’,²³ with mapping ‘a review that seeks to identify, not results, but linkages’.²⁴ Daudt and others emphasise that their purpose is to map ‘thoroughly and thoughtfully’, rather than speed-related.²⁵ Regardless of mapping tempo, articles are seen as objective pieces of ‘the

²⁰ NK Dalmer, ‘Unsettling Knowledge Synthesis Methods Using Institutional Ethnography: Reflections on the Scoping Review as a Critical Knowledge Synthesis Tool’ (2020) 30(14) *Qualitative Health Research* 2361, 2361; D Rodger, A Admani and M Thomas, ‘What is a Scoping Review?’ (2024) 27(3) *Evidence Based Nursing* 84, 84.

²¹ A precise description of scoping reviews in law requires a review in itself. A brief search of Web of Science only returned one scoping review published in a legal journal in the first few pages of search results: MP Hossain, ‘International Criminal Justice Date in Bangladesh: A Scoping Review’ (2024) 24(5-6) *International Criminal Law Review* 157. This article, however, provides no detail of the methodological steps adopted in relation to the scoping review and only mentions ‘scoping review’ twice in the body of the manuscript. The other returned articles on the first few pages are law-related, but not published in legal journals. Eg K Aidam and EA Adawudu, ‘Substance Use Among Lawyers and Law Students: A Scoping Review’ (2024) 19 *European Journal of Mental Health* 1; M Cano and others, ‘A Scoping Review of Law Enforcement Drug Seizures and Overdose Mortality in the United States’ (2024) 124 *International Journal of Drug Policy* e104321.

²² Eg A Thomas and others, ‘Scoping Reviews in Health Professions Education: Challenges, Considerations and Lessons Learned about Epistemology and Methodology’ (2020) 25 *Advances in Health Sciences Education* 989, 990; Rodger, Admani and Thomas (n 20) 84; S Anderson and others, ‘Asking the Right Questions: Scoping Studies in the Commissioning of Research on the Organisation and Delivery of Health Services’ (2008) 6(7) *Health Research Policy and Systems* 7, 16; HL Colquhoun and others, ‘Scoping Reviews: Time for Clarity in Definition, Methods and Reporting’ (2014) 67 *Journal of Clinical Epidemiology* 1291, 1292; AC Tricco and others, ‘A Scoping Review on the Conduct and Reporting of Scoping Reviews’ (2016) 16(15) *BMC Medical Research Methodology* 1, 9; Z Munn and others, ‘Systematic Review or Scoping Review? Guidance for Authors when Choosing Between a Systematic or Scoping Review Approach’ (2018) 18(143) *BMC Medical Research Methodology* 1, 2.

²³ N Mays, E Roberts and J Popay, ‘Synthesising Research Evidence’ in Naomi Fulop and others (eds), *Studying the Organisation and Delivery of Health Services: Research Methods* (Routledge 2001) 194 (emphasis in original). See also: Munn and others (n 20) 2.

²⁴ ID Cooper, ‘What is a “Mapping Study?”’ (2016) 104(1) *Journal of the Medical Library Association* 76, 76.

²⁵ HML Daudt and others, ‘Enhancing the Scoping Study Methodology: A Large, Inter-professional Team’s Experience with Arksey and O’Malley’s Framework’ (2013) 13 *BMC Medical Research Methodology* 48, 56.

knowledge puzzle’.²⁶

Reviews are important tools beyond some scholars’ convictions that ‘publications should be used by others’,²⁷ in part to promote dissemination of the research therein.²⁸ They provide an understanding of the status quo of existing knowledge, identify knowledge gaps, and may present knowledge-advancing ways, as well as allow researchers to position their own research on ‘the academic map of knowledge creation’.²⁹ Scoping reviews are similar to other review methods, with general steps of searching, appraising, synthesising, and analysing.³⁰

Algan and others observe that:

In reality, the process or strategy for doing the research is quite similar among the several approaches. Researchers gather data, analyze data, and look for essential themes. While there are some differences in process for those conducting grounded theory ... this distinction may not be very obvious. So where are the differences?

They are ultimately in the direction and purpose for doing the research.³¹

What distinguishes scoping reviews from other types of reviews (eg systematic or systematised reviews) is that they are commonly used as preliminary assessments of emerging

²⁶ Dalmer (n 20) 2366.

²⁷ PJ Fahy, ‘Use of Published Research: An Exploratory Case Study’ (2013) 14(1) *International Review of Research in Open and Distributed Learning* 145, 161.

²⁸ UE Chigbu, SO Atiku and CC Du Plessis, ‘The Science of Literature Reviews: Searching, Identifying, Selecting, and Synthesising’ (2023) 11(2) *Publications* e2, 3.

²⁹ H Frank and I Hatak, ‘Doing a Research Literature Review’ in A Fayolle and M Wright, *How to Get Published in the Best Entrepreneurship Journals* (Edward Elgar 2014) 94. See also eg WM Lim, S Kumar and F Ali, ‘Advancing Knowledge through Literature Reviews: “What”, “Why” and “How to Contribute”’ (2022) 42(7-8) *The Service Industries Journal* 481, 482.

³⁰ Grant and Booth review 14 review types, including scoping reviews, and identify their similarities and differences – see MJ Grant and A Booth, ‘A Typology of Reviews: An Analysis of 14 Review Types and Associated Methodologies’ (2009) 26(2) *Health Information & Libraries Journal* 89. See also Munn and others (n 20).

³¹ E Algan and others, ‘Clarifying Research Approaches: A View from Other Disciplines’ in Marilyn Lichtman (ed), *Understanding and Evaluating Qualitative and Educational Research* (SAGE 2011) 246-247.

fields that have not yet been reviewed in detail or are of a heterogeneous nature.³² In such areas, it is often unclear what specific questions may be valuably investigated through a more precise and focused systematic or other review.³³ Scoping reviews may therefore be seen as a stepping stone for other reviews; they facilitate understanding of extant literature to help identify and articulate (a) clear research question(s) for further exploring and evaluating.³⁴ They may also still be of value in established fields if a broad overview is needed to provide an evidence base of extant literature, though there may be more critique of the seeming superficiality of such a review.³⁵

3.1. Scoping review methodology

There is no definitive methodology yet for scoping reviews. The methodological steps often adopted are those as articulated by Arksey and O'Malley³⁶ and advanced by Levac, Colquhoun and O'Brien³⁷ and the Joanna Briggs Institute (JBI).³⁸ Table 2 provides a brief overview of these stages. In brief, these are: (1) identify research question, (2) identify relevant studies, (3) study selection, (4) chart the data, and (5) collate, summarise, and report the results.³⁹

³² Mays, Roberts and Popay (n 23) 194; H Arksey and L O'Malley, 'Scoping Studies: Towards a Methodological Framework' (2005) 8(1) *International Journal of Social Research Methodology* 19, 20; Grant and Booth (n 30) 95; D Levac, H Colquhoun and K O'Brien, 'Scoping Studies: Advancing the Methodology' (2010) 5 *Implementation Science* 69, 69; H Khalil and others, 'An Evidence-based approach to Scoping Reviews' (2016) *Worldviews on Evidence-Based Nursing* 1, 1.

³³ Mays, Roberts and Popay (n 23) 194; Arksey and O'Malley (n 32) 20; Grant and Booth (n 30) 95; Levac, Colquhoun and O'Brien (n 32) 69; Khalil and others (n 32) 1.

³⁴ R Armstrong and others, "'Scoping the Scope" of a Cochrane Review' (2011) 33(1) *Journal of Public Health* 147, 147.

³⁵ See Section 4.1.

³⁶ Arksey and O'Malley (n 33) 22.

³⁷ Levac, Colquhoun and O'Brien (n 32).

³⁸ JBI, 'JBI Scoping Review Network' (2025) <<https://jbi.global/scoping-review-network>> accessed 17 September 2025.

³⁹ See Levac, Colquhoun and O'Brien (n 32) 72 and Colquhoun and others (n 22) 1293-1294 for the details of the enhanced methodological steps. The optional stage of consultation is not included.

Stage	Arksey and O'Malley framework stage ⁴⁰	Recommended clarification by Levac, Colquhoun and O'Brien ⁴¹	Recommended clarification based on the JBI framework of evidence synthesis ⁴²
1,	Identify the research question	Articulate the research question that will guide the enquiry Consider purpose of scoping study with the research question Consider rationale for conducting scoping study	Clarify and link the purpose and research question
2.	Identify relevant studies	Scope of study Justify decisions and acknowledge potential limitations to study	Use a three-step literature search to balance feasibility with breadth and comprehensiveness
3.	Study selection	Iterative process involving searching the literature, refining the search strategy, and reviewing articles for inclusion	Careful selection of the studies using a team approach and including all levels of evidence proposed by JBI
4.	Chart data	Develop data-charting form and determine variables to extract	Chart the data in a tabular and narrative format where applicable
5.	Collate, summarise, and report the results	Analysis Reporting results and producing outcome Consider meaning of findings as they relate to the overall study purpose; discuss implications for future research, practice and policy	Identify the implications of the study findings for policy, practice, or research

Table 2. Overview of the scoping review methodological stages for.

For the second step, different databases can be used. Often Web of Science is relied upon, but other databases can be used. Haddaway and others have, however, concluded that Google Scholar is only reliable if results from more than the first few results pages are used.⁴³ The

⁴⁰ Arksey and O'Malley (n 33).

⁴¹ Levac, Colquhoun and O'Brien (n 32) 73.

⁴² Khalil and others (n 32) 2.

⁴³ NR Haddaway and others, 'The Role of Google Scholar in Evidence Reviews and Its Applicability to Grey Literature Searching' (2015) 10 PLoS ONE e0138237, 15.

search string used in the selected database(s) needs to be developed and tested to capture all possible relevant studies. For example, if the topic is sustainable development, the search string should not be limited to “sustainable development” but may want to include (“sustainable development” OR “sustainability”), unless there is a reason for excluding sustainability. Best practices also require a control of steps three and four, ie where a scholar not involved in step three⁴⁴ verifies whether they would have selected the same studies based on the stated study selection criteria and the particular charting form of the data. For example, I have previously analysed selected studies through iterative coding, which is a qualitative inquiry to organise, sort, and analyse data.⁴⁵ The codes used were words or phrases to assign a summative attribute to a portion of language-based data.⁴⁶ A controller should similarly code a selection of studies to validate the words or phrases used. This can be challenging in law, where there continues to be more solitary research compared to many other disciplines.

3.2. Limitations of scoping reviews

As with any method, there are a number of limitations of which to be aware when undertaking scoping reviews. A foundational issue is the methodology: there is a need for methodological standardisation.⁴⁷ Arskey and O’Malley intended their paper and proposed methodology therein ‘to stimulate discussion about the merits of scoping studies, and help develop

⁴⁴ Ie not involved in the same manner. In other research projects that I have read about, the controller has been involved in the same research. Eg where two members of a research team develop search strings and then compare to finalise the search string to be used. Where there are two involved, each researcher may also be assigned half the sample each, from which they select relevant studies and then code them. They then swap their samples and do the same steps again for at least a selection of it to compare whether the same studies were selected and determine whether similar codes were developed.

⁴⁵ Kathy Charmaz, *Constructing Grounded Theory: A Practical Guide through Qualitative Analysis* (SAGE Publications 2006) ch 3.

⁴⁶ Johnny Saldaña, *The Coding Manual for Qualitative Researchers* (SAGE Publications 2012) 3.

⁴⁷ MT Pham, ‘A Scoping Review of Scoping Reviews: Advancing the Approach and Enhancing the Consistency’ (2014) 5 Research Synthesis Methods 371, 381.

appropriate methods for conducting such reviews’.⁴⁸ Yet, as Dalmer highlights, most scoping reviews continue to rely on their framework rather than use it as a starting point, bar a few exceptions.⁴⁹ There is also a sixth stage of consultation that Arksey and O’Malley briefly described but is not often implemented.⁵⁰ The consultation element entails engaging stakeholders usually as part of identifying and selecting studies, though some researchers integrate consultation in interpreting and/or reporting research findings.⁵¹

Second, scoping reviews in contrast to systematic and other reviews only note the authors, publication date, study population and/or context, methods used, and key points identified, rather than evaluating any strengths, weaknesses, or gaps of each study.⁵² Thus, they do not assess the quality of the evidence presented within selected studies.⁵³

Third, there are issues related to study selection. When to stop including studies is unclear. Moreover, scoping reviews are also presented as having procedural objectivity. Yet, they (similarly to some other types of reviews) and their study selection are influenced by positivistic learnings and also risk being linear, reductionist, and western-grounded.⁵⁴ The way

⁴⁸ Arksey and O’Malley (n 32) 31.

⁴⁹ Dalmer (n 20) 2366. Exceptions include the developments by Levac, Colquhoun and O’Brien (n 32) and the JBI (n 38), both included in Section 3.1.

⁵⁰ Arksey and O’Malley (n X) 28-29; Pham (n 47) 378.

⁵¹ Pham and others (n 47) 378.

⁵² Dalmer (n 20) 2366; Arksey and O’Malley (n 32); Armstrong and others (n 34) 49.

⁵³ Dalmer (n 20) 2366; Arksey and O’Malley (n 32).

⁵⁴ LA Chambers and others, ‘Decolonizing Scoping Review Methodologies for Literature With, for, and by Indigenous Peoples and the African Diaspora: Dialoguing with the Tensions’ (2018) 28(2) *Qualitative Health Research* 175, 181. See also eg JM Eakin and E Mykhalovskiy, ‘Reframing the Evaluation of Qualitative Health Research: Reflections on a Review of Appraisal Guidelines in the Health Sciences’ (2023) 9(2) *Journal of Evaluation in Clinical Practice* 187; M MacLure, ‘“Clarity Bordering on Stupidity”: Where’s the Quality in Systematic Review’ (2005) 20 *Journal of Education Policy* 393; C Pope, ‘Resisting Evidence: The Study of Evidence-based Medicine as a Contemporary Social Movement’ (2003) 7(3) *Health: An Interdisciplinary Journal for the Social Study of Health, Illness and Medicine* 267.

in which data is charted is also 'situated, partial, perspectival'.⁵⁵ Yet, Chambers and others reflect on the consequences of the distilling and synthesising into common themes that scoping reviews can result in 'homogenizing the literature and possibly erasing important nuances and outliers through the process', 'ignoring important percepts', and 'valuing diverse perspectives, worldviews, and epistemologies; the localized nature of knowledge; and ... the lived realities'.⁵⁶ This has resulted in Chambers and others calling for the decolonising of scoping reviews, and emphasising the need to understand the worldviews and perspectives of the people who originally created it.⁵⁷

4. Lessons learnt for adapting non-traditional research methods in law

The value of traditionally non-legal research methods within law is recognised.⁵⁸ They seem particularly relevant to socio-legal studies and other approaches concerned with examining the law within the wider social context,⁵⁹ as '[t]he study of the interaction between humans and their environment requires knowledge, ideas and research methodology from different disciplines'.⁶⁰ Moreover, such methods are useful beyond socio-legal research, as questions from other methods can help legal scholars reflect on their own research approaches. This

⁵⁵ P Lather, 'To Be of Use: The Work of Reviewing' (1999) 69(1) Review of Educational Research 2, 3

⁵⁶ Chambers and others (n 54) 181.

⁵⁷ *ibid.*

⁵⁸ R Bhagyama G and N Durani, 'Reflecting Thinking on Legal Research: Approaches and Challenges' (2023) 15 Legal Opus 167, 168: 'Non-doctrinal research employs diverse methods from other disciplines to general empirical data, providing insights into how the law operates in real-world contexts and informing policy and reform efforts. Therefore, research is an ever-evolving process that can take various forms'. See also eg M Salehijam 'The Value of Systematic Content Analysis in Legal Research' (2018) 23(1-2) Tilburg Law Review 34; RA Ngwoke, IP Mbanjo and O Helynn, 'A Critical Appraisal of Doctrinal and Non-doctrinal Legal Research Methodologies in Contemporary Times' (2023) 3(1) International Journal of Civil Law and Legal Research 8.

