

MEASURING IMPROVEMENTS IN ACCESS TO JUSTICE: NORMALIZING USE OF EMPIRICAL RESEARCH AND CRITICAL SELF-REFLECTION FOR ONGOING DEVELOPMENT OF A PERSON-CENTRED JUSTICE SYSTEM

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Despite a dire need, the justice sector lacks empirical research that evaluates system improvement initiatives. Over a decade has passed since the Canadian Bar Association’s Reaching Equal Justice Report (2013) and Action Committee on Access to Justice in Civil and Family Matters’ Roadmap for Change (2013) called for such research to inform the development of a “person-centered” Canadian justice system. Uptake of coordinated empirical research could advance a culture shift towards normalizing—and embracing—learning from “failure” in justice system design. In Part 1 of this article, we revisit Dr. Jennifer Leitch’s (2013) recommendation that scholars conduct quantitative, qualitative, and mixed-methods empirical research on access to justice (A2J) initiatives. In Part 2, we share a summary of various evaluation models and examples of A2J scholars conducting such work. We conclude in Part 3 by critically reflecting on the methodological rigour of a recent Saskatchewan-led initiative on how to effectively communicate legal information to newcomers. We add to the literature on this topic critical reflection in legal research for improvements to A2J in the hope that others will learn from, and not shy away from, research and critical self-reflection in advancing research. Our aspiration is that other justice stakeholders will follow the same critical reflections of their work to embrace the idea that

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empirical research need not be perfect to be valuable in this underdeveloped area.

En dépit d'un besoin criant, le secteur de la justice reste dépourvu des lumières de la recherche empirique, susceptibles d'évaluer les initiatives visant l'amélioration du système. Plus d'une décennie s'est écoulée depuis la publication en 2013 du rapport Atteindre l'égalité devant la justice par l'Association du Barreau canadien et du rapport Une feuille de route pour le changement par le Comité d'action sur l'accès à la justice en matière civile et familiale. Dans ces documents, on réclamait de telles études propres à orienter la mise en place d'un système de justice canadien centré sur la personne. Un rattrapage coordonné en recherche empirique pourrait contribuer à transformer les pratiques et à normaliser—et à faire épouser—l'approche consistant à apprendre de ses « erreurs » dans la conception d'un système judiciaire. Dans la première partie de cet article, les auteures revisitent la recommandation de Jennifer Leitch (Ph. D.) (2013) en faveur d'études empiriques quantitatives, qualitatives et hybrides sur les initiatives d'accès à la justice. La deuxième partie présente un sommaire de divers modèles d'évaluation et des exemples de tels travaux. La troisième et dernière partie se veut une réflexion critique sur la rigueur méthodologique d'une récente initiative encadrée par la Saskatchewan sur la communication efficace d'informations juridiques aux nouveaux arrivants. Cette contribution enrichit la littérature sur le sujet en y ajoutant une réflexion critique dans le cadre de la recherche juridique afin d'améliorer l'accès à la justice, dans l'espoir que d'autres, plutôt que de l'éviter, retiendront d'emblée cette leçon de la recherche et de l'autoréflexion critique pour l'avancement de la recherche. L'objectif est que d'autres intervenants du système de justice suivent cette même piste de réflexion critique sur leur travail et embrassent l'idée que la recherche empirique n'a pas besoin d'être parfaite pour être utile dans ce secteur où elle fait défaut.

Contents

Introduction	724
Defining Key Terms	726
Part 1: The Context, Challenge, and Opportunity in Normalizing Use of Empirical Research in the Canadian A2J Arena	728
A) The Context: The need for rigorous empirical A2J research and standards	729
B) The Challenge: Barriers to conducting empirical A2J research	731
C) High-cost and Low Pay-off: Reasons for a limited scope of A2J research	732

thrive without discrimination or exclusion. Legal research, in particular, contributes to the sustainability of UN goals through inquiry that can help to identify barriers to “person-centered justice” and propose solutions to address them.⁴

The issue remains that a lack of empirical research evaluating justice system improvement initiatives exists.⁵ This data deficit incites a push to advance and normalize the use of empirical research to improve person-centered justice locally, across Canada, and internationally.⁶ By using empirical methods and standards of research, the justice system could better incorporate a “standard for meaningful justice—a standard composed of just outcomes”.⁷ Normalizing the use of empirical research and critical self-reflection would contribute to the much-needed “growing body of research [which] assist[s] in translating [a] general standard into best practices to guide the delivery of legal services and decision-making processes (both court and non-court-based)”.⁸ The hope in creating this standardized body of information is to have research and data to back continuous improvements for a “seamless continuum of legal and non-legal services, and ensure that [legal] representation is available when needed to have meaningful access to justice”.⁹

The drive toward normalizing the use of empirical research and its assessment for the ongoing development of a person-centered justice system is not new. In Part 1 of this article, we revisit touchstone reports, such as the CBA Report and the Action Committee Report, and arguments from scholars such as Jennifer Leitch that call for improving the frequency and quality of empirical research in the justice sector to support evidence-based A2J interventions and improvements.¹⁰ In Part 2, we pause to reflect on empirical research that has been undertaken in the A2J arena, framing perspectives that highlight such work to a wider audience and educate

⁴ Justice Data Observatory, “[People-Centered Access to Justice Research: A GLOBAL PERSPECTIVE](#)” (2023), online: <tinyurl.com/23brkz53> [perma.cc/YP7Z-FVfV].