⁵⁹ Eg S Wheeler and P Thomas, 'Socio-legal Studies' in D Hayton (ed), *Law's Future(s)* (Hart Publishing 2000) 271; R Cotterrell, 'Subverting Orthodoxy, Making Law Central: A View of Sociolegal Studies' (2002) 29 Journal of Law and Society 632; R Banakar and M Travers (eds), *Theory and Method in Socio-legal Research* (Hart Publishing 2005); S Wheeler, 'Socio-Legal Studies in 2020' (2020) 47 Journal of Law and Society 209.

⁶⁰ H Tobin and JK Kampen, 'Research Design: The Methodology for Interdisciplinary Research Framework' (2018) 52 Quality & Quantity 1209, 1210

was my motivation for adopting scoping reviews; I was undertaking a form of a literature review and was asked by non-law researchers what exactly this entailed (beyond “this research relies on X and Y sources” or other similarly vague statement): how did I identify relevant literature? How did I select the articles to read? How did I select the information to extract? Etc. The subsequent reflection on these questions resulted in investigating different types of reviews. My argument is neither that there is a requirement to look beyond non(-traditional) law research methods and to adopt these nor that these are more valid or reliable. Instead, these questions made me reflect on the need to clarify my methods (whether legal or not). Moreover, undertaking purposeful methodological steps and being able to communicate them facilitates replication, thereby increasing reliability. For the purpose of the particular research I was undertaking, scoping reviews seemed most suitable.

The following subsections set out the main lessons learnt from my scoping review experiences: (1) clearly communicate the rationale for adopting the method and its purpose; (2) detail the methodological steps; and (3) reflect on underlying assumptions and ideologies.

4.1 Communicate rationale and purpose

It is critical to understand and communicate the rationale and purpose of the selected method clearly: why is this method relevant to and useful for the research? For the purposes of my research, I selected scoping reviews as they are helpful in ‘aggregate[ing] and synthesiz[ing] articles from many disciplines’ in emerging areas.⁶¹ My research was in then-nascent areas of academic scholarship (circular economy and climate finance law), which resulted in scoping

⁶¹ Dalmer (n 20) 2364. See also Section 3.

reviews being particularly useful in identifying the research to date, summarising recurring themes, and identifying research gaps. In particular, my areas of research had limited publications in law-focused and would benefit from looking at many different disciplines.

Initially, reviewers of my first paper submission on a scoping review critiqued my manuscript for trying to cover too much content; it contained both a scoping review and further discussion of one of the questions identified through the review. One of the editor and reviewers' recommendations was to divide and develop it into two papers. My subsequent submitted paper focused solely on the scoping review, which was then critiqued for not sufficiently addressing the "so what" questions. The challenge was thus achieving the right balance: had I not explained the purpose of scoping reviews adequately? As well as, how much subsequent discussion of scoping review results are needed and what is "too much" for a single paper? The submission that was eventually successful included more detail on the purpose of scoping reviews and some initial observations on presented results from the scoping review, which went beyond identifying further research questions (which is what strictly is only required by scoping reviews) with some discussions on possible implications.⁶² In another paper, I triangulated my scoping review results with survey results.⁶³ I have thus not successfully published a "pure" scoping review – though I only attempted this once, as my research purpose in papers since has never been to solely produce a scoping review, but it has been as an evidence base and starting point for a wider research question.

⁶² Steenmans, 'A Scoping Review of Climate Finance Law within the Core Legal Acts of the EU 2030 Climate and Energy Framework' (n 16).

⁶³ Steenmans, 'Perceived Legal Risks of Extended Producer Responsibility' (n 16).

The issue of publishing solely scoping review results feeds into wider scholarly debates on the contribution of reviews:

There seems a strong agreement that conducting a qualitative synthesis merely to produce a list of themes derived from aggregating previously published lists of themes adds no particular value to our understanding of the phenomena that attract our qualitative attention. Thus, we ought to be actively discouraging this kind of activity in favor of something that has merit in the sense of serving a purpose, whether in advancing our theoretical thinking or in generating new insights that may be relevant to a field.⁶⁴

There is particular concern about the recent ‘rapid proliferation of glorified form of literature reviews’.⁶⁵ Thorne refers to the increase in reviews as a monster that needs to be tamed,⁶⁶ while Kirchherr even describes it as ‘scholarly bullshit’, which he defines as:

scholarship that is so pointless and unnecessary that even the scholar producing it cannot justify its existence. In essence, it is scholarship that does not contribute to the advancement of scientific knowledge on a subject at question. However, because of the current set-up of the academic system, the scholar feels obligated to pretend otherwise and to continue churning out this kind of work.⁶⁷

⁶⁴ S Thorne, ‘Advancing the Field of Synthesis Scholarship: A Response to Nicky Britten and Colleagues’ (2017) 27(9) *Qualitative Health Research* 1377, 1379.

⁶⁵ S Thorne and others, ‘Qualitative Metasynthesis: Reflections on Methodological Orientation and Ideological Agenda’ (2004) 14 *Qualitative Health Research* 1342; S Thorne, ‘Metasynthetic Madness: What Kind of Monster Have We Created?’ (2017) 27(1) *Qualitative Health Research* 3.

⁶⁶ Thorne (n 64).

⁶⁷ J Kirchherr, ‘Bullshit in the Sustainability and Transitions Literature: A Provocation’ (2023) *Circular Economy and Sustainability* 167, 168.

Some form of review is often needed for research. As a result of the academic pressures to publish (especially in institutions where there is a specified expected number of outputs annually) and given the time-consuming nature of many review forms, there is an incentive to publish them. Moreover, these reviews can be valuable and support others' research. Kirchherr and others, for example, undertook a review of circular economy definitions.⁶⁸ This has been invaluable to my research within that area in being able to refer to that work to briefly set out a definition and highlight the shortcomings in practice without having to redo the same research. Yet this is the paper that Kirchherr describes as 'symbolis[ing] everything that's broken in the academy. Academics love definitions. Not solutions. I wish the academy would incentivise scholars to improve society, not chase citations'.⁶⁹ Britten and others agree with some of these criticisms, but also acknowledge the continued value of reviews.⁷⁰ Critically, synthesis reviews need to 'expand our understanding of the world by building on what came before but without being stifled by it'.⁷¹ This is what I have aimed to do and hope I have clearly communicated in my papers including scoping reviews: I have undertaken scoping reviews to provide the foundation within an emerging area of research and to facilitate further critical investigation.

⁶⁸ J Kirchherr, D Reike and M Hekkert, 'Conceptualizing the Circular Economy: An Analysis of 114 Definitions' (2017) 127 Resources, Conservation and Recycling 221. Kirchherr even revisited and updated these scoping review together with others in a subsequent paper: J Kirchherr and others, 'Conceptualizing the Circular Economy (Revisited): An Analysis of 221 Definitions' (2023) 194 Resources, Conservation and Recycling e107001.

⁶⁹ J Kirchherr, 'A PhD Should be About Improving Society, Not chasing Academic Kudos' (*The Guardian*, 9 August 2018) <www.theguardian.com/higher-education-network/2018/aug/09/a-phd-should-be-about-improving-society-not-chasing-academic-kudos> accessed 6 August 2025.

⁷⁰ N Britten and others, 'Asking More of Qualitative Synthesis: A Response to Sally Thorne' (2017) 27(9) Qualitative Health Research 1370, 1374.

⁷¹ *ibid.*

4.2 Identify methodological steps

As part of general good research practice, methodological steps should be set out. This helps distinguish the particular review method to an extent (in addition to setting out purpose, which is the critical distinguishing feature).⁷² A challenge can be providing sufficient detail in the limited amount of words permitted by many journals, especially in law where methods are not a necessary or expected section. A method(s) or equivalent section reduces the number of words available for other discussions, thereby with a potential knock-on effect of exacerbating the perceived superficial nature of reviews. This has been recognised as a challenge in transferring a commonly used method in social science, systematic content analysis, to legal research: ‘Legal scholars using content analysis often describe their steps at excruciating length ... Articles commonly approach or exceed one hundred pages’.⁷³ Hall and Wright explain that the reason for these lengthy descriptions is likely in part due to an absence of ‘methodological tenets that legal scholars can share, learn, refine, and cite briefly’.⁷⁴ This links to another challenge I encountered: one reviewer had an issue with the references used in describing my scoping review method being drawn from traditionally non-legal literature⁷⁵ (i.e. they were mainly from journals focused on methods in health and medical sciences).⁷⁶ This brings us back to the purpose of this paper of considering issues of method transfers.

Other legal scholars have adopted (previously) non-traditional legal research methods, as

⁷² See text to n 31 and Section 4.1.

⁷³ MA Hall and RF Wright, ‘Systematic Content Analysis of Judicial Opinions’ (2008) 96(1) California Law Review 63, 75.

⁷⁴ *ibid.*

⁷⁵ Delineating strictly ‘legal literature’ is challenging at a time when inter- and trans-disciplinary research is increasing. Here, the phrase is used in a very rudimentary way in referring to journals that have other disciplines as their labels, eg Journal of Evaluation in Clinical Practice, Qualitative Health Research, and Worldviews on Evidence-Based Nursing.

⁷⁶ Many of the references to which the reviewer was referring were those used in Section 3.1 of this paper.

referred to earlier, such as Hall and Wright adopting systematic content analysis⁷⁷ and legal education literature drawing on reflection methods,⁷⁸ without justifying reliance on non-legal literature. Hall and Wright even observe that, despite systematic content analysis being a well-established social science research method, '[i]t is striking how often legal researchers employ this method without citing to any methodology literature, or only citing to examples from legal literature'.⁷⁹ The absence of justifying the research approach based on previous proven strategies is problematic too, as it reduces the transparency of others trying to understand the adopted methods, as well as impact the reliability and validity of the method.

There is limited literature on transferring methods generally, as well as literature on learning from other methods.⁸⁰ Davies and others conclude in relation to cross-fertilisation of concepts, ideas and empirical domains that:

Only when there is sufficient commonality in assumptions about structures, processes, human behaviour, and other fundamental elements of theory, will scholars be able to learn from each other across domains, integrate formerly fragmented bodies of knowledge and work collaboratively towards a goal.⁸¹

This issue of underlying assumptions is discussed in the next subsection.

⁷⁷ *ibid.*

⁷⁸ See n 12.

⁷⁹ Hall and Wright (n 73) 74.

⁸⁰ Eg SA Zahra and LR Newey, 'Maximizing the Impact of Organization Science: Theory-Building at the Intersection of Disciplines and/or Fields' (2009) 46(6) *Journal of Management Studies* 1059; A Davies, S Manning and J Söderlund, 'When Neighboring Disciplines Fail to Learn from Each Other: The Case of Innovation and Project Management Research' (2018) 47 *Research Policy* 956.

⁸¹ Davies and others (n 80) 965 and 975.

4.3 Reflect on underlying assumptions and ideologies

Underlying approaches and assumptions of methods need to be reflected on when considering method transfers between disciplines. This includes questions such as, how is the method different from other existing methods in law? What are the theories and principles of the method proposed to be transferred? How do these compare with the methods already commonly adopted in law? As a result of being a form of synthesising literature review, which are common across all disciplines, scoping reviews aligns closely to methods already employed within legal research. Dobinson and Johns, for example, list requirements echoing the steps for undertaking doctrinal legal research based on a social sciences template: (1) selecting research questions, (2) selecting bibliographic or article databases, (3) choosing search terms, (4) applying practical screening criteria, (5) applying methodological screening criteria, (6) doing the review, and (7) synthesising the results.⁸² These are similar to the steps of scoping reviews, with the distinguishing feature the purpose of scoping reviews of usually mapping literature in emerging areas.⁸³

There are also questions concerning the different epistemologies, which shape how researchers answer questions regarding the validity of knowledge (qualitative vs. quantitative, etc.), the legitimacy of methods to produce knowledge and the assumptions inherent in particular conceptualisations of the object of study and certain methodologies.⁸⁴

⁸² I Dobinson and F Johns, 'Qualitative Legal Research' in M McConville and WH Chui (eds), *Research Methods for Law* (Edinburgh University Press 2010) 22–32. This is the reasoning I also provided in Steenmans, 'Perceived Legal Risks of Extended Producer Responsibility' (n 16) 341.

⁸³ See Section 3.

⁸⁴ Miller and other, 2008, p.1

Scoping reviews are positivistic and have also been criticised for homogenising the literature, without sufficiently distinguishing between different perspectives.⁸⁵ Depending on the purpose of the research, this can, however, be valuable as law has been described as ‘an interdisciplinary subject with close links with economics, sociology, political science, culture, psychology, and criminology’.⁸⁶ Ishwara Bhat further observes that ‘it becomes inevitable for a legal scholar to think about science and technology in their modern application’,⁸⁷ which together with the need for collaboration is also often echoed by many other scholars within my field of research, environmental law.⁸⁸ The sidelining of different epistemologies when undertaking scoping reviews can facilitate research in such areas.

5. Conclusion

Transferring non-traditional research methods in law to legal scholarship is not new and is expected to continue. There is a wealth of knowledge on other research methods beyond law that can contribute to and enrich the research of legal scholars, especially in areas in which monodisciplinary approaches would be too limited to capture challenges⁸⁹ and for those wanting to be informed by the wider context or undertaking inter- or transdisciplinary research. Even where these non-traditional methods are not adopted, there is value in using the information on them to reflect on legal research methods to develop their reliability and validity.

⁸⁵ See Section 3.2.

⁸⁶ P Ishwara Bhat, *Idea and Methods of Legal Research* (Oxford University Press 2020) 7.

⁸⁷ *ibid.*

⁸⁸ Eg CM Rose, ‘Environmental Law Grows Up (More or Less), and What Science Can Do to Help’ (2005) 9 *Lewis & Clark Law Review* 273; RJ Lazarus, *The Making of Environmental Law* (University of Chicago Press 2023). Though there are limits on the level of science input, eg A Babich, ‘Too Much Science in Environmental Law’ (2003) 28(1) *Columbia Journal of Environmental Law* 119.

⁸⁹ Tobi and Kampen (n 60) 1210.

Where the use of non-traditional legal research methods is considered relevant, they are not without their challenges. In this paper, I have reflected on my experience of adopting a non-traditional legal research method, scoping reviews. Scoping reviews can be a valuable tool for legal scholars wanting to map and provide an evidence base of literature within an emerging field to facilitate the identification of questions needing further investigation. As scoping reviews are not yet commonly used in legal research, I encountered challenges of how to adequately set out the method to communicate its validity and reliability, while not detrimentally reducing the further discussions. Central to overcoming these was the need to clearly communicate the rationale and purpose of the method, followed by an explanation of the methodology. These descriptions then facilitated a brief commentary on the underlying assumptions of the method that enables its relevance to legal research. This reflection has embodied some of these challenges and demonstrated my own bias in considering the transfer of methods to law valuable: in setting out observations about transferring methods between disciplines, I relied on scholarship and methods from outside law.

Moreover, my selected focus – scoping reviews – have an underlying approach already commonly accepted or at least comparable to some approaches in law. Discussions on method transfers to law would, therefore, benefit from insights and experiences from methods less clearly aligned to contribute to the perpetually evolving process of research (in law).

Acknowledgements

The author is very grateful to the anonymous reviewers for the time taken to provide comments. The author is part of the CirCus (Circular Supply Chains – identifying and allocating legal risks) project funded by the Independent Research Fund Denmark (grant number 1127-00383A).

<https://doi.org/10.19164/jlrm.v5i1.1827>

First online date: 13/02/2026



Article

From Maverick to Mainstream: Autoethnography's Place in Legal Research

Dr Elaine Gregersen

<https://orcid.org/0000-0002-0621-8444>

Northumbria Law School

Abstract

Autoethnography, a research method that uses lived experience as data, has grown steadily in prominence over the past two decades. Once a marginal approach, autoethnographic research is now recognised across disciplines, with dedicated conferences, textbooks and journals. Legal scholarship has begun to engage with autoethnography more recently, with applications emerging across legal education, legal practice, and doctoral research.

This growing body of work represents a welcome methodological expansion within the legal academy. At the same time, it marks a critical moment for autoethnography's development in law. As interest in the approach increases, three interrelated challenges have become apparent. First, autoethnography is sometimes conflated with reflective or autobiographical writing, overlooking the thick description and analytical rigour the method demands. Second, to date, the breadth of autoethnographic practice remains underutilised within law; the field has yet to engage fully with the diversity of forms and frameworks available. The

third and most complex challenge relates to ethical risk. Questions of researcher vulnerability and self-care remain insufficiently addressed within legal autoethnography.

This paper traces the emergence of autoethnography in legal research and offers a critical examination of its possibilities, its perils, and the ethical complexities that accompany its practice. In doing so, it argues for a more methodologically informed and ethically attentive engagement with autoethnography in law.

Keywords: autoethnography, lived experience research, ethics, researcher self-care.

Article Text

1. Introduction

During the past two decades, autoethnography – a contemporary qualitative approach where researchers use their own lived experience as data – has found a greater level of acceptance within the academy. Once dismissed as ‘an intellectual *cul de sac*’¹ or even ‘artsy-craftsy literary exercises’,² it has gained a foothold in numerous disciplines across the social sciences, humanities and beyond. Where once introspection and narrative may have been viewed with suspicion,³ today they are recognised as part of a nuanced, complex, and ethically engaged

¹ Sara Delamont, ‘The only honest thing: autoethnography, reflexivity and small crises in fieldwork’ (2009) 4 *Ethnography and Education* 51, 61.

² Clinton R Sanders, ‘Prospect for a post-modern ethnography’ (1999) 28 *Journal of Contemporary Ethnography* 669, 672.

³ Ellis’s work – individually and collaboratively – makes a major contribution to our understanding of the historical development of autoethnography, including criticism levelled at it. See: Carolyn Ellis, *The Ethnographic I: A Methodological Novel about Autoethnography* (AltaMira Press 2004); Carolyn Ellis, Tony E Adams and Arthur P Bochner, ‘Autoethnography: An Overview’ (2011) 12 *Forum: Qualitative Social Research* 1; Tony E. Adams, Stacy Holman Jones and Carolyn Ellis, *Autoethnography* (Oxford University Press 2015); Arthur P Bochner and Carolyn Ellis, *Evocative Autoethnography: Writing Lives and Telling Stories* (Routledge 2016).

understanding of the social world.⁴ This marks a profound shift in what counts as legitimate knowledge and who gets to produce it.

The transformation is visible in the institutional landscape. For example, in 2020 the Journal of Autoethnography became the first journal solely dedicated to the practice of autoethnography as a method of inquiry. High-profile international conferences also feature dedicated panels on autoethnographic inquiry,⁵ and leading research journals have produced special issues showcasing creative and reflexive approaches to writing.⁶ In addition, the proliferation of experimental works – including visual and performative autoethnographies⁷ – signals a wider movement toward methodological variety. Autoethnography is no longer a maverick newcomer; it has become a dynamic component of contemporary research practice.

Within legal research, this shift is particularly interesting. Law has traditionally valued doctrinal precision – precedent, objectivity and the ‘black letter’ that guides us. Yet, legal scholars are increasingly grappling with autoethnography in a range of contexts, including legal education, legal practice, and doctoral research. As each year passes, more legal

⁴ Scholars talk about autoethnography having ‘flourished’ – see Tony E Adams and Andrew F Herrmann, ‘Expanding Our Autoethnographic Future’ (2020) 1 Journal of Autoethnography 1.

⁵ A selection of conferences taking place in 2026 include: International Conference of Autoethnography (yearly), “Narrating Lives”: International Conference on Storytelling, (Auto)Biography and (Auto)Ethnography (London Centre for Interdisciplinary Research in collaboration with University of Cyprus), and the International Symposium of Autoethnography and Narrative Inquiry. The 2026 American Educational Research Association conference has a specific Narrative Research Special Interest Group that focuses on narrative inquiry and related methods such as autoethnography.

⁶ See, for example: Genealogy, Mental Health and Social Inclusion, New Horizons in Adult Education and Human Resource Development, and Journal of Organizational Ethnography.

⁷ See, for example, Maria Marta Andreatta, ‘Being a vegan: A performative autoethnography’ (2015) 15 Cultural Studies↔Critical Methodologies 477; Tami Spry, ‘Who are “we” in performative autoethnography?’ (2017) 10 International Review of Qualitative Research 46; Clare Williams, ‘A Visual Autoethnography of a PhD Journey’ (2021) 3 Amicus Curiae 391; Elissa Foster, ‘There Was an Old Woman Who... Lost Patience With the Academy and Performed Her Frustration at a Public Meeting’ (2023) 23 Cultural Studies↔Critical Methodologies 529.

autoethnography emerges,⁸ demonstrating that law is not just a system of rules but also an embodied experience that is felt in a profoundly personal way.

This is, however, a critical time for autoethnography's place within the legal academy. Three interrelated challenges have emerged. First, there is a danger that 'personal' or 'reflective' writing may be erroneously labelled as autoethnographic without any real understanding of the deep theoretical, methodological and ethical work autoethnographers must undertake.⁹ Autoethnography is not merely confession; it is also a critique of cultural norms, experience and practice and seeks a reciprocal response from audiences.¹⁰ Without greater rigour, there is a danger that autoethnography becomes a catch-all term for any form of self-narrative, rather than the nuanced and complex research method it is.

A second challenge concerns the breadth of autoethnographic practice itself. Autoethnography has several genres, from evocative and artistic styles¹¹ to analytic¹² and

⁸ See the statistics provided in Elaine Campbell, 'Exploring Autoethnography as a Method and Methodology in Legal Education Research' (2016) 3 *Asian Journal of Legal Education* 95; Elaine Gregersen, 'The lived experience of a university law clinic supervisor: an autoethnographic inquiry' (PhD thesis, Northumbria University 2019); Elaine Gregersen, 'Telling stories about the law school: autoethnography and legal education' (2022) 56 *The Law Teacher* 24.

⁹ See, for example, Tony E Adams and Andrew F. Herrmann, 'Making a Case for Autoethnography' (2025) 6 *Journal of Autoethnography* 1. In this editorial, Adams and Herrmann offer advice to scholars who want to try autoethnography but are worried about justifying its use to advisors, colleagues and editors. As part of their advice, they note that good autoethnography requires thick description – 'what's happening, whether it's exploring space and place, living through psychotic episodes, cruising for sex, going through dialysis, or trying to understand errors and absences in family stories' (3).

¹⁰ Tony E. Adams, Stacy Holman Jones and Carolyn Ellis, *Autoethnography*.

¹¹ For an excellent in-depth exploration of evocative autoethnography, see: Bochner and Ellis, *Evocative Autoethnography*.

¹² Leon Anderson, 'Analytic Autoethnography' (2006) 35 *Journal of Contemporary Ethnography* 373; Kevin D Vryan, 'Expanding Analytic Autoethnography and Enhancing Its Potential' (2006) 35 *Journal of Contemporary Ethnography* 405.

collaborative forms.¹³ To date, within legal research this diversity is underutilised. Some scholars in law are beginning to position their work within these traditions – such as visual autoethnography that combines text and computer gaming to explore the culture of the doctoral journey¹⁴ – but these remain exceptions. The majority of autoethnographic studies in law adopt the method in a general sense, often without specifying which strand or genre of autoethnography informs their design. As a result, the sophistication evident in other disciplines has yet to be fully realised in legal autoethnographic research. This, in turn, risks halting the conceptual richness of our work.

The most complex challenge, however, relates to ethical risk. Autoethnography is, by its very nature, intensely personal and often seen as ‘dodgy ground’.¹⁵ Life writing may produce important insights into the cultural climate of the day, but it also exposes – in perpetuity – stories that cannot be taken back.¹⁶ This may have repercussions for identifiable third parties who appear in the story *and* for the author. Indeed, new autoethnographers, buoyed by exuberance for the method, may inadvertently enter dangerous territory. Institutions and

¹³ Lydia Arnold, ‘Doing Collaborative Autoethnography’ (6 August 2020) <https://lydia-arnold.com/2020/08/06/doing-collaborative-autoethnography> accessed 26 November 2025; Emma Nordbäck, Marko Hakonen and Janne Tienari, ‘Academic identities and sense of place: A collaborative autoethnography in the neoliberal university’ (2022) 53 *Management Learning* 331; Samantha Wilkinson and Catherine Wilkinson, ‘Performing care: emotion work and ‘dignity work’ – a joint autoethnography of caring for our mum at the end of life’ (2020) *Sociology of Health & Illness* 1.

¹⁴ Williams, ‘A Visual Autoethnography of a PhD Journey’.

¹⁵ Pat Sikes, ‘On dodgy ground? Problematics and ethics in educational research’ (2006) 29 *International Journal of Research & Method in Education* 105.

¹⁶ Carolyn Ellis has written about the emotional and ethical conflicts that emerged when she conducted fieldwork between 1972 and 1984 in isolated fishing communities, later published as *Fisher Folk: Two Communities on Chesapeake Bay* (University of Kentucky Press 1986). In a reflective account, Ellis recounts conversations with members of the community on her return to ‘Fishneck’, including one participant’s response: ‘I thought we was friends, you and me, just talkin’. I didn’t think you would put it in no book.’ See Carolyn Ellis, ‘Emotional and Ethical Quagmires in returning to the field’ (1995) *Journal of Contemporary Ethnography* 68,79.

doctoral supervisors are still learning how to support such work,¹⁷ particularly within law where traditional ethical risk assessments are not necessarily designed for autoethnographic research. These tensions are not unique to legal research, however. Similar ethical challenges have been documented in other tightly regulated professions, such as social work¹⁸, suggesting that legal scholarship may be encountering issues that neighbouring fields have already begun to navigate. Law can therefore learn from the strategies (and missteps) of those adjacent disciplines. Above all, addressing ethical risk is central to the credibility and sustainability of autoethnography within law.

This article argues that autoethnography's transition from the margins to the mainstream of legal research represents both possibility and peril. On the one hand, autoethnography enables legal scholars to interrogate how the law operates in the world. On the other, its rapid uptake – without a deep understanding of the history of the method and the diverse ways in which it can be employed – risks superficiality and therefore dilution.

The discussion proceeds in three parts. The first part provides an overview of the history of autoethnography, outlining its evolution within the broader landscape of qualitative inquiry. The second part traces the emergence of autoethnography within legal research, highlighting

¹⁷ Sally Sambrook, Jim Stewart and Clair Roberts, 'Doctoral supervision... a view from above, below and in the middle!' (2008) 32 *Journal of Further and Higher Education* 71; Jess Moriarty, 'Leaving the blood in: Experiences with an autoethnographic doctoral thesis' in Nigel Short, Lydia Turner and Alec Grant (eds), *Contemporary British Autoethnography* (Sense Publishers 2013); Tony E Adams and Andrew F Herrmann, 'Making a Case for Autoethnography' (2025) 6 *Journal of Autoethnography* 1.

¹⁸ See, for example, Sarah Banks, *Ethics and Values in Social Work* (5th edn, Red Globe Press 2021) and Jan Fook, *Social Work: A Critical Approach To Practice* (Sage Publication 2012). One of the most confronting discussions of ethical exposure and narrative responsibility appears in Kathy Charmaz, 'Stories of Suffering: Subjective Tales and Research Narratives' (1999) 9 *Qualitative Health Research* 362.

key developments and studies from legal education, legal practice and doctoral experience that illustrate methodological innovation. The final part offers a critical analysis of the benefits and pitfalls of autoethnographic practice, focussing on the need for greater understanding of self-care in the field. In presenting my arguments in this way, I aim to contribute to a more nuanced understanding of autoethnography's role in shaping the future of legal scholarship.

2. The evolution of autoethnography

The genesis of the term *autoethnography* can be traced to Karl Heider, who in 1975 used it to describe the process by which members of a culture might give accounts of their own experiences within that culture.¹⁹ Two years later, Kenneth Hayano developed the concept further, referring to the phenomenon of ethnographers conducting 'ethnographies of their own people'.²⁰ Hayano first encountered the term in Sir Raymond Firth's 1966 structuralism seminar at the London School of Economics, where Firth recalled an earlier debate in Bronisław Malinowski's seminar some three decades prior.²¹ That discussion had, as Hayano noted, 'pointedly raised the question of judging the validity of anthropological data by assessing the characteristics, interests, and origin of the person who did the fieldwork.'²²

Through Heider and Hayano, *autoethnography* entered the research lexicon, yet early conceptualisations maintained a clear division between researcher and researched. At that stage, autoethnography was conceived primarily as *ethnography about one's own people*

¹⁹ Karl G. Heider, 'What Do People Do? Dani Auto-Ethnography' (1975) 31 *Journal of Anthropological Research* 3.

²⁰ David M. Hayano, 'Auto-Ethnography: Paradigms, Problems, and Prospects' (1979) 38 *Human Organization* 99, 99.

²¹ *Ibid.*

²² *Ibid.*, 100.

rather than *ethnography about oneself*. It would be several decades before scholars began to explore autoethnography as an inward, reflexive practice capable of interrogating the researcher's own position, identity, and emotional entanglement with the research process. Personal accounts and reflexive modes of inquiry were marginalised – dismissed as a 'niche product' written only by 'a few conservative historians and [...] a handful of social scientists rebelling against the casual orthodoxies of their disciplines.'²³ Quantitative analysis, driven by positivist assumptions of neutrality and replicability, dominated the research landscape.²⁴

Ellis offers a striking illustration of this academic climate. Reflecting on her early graduate training, she recalls being instructed to eliminate any trace of subjectivity from her work. Among her archived course materials from 1975 is a handout that reads: 'Ideally one's field notes should be such that an independent reader could take them and arrive at the same inferences and explanations as oneself.'²⁵ At the time, her personal experience as a researcher was not considered a legitimate site of knowledge production, at least not in published scholarship.

Yet, as Atkinson cautions, it is 'far too easy - and misleading'²⁶ to ascribe an absence of reflexivity to earlier generations of researchers. Some exceptions demonstrate that self-awareness and experiential reflection were present, even if not under the title of autoethnography. Wallace's short but compelling account of 'a typical day at the office'

²³ Andrew Abbott, 'Against Narrative: A Preface to Lyrical Sociology' (2007) 25 *Sociological Theory* 67, 69.

²⁴ Ellis, Adams and Bochner, 'Autoethnography: An Overview'; Adams, Holman Jones and Ellis, *Autoethnography*; Bochner and Ellis, *Evocative Autoethnography: Writing Lives and Telling Stories*.

²⁵ Ellis, *The Ethnographic I: A Methodological Novel about Autoethnography*, 15-16.

²⁶ Paul Atkinson, 'Rescuing Autoethnography' (2006) 35 *Journal of Contemporary Ethnography* 400, 400.

exemplifies this.²⁷ He justified a reflective approach to anthropological work by arguing that ‘in the field neither interviewing nor participant observation is quite enough. One needs not merely to question, observe, and imitate; one needs to be able to feel that one has done a similar thing ‘for real’ back home.’²⁸

Ellis herself would later embody this reflexive stance in her ethnographic studies of small fishing communities in the United States, where she examined social organisation, family life, and working practices.²⁹ Rejecting the role of neutral observer prescribed by her training, she became increasingly aware of how her own emotions and experiences informed her understanding of others.³⁰ Although her early publications did not explicitly foreground this reflexivity, she later acknowledged that she would ‘sneak’³¹ herself into her writing through narrative vignettes – an embryonic form of what would later be recognised as autoethnographic storytelling. This period of methodological constraint, punctuated by moments of quiet resistance, set the stage for the emergence of autoethnography as a mode of inquiry.

By the 1980s, an influx of new voices across the humanities and social sciences began to challenge accepted perspectives on writing, method, and representation.³² Scholars sought

²⁷ Anthony FC Wallace, ‘A Day at the Office’ in Solon Toothaker Kimball and James Bennett Watson (eds), *Crossing Cultural Boundaries: The Anthropological Experience* (Chandler 1972), 193.

²⁸ *Ibid.*, 195.

²⁹ Carolyn Ellis, *Fisher Folk: Two communities on Chesapeake Bay* (University Press of Kentucky 1986).

³⁰ Bochner and Ellis, *Evocative Autoethnography: Writing Lives and Telling Stories*; Ellis, *The Ethnographic I: A Methodological Novel about Autoethnography*.

³¹ Bochner and Ellis, *Evocative Autoethnography: Writing Lives and Telling Stories*, 26.

³² Carolyn Ellis and Arthur P Bochner, ‘We Can Tell You Stories: Politics, Pleasure and Pain in Qualitative Inquiry’ (YouTube, 2014) https://www.youtube.com/watch?v=FKZ-wuJ_vnQ#:~:text=Autoethnography%20in%20Qualitative%20inquiry%20%2D%20Professor,This%20content%20isn't%20available accessed 26 November 2025.

to bridge literature, philosophy, and social science, producing work that questioned long-held assumptions about objectivity and the nature of truth in research. Some of the most venerated notions of scientific validity were explicitly contested by postmodern and post-structuralist thinkers such as Richard Rorty³³ and Jean-François Lyotard.³⁴ Their work collectively pushed against the authority of positivism and re-centred meaning, interpretation, and narrative as legitimate practices.

In this climate, researchers in anthropology, sociology, communication studies, and feminist inquiry began writing and advocating for personal narrative, subjectivity, and reflexivity in research.³⁵ The resulting methodological shift has come to be known as the Crisis of Representation.³⁶ Marcus and Fischer describe the Crisis of Representation as ‘pervasive’,³⁷ with challenges to traditional empiricism emerging not only in the social sciences but also across art, literature, economics, and even mathematics. It was, they argued, a period ‘rich in experimentation and conceptual risk-taking’³⁸ during which dominant epistemological structures were ‘suspended’.³⁹

The 1990s represented a fertile period of growth for experimental and narrative forms of qualitative inquiry. Scholars sought new ways to represent lived experience, blending

³³ Richard Rorty, *Consequences of Pragmatism (Essays 1972-1980)* (University of Minnesota Press 1982).

³⁴ Jean-François Lyotard, *The Postmodern Condition: A Report on Knowledge* (University of Minnesota Press 1984).

³⁵ Adams, Holman Jones and Ellis, *Autoethnography*.

³⁶ George E Marcus and Michael M J Fischer, *Anthropology as Cultural Critique: An Experimental Moment in the Human Sciences* (2nd edn, University of Chicago Press 1999); Ellis, Adams and Bochner, ‘Autoethnography: An Overview’.

³⁷ Marcus and Fischer, *Anthropology as Cultural Critique*, 7.

³⁸ *Ibid.*, 10.

³⁹ *Ibid.*, 10.

ethnographic observation with personal reflection and creative expression. Ellis and Flaherty's landmark collection, *Investigating Subjectivity: Research on Lived Experience*, foregrounded subjectivity as a legitimate site of research and included contributions from several scholars who would become central to the autoethnographic movement.⁴⁰ This decade also saw personal narrative gain increasing methodological visibility within major academic handbooks. The first edition of Denzin and Lincoln's *Handbook of Qualitative Research*, for example, included a dedicated chapter on Personal Experience Methods.⁴¹ This inclusion marked an institutional acknowledgement that self-narrative and experience-based inquiry were not merely stylistic innovations but legitimate methodological approaches.

In 1999, Bochner and Ellis conducted a search for scholarly articles and book chapters that were explicitly identified as autoethnography. They found fewer than forty such publications.⁴² A decade later, Muncey reported a similar experience. While preparing her book *Creating Autoethnographies*, she maintained a record of publications listed in the Web of Science database under the keyword 'autoethnography'.⁴³ Between 1990 and 2002, her list never exceeded five items.⁴⁴ The early 2000s, however, marked a decisive turning point. Muncey observed that from 2003 onwards, a minimum of thirty-five autoethnography-related publications appeared annually in the database.⁴⁵

⁴⁰ Carolyn Ellis and Michael G Flaherty, *Investigating Subjectivity: Research on Lived Experience* (Sage 1992).

⁴¹ Jean D Clandinin and Michael F Connelly, 'Personal Experience Methods' in Norman K Denzin and Yvonna S Lincoln (eds), *Handbook of Qualitative Research* (Sage 1994).

⁴² Bochner and Ellis, *Evocative Autoethnography: Writing Lives and Telling Stories*.

⁴³ Tessa Muncey, *Creating Autoethnographies* (SAGE Publications Ltd. 2010).

⁴⁴ Ibid.

⁴⁵ Ibid.

By the mid-2010s, the pace of growth had accelerated dramatically. Bochner noted that autoethnography had evolved from a marginal practice to a ‘burgeoning interest’⁴⁶ within qualitative research. Search data underscore this expansion. In April 2017, my own Google Scholar query for ‘autoethnography’ returned approximately 28,400 results;⁴⁷ by January 2019, that number had increased to 38,500.⁴⁸ I repeated the same search in October 2025 whilst preparing this paper. It had risen significantly – to 133,000. In February 2026, it had increased again to 148,000 results. While such figures must be interpreted cautiously, they nevertheless signal a striking shift in the visibility and legitimacy of autoethnographic work across the academy.

You will note that I have not produced a chronology of autoethnography’s presence within legal research. While autoethnography has become increasingly established across a range of disciplines, its uptake within legal scholarship has been comparatively limited. Law’s emphasis on doctrinal analysis and objective detachment has traditionally left little space for reflexivity and self-representation. As a result, legal engagement with autoethnography has tended to emerge in isolated pockets. Nonetheless, a small but significant body of work has begun to explore how autoethnographic methods can illuminate the lived experience of legal pedagogy, legal practice, and doctoral research. Though limited in number, these studies are an indication of legal scholars’ desire to embrace contemporary, creative methods alongside more customary designs. The sections that follow examine these engagements thematically.

⁴⁶ Arthur P Bochner, ‘On first-person narrative scholarship: Autoethnography as acts of meaning’ (2012) 22 *Narrative Inquiry* 155.

⁴⁷ Elaine Gregersen, *The lived experience of a university law clinic supervisor: an autoethnographic inquiry*.

⁴⁸ *Ibid*.

3.1 Autoethnography and legal pedagogy

Legal education has provided some of the earliest and most fertile ground for autoethnographic experimentation, much of it emerging from my own engagement with the method. My interest in autoethnography began in 2010 when I commenced a part-time Professional Doctorate in Law. Determined to write from within my lived experience as a pro bono law clinic supervisor, I sought a methodology that aligned with my interpretive and creative orientation toward research. That search led me to autoethnography, which offered both the rigour and the expressive latitude to examine my own practice.

Since that time, I have published a series of studies including my doctoral thesis that explore the complexities of supervision and professional identity formation in university pro bono law clinics. Across these works, I employ personal narrative and reflective vignettes to interrogate how the shifting identities of mentor, tutor, colleague and friend are negotiated within the microcosm of the clinic.⁴⁹ The autoethnographic approach allows for an intimate examination of the relational labour that regularly underpins legal education, but which often remains invisible within doctrinal scholarship.

More recently, Higson-Bliss has broadened this pedagogical thread and utilised an evocative narrative style to reflect on her first year as a law lecturer.⁵⁰ By exploring the tensions between personal authenticity and institutional expectations, her work reveals the challenges faced by

⁴⁹ See, for example, Elaine Campbell, 'Reconstructing my identity: an autoethnographic exploration of depression and anxiety in academia' (2018) 7 *Journal of Organizational Ethnography* 235; Elaine Gregersen, 'Telling stories about the law school: autoethnography and legal education' (n 8); Elaine Gregersen, 'The Emotional Impact of Law Clinic Supervision: An Autoethnography', *Contemporary Challenges in Clinical Legal Education* (Routledge 2023).

⁵⁰ Laura Higson-Bliss, "'I'm my own biggest critic': an autoethnographic reflection on an early-career researcher's first year as a lecturer in law' (2023) 57 *The Law Teacher* 513.

early-career academics navigating performative professionalism within legal education. Importantly, this study also offers a candid reflection on the challenges of adopting an autoethnographic stance. It demonstrates a level of methodological awareness that does not always appear in all legal scholarship aligning itself with autoethnography.

Other autoethnographic engagements with pedagogic research include reflections on changes in teaching practice within a foundation module in law⁵¹ and efforts to connect with students through research blogging.⁵² A further example is an autoethnographic account of the design and delivery of an undergraduate elective Law and Emotion module.⁵³

The prominence of pedagogic literature within legal autoethnography suggests that teaching has provided an accessible entry point for experiential and narrative methods within law. Autoethnography enables law teachers to interrogate their own practice and position within institutional structures, while challenging assumptions about authority and expertise in the classroom. Importantly, these studies also illustrate the vulnerabilities involved in adopting an autoethnographic approach, including concerns about exposure and academic credibility.

3.2 Autoethnography and legal practice

Beyond legal education, autoethnography has been taken up more selectively within accounts of legal practice. Where it does appear, it is most often mobilised to interrogate the lived

⁵¹ Alicia Danielsson, 'An autoethnographic study of a research and teaching for transformative Education Journey in Foundation law teaching—preparing diverse students for law school' (2021) 3 International Journal of Multidisciplinary and Current Educational Research 68.

⁵² Barry Yau, 'Reshaping the teaching—research nexus: connecting with students through research blogging (with an autoethnographic perspective) before they become lawyers' (2019) 54 The Law Teacher 261.

⁵³ Senthoran Raj, 'Teaching feeling: bringing emotion into the law school' (2020) The Law Teacher 1.

realities of legal work characterised by high levels of emotional labour and ethical tension. This section examines how autoethnography has been used to explore legal practice in family law, sports law, environmental law, asylum law, and criminal law, with family law representing the most coherent and sustained site of autoethnographic development.

Family law

Many of the family law studies using autoethnography have reflected the emotionally charged nature of the work.⁵⁴ Restrictions on legal aid has intensified pressures on practitioners, clients, and the courts. In turn this has created conditions ripe for reflexive inquiry into the human experience of family justice. The Family Bar, in particular, has emerged as a key site of self-examination through narrative and personal story, with scholars turning to autoethnography to make sense of the realities of practice.

One strand of this research interrogates how practitioners survive and sustain themselves within a system perceived as ‘nearing collapse’.⁵⁵ For example, Holt and Thomson’s study provides a rich illustration of this movement. Drawing on eighteen months of experience practising at the Family Bar, their research captures the acute pressures and moral tensions of contemporary family justice work. They lay bare the emotional toll of the lack of involvement of the child in proceedings, the delays in court cases, and the challenges for litigants in person and domestic abuse victims. Through these accounts, they reveal the human costs of

⁵⁴ In particular, in England and Wales, the profound structural challenges that have characterised the aftermath of the Legal Aid, Sentencing and Punishment of Offenders Act 2012.

⁵⁵ Kim Holt and Callum Thomson, ‘Autoethnography: a personal reflection on the work of the family bar in the North of England’ (2023) 45 *Journal of Social Welfare and Family Law* 62, 76.

austerity-driven reform whilst also highlighting the skills and attributes demonstrated by barristers to ‘prop up’⁵⁶ the system. Their work demonstrates the potential of autoethnography not merely to document experience but to critique institutional structures that normalise vulnerability, retraumatisation, and hostility.

Other contributions focus on the embodied and psychological dimensions of legal work. Thomson and Richardson, for example, explore vicarious trauma among family law practitioners, drawing on personal experiences of wellbeing first as students and later in practice.⁵⁷ Their dialogic and reflective approach exposes how a ‘work hard, play hard’ professional culture – coupled with a lack of openness about the emotional burden of casework – can erode mental health.⁵⁸ By articulating these experiences, their work highlights the role of autoethnography as both a method of inquiry and a form of self-care, offering a structured means to process and articulate experiences that might otherwise remain suppressed.

Holt and Kelly have extended this trajectory by employing symbiotic autoethnography to analyse the transformation of legal space and time during the COVID-19 pandemic.⁵⁹ By situating lived experience within the wider systemic shift to digital hearings, they interrogate how technological mediation reshapes advocacy, access to justice, and the rhythm of

⁵⁶ Ibid., 77.

⁵⁷ Callum Thomson and Kayliegh Richardson, ‘Wellbeing and Vicarious Trauma: Personal Reflections on Support for Students, Practitioners and Clinicians in Family Law’ in Emma Jones and Caroline Strevens (eds), *Wellbeing and Transitions in Law: Legal Education and the Legal Profession* (Springer 2023).

⁵⁸ Ibid.

⁵⁹ Kim Holt and Nancy Kelly, ‘Time, public and personal space, safe and just systemic change: a symbiotic autoethnographic study of remote digital hearings within the English Family Courts between March 2020 and October 2023’ (2024) 46 *Journal of Social Welfare and Family Law* 602.

courtroom life. This symbiotic approach, as proposed by Beattie,⁶⁰ represents a methodological evolution – one that integrates personal narrative with institutional critique to explore the conditions under which sustainable systemic change might occur.

Together, these studies reveal that emotional and psychological engagement with legal work is essential to understanding the realities of family practice. They demonstrate that autoethnography can operate as both mirror and method, reflecting the lived experience of the family justice system while offering new means to articulate systemic challenges.

Sports Law

Autoethnography has also found a home in more specialised corners of legal and regulatory scholarship, such as sports law. For example, Cox, Dickson, and Cox utilise a collective autoethnographic approach to chart their campaign to remove the prohibition on headscarves in women's football.⁶¹ Their study interweaves personal experience with critical analysis of sports governance and gendered power relations, offering a compelling example of how lived experience can drive both legal advocacy and scholarly critique. Elsewhere, autoethnographic methods have been used to interrogate the systemic failures surrounding athlete safeguarding. One analytic autoethnography, for example, written from the perspective of a federation director, examines the development of a reporting protocol after multiple harassment allegations were raised against a university cheerleading coach in

⁶⁰ Liana Beattie, *Symbiotic Autoethnography: Moving Beyond the Boundaries of Qualitative Methodologies* (Bloomsbury Academic 2022).

⁶¹ Michele Cox, Geoff Dickson and Barbara Cox, 'Lifting the veil on allowing headscarves in football: A co-constructed and analytical autoethnography' (2017) 20 Sport Management Review 522.

Brazil.⁶² These works show autoethnography's capacity to bridge activism, law, and personal narrative, situating the researcher as both participant *and* change agent.

Other examples

Outside family and sports law, autoethnography has occasionally been deployed as a means of challenging disciplinary norms within more doctrinally entrenched fields. For example, Brooks' provocative account of conducting environmental law research through radical autoethnographic methods has been described as 'unorthodox' and 'stimulating for [its] unconventionality'.⁶³ A similar comment might be levelled at Arvidsson and Noll's autoethnographic reflections on data wrangling and discretion in asylum law, especially with its use of machine learning.⁶⁴

Most recently, autoethnography was employed to a London police officer's enforcement of the misuse of drugs law.⁶⁵ The researcher recounts his relationships with individuals experiencing homelessness, mental health conditions and substance dependence, as well as the visibility of the local drugs trade. Through these reflections, he advocates for a cultural shift towards public health-orientated and trauma-informed policing. As he observes, 'Daily, I had to navigate the tension between legal mandates and the complex realities of vulnerability

⁶² William F Santana, "'I Don't Know Where to Report What Happened': An Analytical Autoethnography on Developing a Protocol to Prevent Harassment and Abuse in Cheerleading' (2025) 1 *Sociology of Sport Journal* 1.

⁶³ Victoria Brooks, 'F#cking research ethics through radical method: autoethnography and the field of environmental law', in Andreas Philippopoulos-Mihalopoulos and Victoria Brooks (eds) *Research Methods in Environmental Law* (Edward Elgar Publishing 2017)

⁶⁴ Matilda Arvidsson and Gregor Noll, 'Decision Making in Asylum Law and Machine Learning: Autoethnographic Lessons Learned on Data Wrangling and Human Discretion' (2023) 92 *Nordic Journal of International Law* 56.

⁶⁵ Julia Ryland and Benjamin D Scher, 'Following the evidence-base or exacerbating harms? An autoethnography of a London metropolitan police officer' (2024) 11 *Journal of Criminological Research, Policy and Practice* 195.

and addiction.⁶⁶ This study underscores autoethnography's capacity to provide insight into the operation of the law on the ground, and paves the way for similar studies located in legal institutions.

3.3 Autoethnography in law doctorates

Doctoral research has become another important site for autoethnographic innovation in law, particularly in relation to questions of identity, positionality, and the ethics of fieldwork. For doctoral researchers, methodological choices are often inseparable from institutional scrutiny and professional transformation.⁶⁷ In this context, autoethnography offers doctoral candidates a means to document research experience as they unfold and expose the demands of becoming a legal scholar in the academy.

One strand of doctoral autoethnography centres on fieldwork and the emotional labour required to gain and keep access. A study grounded in ethnographic engagement with defence lawyers in Norwegian rape trials, for example, illustrates the complexity of rapport-building in this sensitive legal setting.⁶⁸ The account exposes the tensions between access and trust in qualitative work, and the moral and interpersonal questions that arise in the everyday negotiations of this type of research. Autoethnography in this context functions as a reflexive tool through which the researcher can interrogate their own positionality and vulnerability within the field.

⁶⁶ Ibid., 199.

⁶⁷ One of the most compelling accounts of the doctoral experience is offered by Jess Moriarty, who reflects on the vulnerabilities and methodological tensions of autoethnographic doctoral research. See: Moriarty, 'Leaving the blood in'.

⁶⁸ Anne Bitsch, 'The micro-politics of emotions in legal space: An autoethnography about sexual violence and displacement in Norway' (2018) 25 *Gender, Place & Culture* 1514.

A different strand turns the gaze inward to the experience of the candidacy itself. An exciting addition to this literature is Williams' multi-modal autoethnography, tracing the emotional and intellectual contours of her PhD experience whilst confronting issues of academic precarity, identity, and belonging.⁶⁹ By blending narrative and visual forms, her work challenges conventional expectations of legal scholarship, positioning creativity and vulnerability as valid modes of inquiry. In doing so, this autoethnography challenges the conceptualisation of doctoral study as a private struggle and positions it as a communal experience worthy of creative examination.

Together, these studies demonstrate how autoethnography can operate as both a method and a support structure for early-career researchers. They illustrate autoethnography's potential as doctoral candidates navigate the boundaries between self, scholarship, and institutional authority. Though still limited in number, these doctoral autoethnographies also signal a generational shift in legal academia – one where personal narrative, when done well, is increasingly recognised as a source of methodological depth.

4. The possibilities and perils of autoethnographic practice for lawyers

Possibilities: diversity and the power of storytelling

Autoethnography's appeal lies in its openness: it encompasses a diverse range of genres and expressive forms that invite creativity, inclusivity, and experimentation. Far from a singular method, it is better understood as a family of genres that move between the evocative and

⁶⁹ Williams, 'A Visual Autoethnography of a PhD Journey'.

the analytical.⁷⁰ Scholars may write through poetry,⁷¹ poetic-narrative,⁷² diaries,⁷³ or drama;⁷⁴ others turn to the visual – drawing, photography, or film⁷⁵ – to render their experiences. The rise of collaborative and duo-ethnographies⁷⁶ add yet another dimension, using storytelling to examine shared professional or cultural lives. This diversity means that autoethnography offers an entry point for almost every kind of researcher: those drawn to artistic expression, those more inclined to traditional and analytic forms, and those working across disciplinary or methodological boundaries.

Alongside its expressive opportunities, autoethnography also has a profound political significance. Storytelling itself becomes a mode of critique – a way to contest what Lyotard called the ‘grand narratives’⁷⁷ through which dominant groups legitimise knowledge and silence others. Legal scholarship has long been shaped by the authority of the white, male, non-disabled, and socio-economically privileged voice. Autoethnographic storytelling from a range of writers helps us to acknowledge that experience at the margins is not anecdotal but

⁷⁰ For an in-depth discussion of analytic autoethnography, see the special issue of the *Journal of Contemporary Ethnography* (vol 35, issue 4, August 2006).

⁷¹ See, for example, David Ian Hanauer, ‘Mourning writing: A poetic autoethnography on the passing of my father’ (2021) 27 *Qualitative Inquiry* 37; Shawn Anthony Robinson, ‘“Me against the world”: Autoethnographic poetry’ (2017) 32 *Disability & Society* 748.

⁷² David I Hanauer, ‘Growing up in the unseen shadow of the kindertransport: A poetic-narrative autoethnography’ (2012) 18 *Qualitative Inquiry* 845.

⁷³ Jarrett Neal, ‘Private Pages, Public Spaces: Diaries and Autoethnography’ (2020) 1 *Journal of Autoethnography* 425.

⁷⁴ Ronald J Ricci, ‘Autoethnographic verse: Nicky’s boy: a life in two worlds’ (2003) 8 *The Qualitative Report* 591.

⁷⁵ Caroline Scarles, ‘Where words fail, visuals ignite: Opportunities for visual autoethnography in tourism research’ (2010) 37 *Annals of Tourism Research* 905; Terry Ownby, ‘Critical visual methodology: Photographs and narrative text as a visual autoethnography’ (2013) 2 *Online Journal of Communication and Media Technologies* 1; Anna Hunter, ‘Snapshots of selfhood: Curating academic identity through visual autoethnography’ (2020) 25 *International Journal for Academic Development* 310; Williams, ‘A Visual Autoethnography of a PhD Journey’.

⁷⁶ In terms of one of the most thoughtful duo-autoethnographic contributions, I am especially drawn to Wilkinson and Wilkinson’s ‘Performing Care: Emotion Work and “Dignity Work” – A Joint Autoethnography of Caring for Our Mum at the End of Life’.

⁷⁷ Jean-Francois Lyotard, *The Postmodern Condition*.

constitutive of law's reality. By making the invisible visible,⁷⁸ autoethnography allows those who are often excluded from legal discourse – students, junior practitioners, carers, disabled people, and individuals from racialised or queer communities – to narrate their encounters with law and legal education on their own terms.

Perils: uneven standards and ethical tensions

While autoethnography's openness and inclusivity have fuelled its growth, these same qualities create the potential for misunderstanding and methodological dilution. In some areas of legal research, 'autoethnography' is used almost interchangeably with 'reflection' – as if any first-person account of professional experience automatically qualifies as methodological autoethnography. This slippage risks reducing a rich tradition of deep work into a stylistic choice, and encourages superficial self-expression rather than truly self-analytical scholarship.

A related problem stems from a lack of engagement with the history of the method. Despite a growing body of literature spanning four decades, many legal researchers employ the label *autoethnographic* without reference to the foundational work which has shaped the field. The result is a potential inconsistency in quality. For example, I recently came across a doctoral thesis that positioned itself as autoethnography but contained no citations from autoethnographic literature at all. Without methodological literacy, published

⁷⁸ Nigel P. Short, Lydia Turner and Alec Grant, 'Acknowledgements' in Nigel P. Short, Lydia Turner and Alec Grant (eds), *Contemporary British Autoethnography* (Sense Publishers 2013).

autoethnography risks losing the reflexive, ethical, and analytical depth that distinguishes it from mere personal reflection.

Autoethnography also raises complex ethical tensions. Writing about our own experience inevitably involves others – family members, colleagues, students, clients – whose lives intersect with our narrative. Ellis describes this as the problem of relational ethics: the responsibility to protect the dignity and privacy of intimate others even as we write our own truths.⁷⁹ This act of representation involves a delicate balance between authenticity and potential harm. The challenge lies in how to act responsibly, without silencing your truth or betraying other people's privacy.

The guidance available to autoethnographers on this issue varies widely in quality and coherence, with some scholars observing that there is no universally accepted set of ethical principles.⁸⁰ The absence of a single set of rules is not unique to autoethnography. Methods grounded in ethnography, narrative inquiry and participatory research have long grappled with ethical uncertainty, especially in relation to consent and representation.⁸¹ However, these challenges are often intensified in autoethnography, where the researcher's own life, relationships and emotional experiences comprise the data *and* the site of analysis.⁸²

⁷⁹ Carolyn Ellis, 'Telling Secrets, Revealing Lives: Relational Ethics in Research with Intimate Others' (2007) 13 *Qualitative Inquiry* 3.

⁸⁰ Martin Tolich, 'A Critique of Current Practice: Ten Foundational Guidelines for Autoethnographers' (2010) 20 *Qualitative Health Research* 1599.

⁸¹ Tom Clark and others (eds), *Social Research Methods* (6th edn, Oxford University Press 2021) and Norman K Denzin and others (eds), *The SAGE Handbook of Qualitative Research* (6th edn, Sage Publications Inc 2023)

⁸² Carolyn Ellis, 'Telling Secrets, Revealing Lives'; Tolich, 'A Critique of Current Practice'.

As a result, the field has developed a series of overlapping frameworks that collectively emphasise care, consent, and caution.⁸³ Across these approaches, common principles emerge: the protection of participants' anonymity, the seeking of consent where possible, and an awareness of the researcher's own wellbeing as part of the ethical equation. Significantly, the most recent *Ethical Guidelines for Educational Research*⁸⁴ acknowledges auto/biographical and autoethnographic approaches – an encouraging step toward institutional recognition of the method's ethical distinctiveness.

I know from my own autoethnographic work that ethical decision-making remains context-driven and deeply personal. Therefore, I am sceptical of one-size-fits-all rules. Many of us would welcome, as Gingrich-Philbrook wryly imagines, 'a kind of cross between an existential oven-timer and a drag-queen fairy godmother to look over your shoulder at the screen and say 'Bing! You're done, Honey; this shit is baked; anyone who tells you different, I will come over and stomp their ass!'.⁸⁵ However, sadly, no such figure exists. Each project demands situationally-sensitive judgments. The rigid application of prescribed rules should not be mistaken for moral certainty. Guidelines are just that - they do not free researchers from the responsibility of making difficult decisions. New dilemmas will inevitably arise. Ethical autoethnography cannot be reduced to procedural compliance.

⁸³ See, for example: G. Thomas Couser, *Vulnerable Subjects: Ethics and Life Writing* (Cornell University Press, 2004); Andrew C Sparkes, 'Embodiment, academics, and the audit culture: A story seeking consideration' (2007) 7 *Qualitative Research in Organizations and Management: An International Journal* 52; Kristina Medford, 'Caught With a Fake ID: Ethical Questions About *Slippage* in Autoethnography' (2006) 12 *Qualitative Inquiry* 853; Tolich, 'A Critique of Current Practice'; Jillian A Tullis, 'Self and Others: Ethics in Autoethnographic Research' in Stacey Holman Jones, Tony E Adams and Carolyn Ellis (eds), *Handbook of Autoethnography* (Routledge 2016).

⁸⁴ British Educational Research Association, 2024.

⁸⁵ Craig Gingrich-Philbrook, 'Autoethnography's Family Values: Easy Access to Compulsory Experiences' (2005) 25 *Text and Performance Quarterly* 297, 311.

Equally, the exposure of the self that autoethnography demands is underappreciated generally and rarely touched on in legal scholarship. The permanence of publication means that vulnerability, once shared, cannot be easily retracted – if at all. Legal autoethnographers must therefore navigate what they are willing to disclose about their own life, with the risk that the way they feel about this may change over time. I was recently contacted by a new colleague who had read my own autoethnography about the depression and anxiety I experienced as a legal academic.⁸⁶ This is a permanent record of a difficult period in my life which I view as contextually different following my subsequent diagnosis of autism. However, it is a snapshot of a self I inhabited temporarily, preserved without the benefit of later insight. What once felt like an honest account of struggle now reads to me as an incomplete narrative. This raises a broader challenge for legal autoethnographers: our published vulnerabilities calcify experiences that continue to evolve.

Autoethnographic research also involves ethical complexity at the moment of consumption. Engaging with others' intensely personal narratives demands its own form of reflexive care. Over the course of my doctoral study, I immersed myself in hundreds of autoethnographic works – five lever-arch files of printed articles, a desk stacked with books, and an electronic library containing more than five hundred records. Some pieces, particularly those addressing childhood sexual abuse, remain unbearable to revisit. In autoethnography, readers do not simply *learn about* the events described but *inhabit* them. The act of reading autoethnographic research becomes a site of emotional labour. For legal scholars newly

⁸⁶ Campbell, 'Reconstructing my identity'.

engaging with autoethnography – and for the supervisors or research mentors advising them – cultivating this awareness (and opportunities for support) is vital.

Recognising these perils does not diminish the value of autoethnography; rather, it calls for a more reflexive and disciplined practice. I have learned that there are no tidy resolutions, only ongoing negotiations. This does not mean that autoethnography is inherently flawed. Instead, it is a reminder that autoethnography is more complex than just ‘telling your story’.

4. Conclusion

This article has traced autoethnography’s development, mapped its appearance in legal scholarship, and examined both its possibilities and its perils. In doing so, it provides the first account of autoethnography’s trajectory within legal research, situating an emerging body of work within the broader evolution of autoethnographic practice. It also draws attention to the risk of conceptual dilution, superficial self-expression, and ethical mismanagement in legal autoethnography.

The argument I have advanced is that autoethnography adds value by developing the world of legal research. However, this promise comes with a warning. For autoethnography to flourish within law, researchers must engage seriously with its historical roots, its diverse genres, and the ethical responsibilities that accompany research of this nature. Only through such engagement can we ensure that legal autoethnography develops as a sustainable and rigorous mode of inquiry, rather than a fleeting dalliance.

Autoethnography's future in legal research will depend on how well scholars can maintain a balance between creativity and rigour. If done well, autoethnography can help expand the methodological repertoire of legal scholarship – acknowledging that law is a deeply human practice that is lived as well as learned.

Acknowledgements

I am deeply grateful to the two anonymous reviewers for their careful reading and constructive suggestions. On a personal note, as this article goes to press, it is approaching seven years since my son Henry died. His memory continues to accompany my academic work, and he is, as always, in my thoughts.

<https://doi.org/10.19164/jlrm.v5i1.1983>

First online date: 04/10/2026



Article

The Reflexive Local AI (RLAI) Framework: a methodology for AI-assisted transcription in empirical legal research

Lloyd Brown*

Swansea University

<https://orcid.org/0000-0003-0945-7472>

Ryan Brown**

Abstract

Automated transcription has been increasingly adopted to relieve the burden of manual transcription in qualitative research, including empirical legal scholarship. Yet cloud-based commercial transcription services raise serious data security and confidentiality concerns, particularly where terms of service reserve rights to use uploaded content for model training. Existing scholarship, notably Da Silva's work extending Bokhove and Downey, has identified these vulnerabilities and responded with a risk management framework grounded in security practice. This article departs from that framing. It grounds the case for local processing not merely in prudent risk mitigation, but in the specific legal architecture of UK

* Lecturer in Law, HRC School of Law, Swansea University. Email: lloyd.a.brown@swansea.ac.uk. ORCID: 0000-0003-0945-7472. Incoming Lecturer in Law at the School of Law and Politics, Cardiff University (December 2026). This research was generously supported by a British Academy / Leverhulme Small Research Grant under the British Accounting & Finance Association (BAFA) special fund, for the project 'Pensions in a Warming World: An Empirical Study of the Opportunities and Challenges' (grant awarded October 2025, ref number: SRG/250023). The authors would also like to thank Dr Paul Dargue and the anonymous reviewers for their helpful comments and suggestions on an earlier draft of this article.

** Senior Cloud Engineer.

data protection law, arguing that local processing of interview data may constitute a necessary technical and organisational measure under Article 32 UK GDPR, in the absence of a vetted, institutionally governed processing arrangement. Drawing on the author's experience conducting thirty-three elite interviews for a British Academy/Leverhulme-funded project on pension governance and climate risk, this article develops that legal analysis into the Reflexive Local AI (RLAI) framework: five interlocking principles addressing local processing, human interpretive oversight, contextual anonymisation, transparent documentation and reflexive engagement. The article situates this framework within the methodological literature on transcription as constructivist interpretation, before analysing its legal foundations under Articles 5, 28 and 32 UK GDPR and Chapter V's international transfer regime. It concludes by identifying the framework's practical and empirical limits, and by proposing directions for its extension beyond transcription into AI-assisted qualitative analysis.

Article Text

1. Introduction

In recent years, automated transcription has been more greatly explored to circumvent the 'tedious and time-consuming' nature of manual transcription.¹ While cloud-based transcription services are effective, they can nonetheless introduce serious data security and ethical challenges for empirical researchers.² Inspired by his operational risk management approach, this article nevertheless departs from Da Silva's security-practitioner framing.³ It

1 Joseph Da Silva, 'Producing "good enough" automated transcripts securely: Extending Bokhove and Downey (2018) to address security concerns' (2021) *Methodological Innovations* 1-11, 1-2.

2 *ibid* 1. See also Regulation (EU) 2016/679 (UK GDPR), rec 6, which states: 'Rapid technological developments and globalisation have brought new challenges for the protection of personal data. The scale of collection and sharing of personal data has increased significantly.'

3 *ibid*.

does this by grounding the case for local processing in the specific legal architecture of UK data protection law, and by developing that analysis into a transferable methodological framework.

This work draws upon my experience as Principal Investigator of a British Academy/Leverhulme-funded project examining fiduciary duties and climate change in UK pension governance. Faced with prohibitive commercial transcription costs and significant confidentiality obligations, the second author (a senior cloud engineer) and I designed an entirely local artificial intelligence (AI) methodology using offline speech recognition and human-led verification. The specific details of this project, and the operational pressures that motivated this workflow, and the second author's role and its boundaries, are set out in section 2 below.

The central argument advanced in this article is legal as much as methodological. I argue that local 'processing'⁴ of interview data is not merely a prudent risk mitigation choice but, in the absence of a vetted, institutionally governed processing arrangement, a necessary technical and organisational measure to satisfy 'security of processing' obligations under Article 32 of Regulation (EU) 2016/679 (UK GDPR).⁵ Specifically, I argue that consumer-facing commercial AI transcription services (whose terms of service routinely reserve rights to use uploaded

4 UK GDPR, art 4(2): 'processing' means 'any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.'

5 UK GDPR, art 32.

content for model training) cannot straightforwardly satisfy the requisite appropriate safeguards the law requires.

Methodologically speaking, transcription is an interpretive rather than administrative act,⁶ and the safeguards required by both law and qualitative rigour converge. I have developed this convergence into an applied framework, titled the 'Reflexive Local AI' (RLAI) framework. This framework comprises of five principles for conducting localised AI-assisted transcription in empirical legal research in a lawful and defensible way.

To establish this working model, the article is structured as follows: section 2 below sets out the research project that sparked the RLAI framework; section 3 importantly examines why the use of AI changes qualitative research and data processing; section 4 analyses the data protection landscape under the existing legal regime; section 5 operationalises that legal analysis into the five core principles; and finally, section 6 evaluates the broader implications and future directions of the research. Technical hardware specifications and local execution steps are succinctly provided in appendix I.

2. The research project

Just before the start of the 25/26 academic year, I had an email from the British Academy congratulating me on being awarded a British Academy/Leverhulme Small Research Grant for

6 Elinor Ochs, 'Transcription as Theory' in Elinor Ochs and Bambi B Schieffelin (eds), *Developmental Pragmatics* (New York: Academic Press 1979) 167-168.

my project titled *Pensions in a Warming World: An Empirical Study of the Opportunities and Challenges*. I had been awarded near the full amount under the British Accounting & Finance Association's (BAFA) 'special fund'.⁷ This grant was designed to cover, *inter alia*, travel for in-person interviews with pension sector expert.

Having achieved ethical approval, I thereafter conducted thirty-three semi-structured 'elite' interviews between October 2025 and July 2026. The participants included a cross-section of institutional actors, including pension trustees, specialised pension lawyers, academic commentators, investment consultants and senior policy makers. I had hoped that all interviews would be held in-person, but it was sometimes necessary to hold interviews online because of participants' busy work schedules. I provided each participant with a standard information sheet and consent form and received their written consent.⁸ After the interview, interviewees were sent a debrief document, outlining what happens next.

McDowell's account of 'using connections' to secure access is instructive here. She highlights how fieldwork depends heavily on 'luck and chance, connections and networks, and the particular circumstances at the time.'⁹ Such spontaneity often yields unexpected results. While in London for my project, a chance conversation on the Underground with a fellow

⁷British Academy/Leverhulme Small Research Grants' (BA, no date)
<<https://www.thebritishacademy.ac.uk/funding/schemes/ba-leverhulme-small-research-grants/>> accessed 1 August 2026.

⁸ UK GDPR, art 4(11): 'consent' is defined as 'any freely given, specific, informed and unambiguous indication of the data subject's wishes by which he or she, by a statement or by a clear affirmative action, signifies agreement to the processing of personal data relating to him or her.'

⁹ Linda McDowell, 'Elites in the city of London: some methodological considerations' (1998) 30(12) *Environment and Planning A* 2133-2146, 2135.

passenger (who conveniently worked in the pensions sector) after I took the wrong train led directly to new interview participants.

Beyond such chance encounters, however, most access was built more deliberately. When I began the project, I did not have any contacts in the field. LinkedIn was imperative for finding connections and building a list of potential interview participants. I signed up to LinkedIn Premium so that I could gain fifteen 'InMail' credits each month, allowing me to contact anyone via the social media's messaging system. As my sample 'snowballed',¹⁰ I found that I relied less on LinkedIn and more on email. I learned that, for targeting elite participants, LinkedIn is an important tool for gaining access, and I would recommend factoring the cost of the Premium account into any grant costings (so long as such a cost is permitted by the funder).

Separately, the idea to use a localised AI-assisted transcription software (in my case, OpenAI's Whisper) came when I was writing up my project proposal prior to submission to the British Academy. During the drafting of costings, I approached a transcription company and was quoted a price of approximately £6,000 for twenty interviews (or roughly £3.50 plus VAT per audio minute). Such a fee would have inevitably wiped out a large proportion of my proposed funding and prohibited the reach of my fieldwork. As a full-time academic, I was also sufficiently worried about the work involved with manual transcription; in fact, I felt as though Sisyphus had a less arduous task to contend with. When I discussed these concerns with the

10 P Biernacki and D Waldorf, 'Snowball Sampling – Problems and Techniques of Chain Referral Sampling' (1981) 10 Sociological Methods & Research 141-163.

second author, a senior cloud engineer, he suggested using a localised AI to assist transcription. I had never considered such an idea but, so long as confidentiality was assured, I was willing to test the capacity of the new technology. We ran some preliminary tests before accepting the idea, and these worked well. The second author's involvement was confined to this technical set-up stage: it occurred before the data were collected, and he has not been involved at any stage of data processing or seen any of the interview data collected in the study. When setting up Whisper, we used our own test samples of our own voices, which did not include the interview data. He appears as the co-author on this paper on the basis of his technical contribution and his input to some of the appendix I technical guidance. Once it was set up and tested on my machine, the use of Whisper was explained in my ethics application and throughout the project documentation.

There are two examples during my fieldwork where I discussed the methodology directly to interviewees, and each illustrates a different dimension of building participant trust. First, more than once, online participants asked (without any apparent awareness of the confidentiality implications) why we were not simply recording the meeting directly on the video conferencing software. This question was a reasonable one; video conferencing now offers built-in recording services that are often used in business meetings. However, I explained to participants that this would potentially be a breach of confidence, since the audio file and transcript would be stored on the video conference companies' cloud storage. One interviewee found it amusing that I was using my 'old fashioned', hand-held Sony recording device. I myself sensed the juxtaposition between using the traditional handheld recorder, while later deploying a GenAI model to transcribe and time-stamp the audio files (something

that would have been unimaginable even when I was doing my doctoral research some ten years ago). However, the handheld recording device allowed me to save the data locally.

Secondly, I specifically recall a participant asking me about the transcription process itself. I explained that the AI software would run entirely locally, which was a technical detail I found meaningful in building trust. Several participants (this one included) seemed reassured once told that their testimony would remain on my own hardware rather than passing through commercial servers. This encounter is a small but concrete instance of the ‘positional strategy’ identified below.

3. Why AI changes qualitative methodology and vulnerabilities

This section establishes the methodological foundations upon which the article is built.

3.1. Elite interviews and transcription as constructivist interpretation

The literature surrounding ‘elite interviews’ has grown over the last three decades.¹¹ Empirical legal research frequently relies on elite semi-structured interviews. Harvey notes that there ‘is no clear-cut definition for the term “elite” and given its broad understanding across the social sciences, scholars have tended to adopt different approaches.’¹² Similar to my study, merchant and investment bankers based in the City of London, have been described as an ‘elite’ interview group.¹³ While the definition is elusive, I define ‘elite’ participants in this study by their institutional authority, specialist expertise or influence within pension governance. In

11 William S Harvey, ‘Strategies for conducting elite interviews’ (2011) 11(4) Qualitative Research 431-441, 432.

12 *ibid.*

13 McDowell (n 9).

particular, their professional visibility and membership of a relatively close-knit community create confidentiality challenges, as contextual details may make them identifiable even where names and institutional affiliations are removed from the transcripts.

A transcript does not capture objective reality but is a selective representation of an acoustic event.¹⁴ Ochs showed the subjectivity involved in transcription when she famously observed in 1979: 'A transcript that is too detailed is difficult to follow and assess. A more useful transcript is a more selective one.'¹⁵ Thus transcription is 'theory-laden'.¹⁶ The choices researchers make in producing the transcript enact the theoretical assumptions they hold and constrain the interpretations that can subsequently be drawn from the data.¹⁷

When speech recognition is delegated to AI, the researcher must remember that the need to perform interpretive construction does not disappear. Modern ASR systems do not 'copy' audio signals; instead, they process raw acoustic data through probabilistic language models that predict and output the most statistically likely sequence of words based on their training corpora.¹⁸ As Bender et al. highlight in their critique of natural language processing (NLP), large language models (LLMs) operate as 'stochastic parrots'.¹⁹ They join together plausible-

14 Ochs (n 6) 168.

15 *ibid.*

16 Judith C Lapadat and Anne C Lindsay, 'Transcription in Research and Practice: From Standardization of Technique to Interpretive Positionings' (1999) 5(1) *Qualitative Inquiry* 64-86, 77.

17 *ibid* 66.

18 Alec Radford, Jong Wook Kim, Tao Xu, Greg Brockman, Christine McLeavey and Ilya Sutskever, 'Robust Speech Recognition via Large-Scale Weak Supervision' (2022) arXiv <<https://cdn.openai.com/papers/whisper.pdf>> accessed 1 August 2026.

19 Emily M Bender, Timnit Gebru, Angelina McMillan-Major and Shmargaret Shmitchell, 'On the Dangers of Stochastic Parrots: Can Language Models Be Too Big?' (2021) *Proc FAccT* 610, 616.

sounding sequences based on statistical co-occurrence without any underlying communicative intent, semantic understanding or contextual awareness.²⁰ This is likely compounded by the so-called ‘black box problem’.²¹

Researchers must increasingly be open to the possibility that AI may lead to the emergence of ‘ethical risk’ in qualitative research.²² Parasuraman and Manzey’s foundational work on automation complacency shows that automation does not simply replace human judgment but reshapes it, often in ways the designers never anticipated.²³ Both over-reliance and unwarranted disregard for automated output are common failures.²⁴ It is because of the risk of automation bias and misuse/disuse that I wished to keep a ‘human-in-the-loop’ during data verification. However, I entirely agree with Moore, who suggests that automated transcription technology, while lacking certain capabilities and liable to being inaccurate at times, may be highly beneficial for ‘providing first-pass transcripts.’²⁵

3.2. Expanding upon Da Silva

Bokhove and Downey recognised the challenges researchers face when utilising third-party automated captioning or transcription tools; but their paper did not prescribe a procedural

20 *ibid* 617.

21 Kyle ML Jones, ‘Generative AI in Qualitative research and Related Transparency Problems: A Novel Heuristic for Disclosing Uses of AI’ (2025) 24 *International Journal of Qualitative Methods* 1-14. Matthew Kosinski, ‘What is black box artificial intelligence (AI)?’ (IBM, 29 October 2024) <<https://www.ibm.com/think/topics/black-box-ai>> accessed 1 August 2026.

22 Kyungmee Lee, ‘Becoming Ethical Qualitative Researchers in the Era of Artificial Intelligence: Michel Foucault’s Ethics of the Self’ (2026) 32(2) *Qualitative Inquiry* (forthcoming/online first).

23 Raja Parasuraman and Dietrich H Manzey, ‘Complacency and Bias in Human Use of Automation: An Attentional Integration’ (2010) 53(3) *Human Factors: The Journal of the Human Factors and Ergonomics Society* 381-410.

24 *ibid* 381.

25 Robert J Moore, ‘Automated Transcription and Conversation Analysis’ (2015) 48(3) *Research on Language and Social Interaction* 253-270, 253.

‘solution’ beyond acquiring ethics committee approval.²⁶ Da Silva has drawn attention to the severe data security and confidentiality vulnerabilities introduced by commercial cloud-based transcription services.²⁷ He observes that even a cursory review of the terms and conditions of common zero-cost cloud transcription services shows they cannot offer adequate assurances of confidentiality for interview data promised anonymity by the researcher.²⁸

Attempting to bypass this cloud vulnerability through local device processing, Da Silva notes the severe practical barriers of proprietary hardware requirements, such as purchasing a dedicated Pixel device to run local recurrent neural networks, which still fail to offer a scalable methodological remedy for researchers.²⁹ On Bokhove and Downey’s ethics committee solution, Da Silva goes further, concluding that their specific method would be unusable in a considerable number of cases involving genuinely confidential data.³⁰ His response to these vulnerabilities, however, is grounded in risk management rather than statutory obligation; he does not ask whether, or under what conditions, local processing might be legally required rather than merely prudent. In this article, I address that critical gap.

3.3. Vulnerabilities in the study

While the use of AI presents methodological risks across all qualitative disciplines, empirical legal scholarship is perhaps uniquely exposed. During my research study I identified three specific vulnerabilities, as follows:

26 Christian Bokhove and Christopher Downey, ‘Automated generation of “good enough” transcripts as a first step to transcription of audio-recorded data’ (2018) *Methodological Innovations* 1-14, 12.

27 Da Silva (n 1).

28 *ibid* 2.

29 *ibid* 3.

30 *ibid*.

Vulnerability	Description
Specialised socio-legal terminology	Legal and financial discourse relies heavily on dense jargon, statutory references and acronyms (e.g. ‘TCFD’, ‘PSA26’, ‘fiduciary standards’). While overall accuracy was high,³¹ I found that the AI repeatedly misrecognised central domain terms such as ‘fiduciary’ (frequently rendering this word as ‘fed-user’, ‘federal’, ‘judiciary’, ‘FIDU3Duty’, and ‘5-2-3-2-2’), illustrating the necessity of domain-specific human verification. I found that the accuracy of the AI was dependent on the level of audible background noise and participants’ accents and speech patterns. This is something that Da Silva also found; he states that ‘Accuracy appeared to be reduced when transcribing a Scottish accent and improved when transcribing an American one.’³² In my research, for instance, Whisper had to be set with an ‘English’ parameter – early use led to the audio being transcribed entirely in Welsh, because of my Welsh accent.

³¹ It is noteworthy that most of my interview recordings were, on average, one hour long and the transcribed texts often spanned 10,000+ words. The longest interview transcribed was 91 minutes long and constituted 16,000+ words, or 48 pages. Overall, I was impressed by the AI’s speed in transcribing the audio: as a rough estimate, one minute of audio would be transcribed in one minute by the model. Despite the size of these transcripts and the speed in which it performed its work, I would only identify one or two minor mistakes in the AI’s transcription per recording. One recording was a little more challenging as the research interview took place in an area with sufficient background noise; but even so, the AI model still performed well.

³² Da Silva (n 1) 7. Da Silva usefully shows (in Tables 4 and 5) the differences in time taken to transcribe five interviews using a fully manual method vis-à-vis a semi-automated method. The semi-automated method took hours less to transcribe audio with similar recording lengths. I cannot provide such a comparison, since I only used a semi-automated method in my study. From looking at Table 5 in Da Silva’s paper (the one showing the semi-automated method), the transcription times seem similar to the time taken in my study.

Subtle contextual identifiers	Elite interviewing testimonies often contain indirect or contextual identifiers. A participant may not explicitly state their name or institution, but may reference specific regulatory filings, unique fund sizes or localised corporate disputes. The RLAI framework operates on the basis that AI-assistance should be limited to a first-pass transcription only, with further scrutiny being undertaken by the researcher. Unique to my study, but nevertheless a good example, I had particular issues when interviewees mentioned their Task Force on Climate-related Financial Disclosures (TCFD) reports,³³ which often contained fund-specific details, e.g., ‘Our approach changed significantly after our 2024 TCFD report, where we explicitly tied our net zero commitment to a phased divestment timeline, though we still hold a legacy equity stake in South Wales Oil Co. because of the income yield.’³⁴ To many in the elite group, the information in this statement is potentially revealing. This risk is not unique to legal research: McDowell, reflecting on her own interviews with City of London bankers, likewise concluded that her attempts at anonymisation might prove insufficient to disguise her respondents within banking’s ‘relatively small and close-knit world’.³⁵
-------------------------------	--

33 ‘Task Force on Climate-related Financial Disclosures’ (TCFD, no date) <<https://www.fsb-tcfd.org>> accessed 1 August 2026.

34 This is a fictitious example and is not linked to any person/institution.

35 McDowell (n 9) 2135-2137.

Power dynamics and trust	Conducting research with powerful institutional actors requires navigating complex access dynamics, ³⁶ and the trust built through that access must be sustained throughout the AI-assisted workflow. Assuring participants that their testimonies will be processed securely (example in section 2), without exposure to commercial cloud infrastructure, operates as a crucial positional strategy that preserves trust and protects participant confidentiality.
--------------------------	--

Table 1 - study vulnerabilities

Treating an AI-generated transcript as a transparent, objective representation of an elite legal interview ignores the theoretical and operational realities. AI outputs must instead be understood as a highly structured, first pass textual rendering that demands rigorous human audit, contextual anonymisation and reflexive interrogation.

4. The governance challenge

The legal governance of AI-assisted transcription begins with data protection law.³⁷ Because interview recordings constitute personal data (and may also reveal ‘special category’ data) researchers must ensure that every stage of AI processing complies with the UK GDPR³⁸ and the DPA 2018.³⁹ These remain the core statutory framework,⁴⁰ though the Data (Use and

36 Susan A Ostrander, ‘Surely You’re Not in This Just to Be Helpful: Access, Rapport, and Interviews in Three Studies of Elites’ (1993) 22(1) *Journal of Contemporary Ethnography* 7.

37 ‘Data protection’ (gov.uk, no date) <<https://www.gov.uk/data-protection>> accessed 1 August 2026.

38 *ibid.*

39 *ibid.*

40 Information Commissioner’s Office, ‘The Data Use and Access Act 2025 (DUAA) – what does it mean for organisations?’ (ico, 19 June 2026) <<https://ico.org.uk/about-the-ico/what-we-do/legislation-we-cover/data->

Access) Act 2025 (hereafter 'DUAA 2025') received Royal Assent on 19 June 2025, and its data protection provisions are now in force;⁴¹ where relevant, this article notes below whether specific provisions discussed have been affected.

4.1. Data protection as a right

The UK GDPR recognises the protection of personal data as a fundamental right,⁴² reflecting the continuing influence of Article 8 of the Charter of Fundamental Rights of the European Union.⁴³ That right is not absolute but must be balanced against other legitimate interests through the principle of proportionality.⁴⁴ For empirical researchers, this means that AI-assisted processing must be designed from the outset to comply with the data protection framework rather than treated as a purely technical or administrative matter. It is also worth noting, given the elite and institutional character of the sample discussed in section 2, that data protection compliance does not exhaust the relevant confidentiality analysis. Participants such as FCA-regulated professionals or pension trustees may owe, or be owed, sectoral or fiduciary confidentiality obligations that operate independently of, and in addition to, the UK GDPR.

[use-and-access-act-2025/the-data-use-and-access-act-2025-what-does-it-mean-for-organisations/](#) accessed 1 August 2026.

41 Data (Use and Access) Act 2025 ('DUAA 2025').

42 UK GDPR, rec (1).

43 *ibid*, rec (1), citing Charter of Fundamental Rights of the European Union, art 8(1) and the Treaty on the Functioning of the European Union (TFEU), art 16(1).

44 *ibid*, rec (4).

4.2. The cloud privacy trap under the data protection regime

This analysis is directed at AI processing specifically, rather than institutional data storage as such. For my study, the audio files and transcripts were held on my university-managed cloud storage ('OneDrive'), which operates under Swansea University's own data processing agreement with Microsoft. This is a materially different arrangement from the consumer-facing AI platforms, since it carries no equivalent right to use file content for model training. And it is precisely this distinction, rather than cloud processing *per se* that the remainder of this section develops. A vetted, institutionally governed cloud arrangement of this kind is not what the necessity argument advanced here targets; it is, if anything, the confirming case, since the absence of a training data clause and the presence of proper institutional oversight are exactly what an unvetted commercial AI platform lacks. Indeed, reliance on consumer-facing commercial cloud AI platforms may create significant compliance risks under the UK GDPR. When a researcher uploads raw interview audio to these services, the data moves off local machines and onto servers controlled by commercial vendors. This transfer creates a legal conflict.

Under Article 4 of the UK GDPR, the employing university acts as the 'data controller', while the cloud vendor operates as a 'data processor'.⁴⁵ The definition of 'processor' is as follows: 'a natural or legal person, public authority, agency or other body which processes personal data on behalf of the controller.'⁴⁶ The UK GDPR further defines 'controller' as 'the natural or

⁴⁵ *ibid*, arts 4(7)-(8).

⁴⁶ *ibid*, 4(8).

legal person, public authority, agency or other body which, alone or jointly with others, determines the purposes and means of the processing of personal data.’⁴⁷

The ‘controller’ and ‘processor’ classification is not fixed, however. A vendor only remains a processor for as long as it processes data strictly on the controller’s instructions. Where a vendor’s terms of service require the right to use uploaded content to train or refine its own models, it is processing that data for a purpose of its own (model improvement) rather than solely on the researcher’s instructions. This most straightforwardly constitutes a breach of the Article 28 processor relationship, and, depending on the facts, may on ordinary principles of controllership also risk tipping the vendor from processor into a controller in its own right for that purpose. Either characterisation leaves the researcher exposed: an Article 28 breach they cannot readily detect or remedy, or a compliance problem more serious than a processor merely falling short of its own obligations. The critical point for present purposes is not which of these two characterisations is correct, but that consumer-facing platforms of this kind cannot offer the researcher confidence that neither has occurred.

Moreover, Article 28(3)(a)-(h) requires binding contractual terms or other legal act under domestic law that limit processing strictly to the researcher’s instructions.⁴⁸ In reality, consumer-facing or low-cost AI platforms routinely include terms of service reserving rights to use uploaded content to train and refine their proprietary models.⁴⁹ Uploading unredacted

⁴⁷ *ibid*, 4(7).

⁴⁸ *ibid*, art 28(3)(a).

⁴⁹ Da Silva (n 1) 2.

interview files to train commercial models may be incompatible with Article 5(1)(b)'s 'purpose limitation' principle.⁵⁰ This principle states that personal data shall be 'collected (whether from the data subject or otherwise) for specified, explicit and legitimate purposes and not further processed by or on behalf of a controller in a manner that is incompatible with the purposes for which the controller collected the data ('purpose limitation').'⁵¹

Even where the relationship remains as a straightforward processor arrangement, a standard commercial terms of service rarely satisfies Article 28(3)'s substantive requirements. A terms of service is itself a contract,⁵² but Article 28(3) requires that contract to bind the processor to specific obligations.⁵³ For instance, Article 28(3)(a) states that the processor should only process 'the personal data on documented instructions from the controller'.⁵⁴ Such a transfer under the terms of service must be read with Article 32 in mind.⁵⁵ This deals with 'security of processing' and requires the controller and processor to implement 'appropriate technical and organisational measures to ensure a level of security appropriate to the risk'.⁵⁶ Consumer-facing and low cost AI platforms' terms of service are drafted to protect the vendor's commercial interests,⁵⁷ not to discharge GDPR obligations.

50 *ibid*, art 5(1)(b).

51 *ibid*.

52 Da Silva (n 1) 2. Here, Da Silva states: 'It was apparent from even a cursory reading of the terms and conditions of the predominant cloud-computing transcription offerings, for example Google... that these zero-cost offerings could not provide adequate assurances around the confidentiality of the data I was seeking to transcribe, and would not satisfy the ethical requirements of the research that I was performing, the anonymity of which I had agreed upfront with the participants.'

53 UK GDPR, art 28(3).

54 *ibid*, art 28(3)(a).

55 *ibid*, art 32.

56 *ibid*, art 32(1).

57 Da Silva (n 1) 2.

There is also the problem of cross-border data routing. The Information Commissioner's Office (ICO) states that while UK GDPR applies to most organisations in the UK, it is important and necessary to govern international transfers.⁵⁸ The ICO states: 'People risk losing the protection of UK data protection law if their personal information is transferred outside the UK.'⁵⁹ Under the UK GDPR, routing audio files to servers outside the UK or European Economic Areas (e.g. the United States) typically triggers 'Chapter V' restrictions on international transfers, since a transfer to any third country (not only an international organisation)⁶⁰ engages these provisions.⁶¹ The new rules relating to data transfers have been described as 'a key milestone in the DUAA's implementation'.⁶² Even following the amendments introduced by the DUAA 2025,⁶³ relying on cloud-based AI infrastructure still requires navigating complex transfer risk assessments and contractual safeguards.⁶⁴ Thus the need for localisation is not materially altered.

58 Information Commissioner's Office, 'What is an international transfer of personal information?' (ico, no date) <<https://ico.org.uk/for-organisations/uk-gdpr-guidance-and-resources/international-transfers/a-guide-to-international-transfers/what-is-an-international-transfer-of-personal-information/>> accessed 1 August 2026.

59 *ibid*

60 UK GDPR, art 4(26) defines an 'international organisation' as an organisation governed by public international law or established by an agreement between two or more countries. AI companies do not fall within this definition. However, Chapter V also applies to transfers to a 'third country', which encompasses transfers to overseas commercial providers.

61 *ibid*, art 44A(1)(a)-(b).

62 Amanda Leiu, 'The Data (Use and Access) Act 2025: Key Implications for Businesses as the New International Transfer Regime Takes Effect (Part 1)' (Burgess Salmon, 6 February 2026) <<https://www.burgess-salmon.com/articles/102mh1d/the-data-use-and-access-act-2025-key-implications-for-businesses-as-the-new-in/>> accessed 1 August 2026. See also Information Commissioner's Office, 'Are we making a restricted transfer' (ico, no date) <<https://ico.org.uk/for-organisations/uk-gdpr-guidance-and-resources/international-transfers/a-guide-to-international-transfers/are-we-making-a-restricted-transfer/>> accessed 1 August 2026.

63 DUAA 2025, s 85. See also 'Data (Use and Access) Act 2025: data protection and privacy changes' (gov.uk, 27 June 2025) <<https://www.gov.uk/guidance/data-use-and-access-act-2025-data-protection-and-privacy-changes>> accessed 1 August 2026; Alan Baker, 'Data (Use and Access) Act 2025: five key changes for businesses' (Farrer & Co, 5 May 2026) <<https://www.farrer.co.uk/news-and-insights/data-use-and-access-act-2025-five-key-changes-for-businesses/>> accessed 1 August 2026.

64 Alasdair Dougan and Sophie Burton-Jones, 'What are the new rules on international data transfers?' (Mills & Reeve, 5 February 2026) <<https://www.mills-reeve.com/publications/what-are-the-new-rules-on-international-data-transfers/>> accessed 1 August 2026.

4.3. Local deployment as a compliance-by-design response

The compliance hazards identified above are not inherent to AI-assisted transcription as such; they are a function of where processing occurs. Running speech recognition entirely offline, on hardware under the researcher's physical control, resolves each of the three problems identified above at source.⁶⁵ There is no transfer to a third-party processor, so no route by which data could be absorbed into a training corpus, and concomitantly, no engagement of the Chapter V international transfer regime.⁶⁶

This does not imply that every institutional cloud arrangement is equally deficient. Where a university holds an enterprise agreement with a commercial AI vendor that expressly excludes training data use and satisfies Article 28(3) in full, the analysis above would not apply in the same way. The point is narrower: consumer-facing platforms of the kind typically available to researchers without institutional procurement support cannot offer this assurance, and it is this class of arrangement, not cloud infrastructure as such, that the RLAI framework's first principle (localisation) is designed to guard against.

65 Nothing in this article should be taken as suggesting that the use of local AI transcription either automatically requires or dispenses with the need for a Data Protection Impact Assessment (DPIA). Under Article 35 UK GDPR, the requirement for a DPIA is determined by whether the proposed processing is 'likely to result in a high risk to the rights and freedoms of natural persons.' Researchers should therefore follow their institution's governance procedures and consult their Data Protection Officer where appropriate before commencing processing.

66 *ibid*, arts 44-46.

This reframes local deployment as more than a risk-mitigation tactic. It operationalises privacy by design, embedding safeguards into the processing architecture itself rather than relying on third-party contractual assurances.

4.4. Lawful basis and the research exemption

Compliance is not exhausted by the question of *where* data are processed; it also depends on *why* processing is lawful. As a university researcher undertaking funded work, the applicable lawful basis is as a ‘public task’ under Article 6(1)(e), reflecting the institution’s function as a public body conducting research in the public interest.⁶⁷ The lawfulness of research carried out under Article 6(1)(e) is a narrower, more institutionally anchored basis than the ‘legitimate interests’ ground more commonly relied upon by commercial actors.⁶⁸

5. The Reflexive Local AI (RLAI) Framework

This section develops the RLAI framework that I used. It forms five principles designed to better preserve methodological rigour, participant confidentiality and legal compliance.

67 *ibid*, art 6(1)(e). It is noteworthy that the present project did not involve the processing of ‘special category personal data’ within the meaning of Article 9 UK GDPR. Accordingly, no additional Article 9 condition was required. Nevertheless the governance principles developed in this article may be of particular significance for empirical legal research that does involve special category data, where researchers must also identify an appropriate Article 9(2) condition (for example, Article 9 (2)(j), as supplemented by Schedule 1 of the DPA 2018), in addition to satisfying the obligations discussed in the main text. Where special category data are inadvertently disclosed by a participant despite not being sought, the RLAI framework’s Principle 3 (reflexive contextual anonymisation) extends to redacting content at this stage.

68 *ibid*, art 6(1)(f).

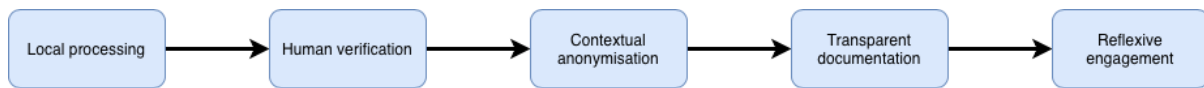


Figure 1 - RLAI model

5.1. Principle 1: Local processing as default

Data sovereignty should be the operational default, not an optional safeguard reserved for unusually sensitive projects. As demonstrated above, offline deployment resolves the Article 28 processor problem, the Article 5(1)(b) purpose-limitation risk and the Chapter V transfer regime simultaneously. It should be noted that this is not because local models are technically superior to commercial alternatives, but because researcher control over the processing environment is a methodological precondition, not merely a legal convenience.

5.2. Principle 2: Human interpretive oversight

No AI-generated transcript should be treated as a final research artefact. The workflow instead proceeds through three stages: (i) an AI-generated pass transcript, (ii) systematic human verification against the original audio, and (iii) only then a finalised transcript suitable for coding. This principle directly addresses the risks of algorithmic deference identified earlier, i.e. the tendency to treat fluent, confidently formatted machine output as self-evidently accurate.

5.3. Principle 3: Reflexive contextual anonymisation

Automated redaction should be understood as a preliminary fix, not a security shield. The researcher, not the model, determines what constitutes an identifier in a given field. As the TCFD vignette in table 1 illustrates, a phrase entirely unremarkable to a generic language model (e.g. a net zero target date, the size of a fund or a specific legacy asset holding) can function as a *de facto* identifier within a small, well-networked elite population. This judgement depends on field-specific knowledge no current model possesses and this cannot be delegated.

5.4. Principle 4: Transparent documentation

Consistent with transparency norms already expected in qualitative methods, researchers should document: (i) the model and version used, (ii) any prompts or configuration parameters applied, (iii) the verification process undertaken, (iv) the corrections made at the human-review stage, and (v) the reasoning behind anonymisation decisions. This creates an auditable record capable of withstanding both peer and regulatory scrutiny.

5.5. Principle 5: Reflexive engagement in practice

Researchers should maintain a parallel reflexive log during processing, capturing what the transcript itself cannot: tonal shifts, hesitation and moments where the model's smoothing of speech may have altered meaning. This principle operationalises resistance to algorithmic deference at the point of practice, distinct from the broader theoretical discussion of automation bias addressed below.

5.6. The framework applied in practice: worked example

The interaction of the five principles is best illustrated by returning to the TCFD vignette introduced earlier. The relevant passage, in which a fictional participant described tying a net zero commitment to a phased divestment timeline while retaining a legacy equity stake, passed through each stage of the RLAI framework as follows.

Principle 1 (local processing) meant that the audio never left the researcher's machine. Whisper generated a first pass transcript entirely offline, so no fund-specific detail was ever exposed to a third-party processor or training corpus. Principle 2 (human interpretive oversight) then required verification of that pass against the original recording; this caught a domain-specific error consistent with the pattern reported earlier in this article, where 'fiduciary' was rendered as a phonetically adjacent but substantively wrong term, requiring correction before the transcript could be treated as usable. Principle 3 (reflexive contextual anonymisation) is particularly important in this example: the model itself had no reason to flag the net zero date or the legacy asset holding in South Wales Oil Co as identifying; this is because neither is a name, institution or postcode. Only field-specific knowledge (that a small number of pension schemes hold this particular legacy position, and that the combination of fund size, sector and timeline is close to unique) allowed the researcher to recognise the passage as a *de facto* identifier and redacted accordingly. Principle 4 (transparent documentation) required logging that redaction decision at the point it was made, together with the model version, the correction to 'fiduciary', and the reasoning for treating the divestment detail as identifying. Of course, this transparency was required so a second

researcher, or indeed a reviewer, could audit the choice rather than take it on trust. Finally, Principle 5 (reflexive engagement) captured something none of the preceding four stages could: a note, made contemporaneously, on the participant's tone when disclosing the holding. There, it was clear that there was a mixture of defensiveness and rehearsed justification that shaped how the passage was later coded, but which the transcript's smoothed, grammatical prose gave no trace of.

No single principle would have been sufficient alone. It is the sequencing and interaction of the five principles, not any one of them, that constitutes the RLAI framework's contribution.

6. Boundaries of the RLAI framework and directions for future research

This section ends the work by looking at the limits of the framework and future research directions that may be taken.

6.1. Limits of the RLAI Framework

Honesty about the framework's boundaries strengthens rather than weakens its contribution.

Three limits are worth stating explicitly.

First, local deployment carries a hardware floor. For instance, this project's own experience of running Whisper's higher parameter models required close to the practical limit of a 16GB unified memory of the system I was using. This is not to say that a researcher cannot use a

standard, university laptop with, say, a minimum of 8GB RAM to run a transcription; but a lesser model could likely limit the accuracy of the outputted final transcript. Thus a framework partly motivated by protecting research budgets from prohibitive transcription costs should not be allowed to quietly reintroduce a different barrier: researchers without access to sufficiently capable hardware face a real constraint of their own. Relatedly, Principle 1's legal benefit is not costless. As section 3.3 and appendix I note, local open-source models such as Whisper measurably underperform on regional accents and offer no out-of-the-box speaker diarisation, so the compliance gain of local processing must be weighed against a real, if manageable, accuracy and functionality cost relative to commercial alternatives.

Second, this project's empirical base is a single-researcher, single-project case study in one substantive field (pensions and climate governance). The RLAI Framework's principles are designed to generalise, but their application has not yet been tested across other socio-legal subfields, multi-research teams or non-English language fieldwork, each of which may surface constraints this project did not encounter.

Finally, the framework presupposes a level of technical competence (installing dependencies, configuring model parameters, troubleshooting command-line errors) that is not evenly distributed across legal (or, for that matter, non-legal) academia. This project benefited from the second author's technical background at the pre-data collection setup stage; researchers without an equivalent resource may face a steeper learning curve than the 'modest consumer-grade' hardware framing above.

6.2. Future research directions

The framework may be extended beyond transcription and into analysis. Researchers have already tested AI in data analysis. For instance, Perkins and Roe undertook a comparison of manual thematic analysis against ChatGPT (GPT-4) assisted coding and found ‘a complementary relationship between GenAI and human researchers’.⁶⁹ This article does not extend its five principles to coding or thematic analysis, but the underlying risk is the same one Principles 2 and 5 are designed to guard against.

Given the RLAI framework promotes AI-assistance, it is important to look at the effect that using AI has on researchers. Thus Christou suggests that delegating interpretive tasks to generative AI risks undermining ‘reflexivity through cognitive offloading’.⁷⁰ Their proposed corrective is a concept called ‘forward reflexivity’, which asks researchers not merely to audit AI output in the moment, but to anticipate how AI-augmented research texts may themselves circulate and return as training data for future models.⁷¹

69 Mike Perkins and Jasper Roe, ‘The use of Generative AI in qualitative analysis: Inductive thematic analysis with ChatGPT’ (2024) 7(1) *Journal of Applied Learning & Teaching* 390.

70 Prokopis A Christou, ‘Reconfiguring Reflexivity in the Era of AI: From “Turning Back” to “Looking Forward” Through Constructivist and Posthumanist Lenses’ (2026) *Qualitative Inquiry* 1-10.

71 *ibid.*

And finally, the project's local processing approach should connect the broader literature on 'digital sovereignty', which Roberts sees as a normative concept.⁷²

7. Conclusion

The intersection of generative artificial intelligence and empirical legal research presents a profound methodological paradox. While automated transcription offers powerful solutions to qualitative bottlenecks, transcription remains an inherently constructivist act that actively shapes all subsequent legal analysis. Outsourcing this interpretive layer to opaque cloud infrastructure risks violating strict data protection mandates under the UK GDPR and DPA 2018, compromising elite participant confidentiality and introducing automation bias into the workflow.

The RLAI Framework resolves these challenges by anchoring data sovereignty and human-led critique at the centre of empirical research. By enforcing local execution, multi-stage verification, contextual pseudonymisation, and transparent documentation, the framework proves scholars need not choose between methodological rigour and technical efficiency. Ultimately, preserving the integrity of legal scholarship in the AI era requires technology to serve as a secure instrument that reinforces, rather than replaces, critical human judgment. In this sense, the RLAI framework is offered not merely as a transcription protocol, but as a template for the governance of local AI in empirical legal research more broadly.

72 Huw Roberts, 'Digital sovereignty and artificial intelligence: a normative approach' (2024) 26 Ethics and Information Technology 70. See also House of Commons Library, Digital sovereignty (CBP 10547, 2026) <<https://commonslibrary.parliament.uk/research-briefings/cbp-10547/>> accessed 1 August 2026.

Appendix I: Technical guidance on using localised AI models

This appendix sets out the technical workflow underpinning the study.

Hardware

The transcription processing was performed locally on an Apple Mac mini (M4, 2024; 10-core CPU, 10-core GPU, 16GB unified memory). This represented a modest, consumer-grade baseline. This hardware configuration comfortably accommodates Whisper's full range of model sizes; as mentioned within the software, memory pressure remained within practical limits of the unified memory utilised.

The 16GB unified memory ceiling constrained language model selection. That said, this baseline configuration successfully demonstrates that modest consumer-grade hardware can achieve optimal results for local transcription workflows. While larger parameter models could theoretically offer enhanced context awareness, the M4 Mac mini set up proves sufficient for robust, secure execution under the RLAI framework.

It is important to note that when running Whisper, foreground applications were closed to maximise available memory during transcription; background system services and processes managed by macOS itself, which cannot be user-terminated, were permitted to continue running as normal

Software and model selection

Whisper

OpenAI's Whisper ASR model was used because it is open source and provides the ability for transcribing audio in various formats, e.g. '.wav' and '.mp3'.⁷³ It is also compatible with the recording tools used, as mentioned below.⁷⁴ The model has been compiled from a large dataset of audio recordings, which allows specifically for speech translation and language identification, making this an appropriate tool for transcribing interview recordings.⁷⁵

Whisper segments the transcription logs which provides further details and information on the timestamp of the chats; it can even provide granular results of timestamps per word if needed (captured as part of a 'VTT file' – a text-based subtitle/caption file). However, the use case for this research was to ensure timestamps per sentences and this is recommended for qualitative interview transcripts.

OpenAI Whisper provides six model sizes to work with.⁷⁶ The models can be English-only or multilingual; the model sizes range from 'tiny' to 'turbo'.⁷⁷ Whisper documentation recommends using English-only models which offers speed and accuracy (measured by transcribing English speech on a A100 GPU), but is limited only up to medium.en (769m parameters) up to ~2x the speed.⁷⁸ The multilingual models allow up to turbo (809m parameters) at a much faster processing speed of ~8x.⁷⁹ This latter model was selected for use with the Mac mini as a result of its speed of operations. Whilst a multilingual model was used,

73 OpenAI, 'Whisper' (GitHub, 2022) <<https://github.com/openai/whisper>> accessed 1 August 2026.

74 *ibid.*

75 *ibid.*

76 *ibid.*

77 *ibid.*

78 *ibid.*

79 *ibid.*

English can be configured as a way for transcribing as part of the tool.⁸⁰ More information on the performance and how these models have performed against different languages can be found on their GitHub repository [OpenAI/whisper](#).⁸¹ There is no known telemetry which is collected from using or running Whisper.

A limitation of Whisper is the inability of knowing which person said what sentences, which is called diarisation. Nonetheless the ability to diarise the transcript can be accomplished by using `pyannote` (a Python library) and other open-source audio speaker diarisation models. However, this workflow focussed primarily on transcription and timestamping, since the context of the transcriptions were more important.

This guidance does not instruct on how to download and install Whisper (instructions can be found in the official GitHub webpage).⁸² Once installed, here is an example command in a ‘terminal’ of how to run the whisper toolset with an example .mp3 audio file. The below example takes a .mp3 audio file and setting to an English-only model, ensuring the language for transcribing is set to English. To add timestamps to the transcription the `--word_timestamps` parameter set to `True` adds this to the output. Setting the output format will only provide the formats set, otherwise if not, then all associating files including the .vtt (for text-based subtitling) will be available. The below command, once complete, will output

⁸⁰ *ibid.*

⁸¹ *ibid.*

⁸² *ibid.*

the transcription and create two new files. One which output the plain English transcribed text (from the `--output_format` flag): `interview1.txt`, and the other including the time stamped sentences from the redirected output, `interview1_timestamp.txt`.

```
whisper interview1.mp3 --model turbo --language en --task transcribe --  
output_format txt --word_timestamps True > interview1_timestamp.txt
```

Python

Python allows libraries like Whisper to be used with greater flexibility than the command-line interface alone, providing more advanced control over processing and output. The specific scripts are not included here as they are Whisper's core functionality wrapped in a bespoke interface rather than a generalisable tool, but the approach can readily be reconstructed using the Whisper documentation cited below. We created our own set of Python scripts which handled the running of Whisper, using segmentation of sentences to build and output `.txt` files (with timestamps) into organised folders with clear transcribed files.

Recording and file handling

Interviews were recorded using a handheld Sony IC Recorder (model: ICD-PX370). The device has no wireless or cellular connectivity, meaning the audio file could not be transmitted or synchronised to any cloud service at the point of capture, consistent with Principle 1 of the RLAI framework (local processing as default).

The recorder's built-in USB-A connector allowed audio files to be transferred directly to the researcher's local machine. Transcription was then performed entirely locally, using Whisper

(as described above). Audio files and completed transcripts were stored on the researcher's Swansea University's password protected OneDrive account, governed by the university's institutional data processing agreement with Microsoft. As already established, this is distinct from the consumer facing AI platforms discussed in the article. Microsoft's enterprise terms for institutional OneDrive accounts do not include the training-data clauses identified as the central Article 5(1)(b) concern in this article, and the university, not Microsoft, remains the data controller. As a backup, the 'British Academy/Leverhulme Project' OneDrive folder was regularly backed-up onto a USB-C password-protected flash drive and stored in a locked desk drawer.

The pseudonymised Microsoft word documents containing the transcripts were password protected. When a participant's transcript was sent via email, the transcript would be attached and sent in one email and the password in another, separate email. However, in most cases, the password was sent separately to participants using LinkedIn's private messenger service.

Verification process

Consistent with Principle 2 of the RLAI framework (human interpretive oversight), no output generated by Whisper was treated as a finished transcript. Each recording produced an AI-generated first pass, which was then checked in full against the original audio. During transcription and pseudonymisation, the computer's WiFi was turned off, to ensure that the work remained entirely local.

The verification process required listening to the entirety of each recording alongside the corresponding AI-generated text, correcting errors as they arose. As discussed in section 3.2 above, the most consistent category of error concerned domain-specific socio-legal terminology, e.g. the term ‘fiduciary’. As the transcripts were well done, a rough estimate of how long the verification for a one-hour interview generally took would be around three hours. This time would have been shorter, but I liked to be thorough, and the transcript would be checked against the audio on ‘normal’ speed first and then later on the ‘fast’ speed setting.

By correcting misrecognised words, this stage also served the contextual pseudonymisation described in Principle 3: identifying and redacting details that, while not explicit identifiers such as names or institutions, could reasonably function as identifiers within a small, well-networked elite population (see the worked example above). Redaction decisions of this kind were recorded in a documentation log, consistent with Principle 4, together with the model version used and the corrections made at this stage. Only once this verification and pseudonymisation was complete was a transcript treated as finalised and suitable for coding and analysis.