⁵ Canadian Bar Association, “[Reaching Equal Justice: An Invitation to Envision and Act](#)” (2013), online: <tinyurl.com/4ybem8jz> [perma.cc/RV42-8HVZ] [CBA Report].

⁶ See *ibid.*

⁷ See *ibid.* at 16.

⁸ See *ibid.*

⁹ See *ibid.*

¹⁰ See *ibid.* See also Action Committee on Access to Justice in Civil and Family Matters, [Access to Civil and Family Justice: A Roadmap for Change](#) (Ottawa: Action Committee on Access to Justice in Civil and Family Matters, 2013), online: <tinyurl.com/mrkmpz7m> [perma.cc/S5XJ-U8GE] [Action Committee Report]; Jennifer A Leitch, “Looking for Quality: The Empirical Debate in Access to Justice Research” (2013) 31:2 Windsor YB Access Just 229 [Leitch, Looking for Quality].

readers new to the topic on the possibilities of empirical research in the A2J arena. We conclude in Part 3 by critically reflecting on the methodological rigour of a study we conducted in Saskatchewan, Canada, by having a researcher who works primarily outside the discipline of law analyze our work. In doing this critical reflection, we attempt to lead by example, as we hope others will also do by sharing empirical studies underway in A2J in Canada. Critical self-reflection on the methodological rigour of such studies, to grow from and learn, remains an underdeveloped area of legal research initiatives.

Defining Key Terms

We recognize that both experts and novices in research methodology may be reviewing this paper, nonetheless, we believe that any rigorous research starts with defining key terms. The following terms are key to understanding the premises of this paper. The definitions are compiled from different library-based and A2J resources, such as the Harvard A2J Lab.¹¹

Table: Key Terms

Key Terms in this Article	Definition
Empirical Research	Empirical research “is based on observed and measured phenomena and derives knowledge from actual experience rather than from theory or belief”. ¹²
Evaluation	Evaluation is “an assessment using systematic data collection and analysis of one or more programs, policies, and organizations intended to assess their effectiveness and efficiency”. ¹³
Qualitative Research	“Qualitative legal research aims to study things in their natural settings, understand and interpret their social realities and provide inputs on various aspects of social life. It focuses on people’s feelings, perceptions, and experiences”. ¹⁴

¹¹ Harvard A2J Lab, “[Access to Justice Lab at Harvard Law School](https://a2jlab.org/)” (2024), online: <a2jlab.org> [perma.cc/54TM-ZS7J].

¹² LaSalle University, “[Qualitative and Quantitative Research—What is ‘Empirical Research?’](https://www.lasalle.edu/library/qualitative-and-quantitative-research-what-is-empirical-research/)” Connelly Library, online: <https://tinyurl.com/45pxv7j6> [perma.cc/P4F8-M2DN].

¹³ Legal Information Institute, “[Definition: Evaluation](https://www.legalinformationinstitute.com/definition/evaluation/)”, online: <tinyurl.com/mrr2p76n> [perma.cc/YC9K-NRGU].

¹⁴ Ishwara Bhat, “Qualitative Legal Research: A Methodological Discourse” in *Ideas and Methods of Legal Research* (Oxford: Oxford University Press, 2013) at 359–382.

Quantitative Research	“Quantitative legal research insists on scientific measurement of the phenomena and appropriate generalization based on data analysis”. ¹⁵
Mixed Methods Research	Mixed Methods Research is an approach that “integrates both qualitative and quantitative research methods”. ¹⁶ One needs to consider the paradigms underpinning each approach and strategically and systematically integrate the two to answer specific research questions that are best answered by this approach. ¹⁷
Randomized Control Trials (RCTs)	RCTs are often referred to as the “gold standard” of empirical research methods. “An RCT tries to remove, as much as possible, the effects of countless background factors—things like gender, age, education, knowledge, etc.—that might also drive the outcomes in question”. ¹⁸
Research Design (Framework & Process)	Research Design is a structured framework and systematic process used to plan, conduct, and analyze research, ensuring the study addresses the research questions effectively and produces reliable, valid results. ¹⁹
Methodology & Methods	Methodology refers to the overarching strategy and rationale guiding the research process, while methods are the specific techniques and procedures used to collect and analyze data. ²⁰
Methodological/Academic Rigour	Methodological or academic rigour is the strict adherence to precise and systematic research methods to ensure the validity, reliability, and accuracy of the study’s findings.

¹⁵ *Ibid* at 383-466.

¹⁶ Alysia Blackham, “When law and data collide: the methodological challenge of conducting mixed methods research in law” (2022) 49:1 *J Law and Soc* 587–5104.

¹⁷ John W Creswell, *Research Design: Qualitative, Quantitative, and Mixed Methods Approach* (Thousand Oaks, CA: SAGE Publications Inc, 2003) [Creswell, *Research Design*].

¹⁸ Michael Quinn Patton, *Qualitative Research & Evaluation Methods: Integrating Theory and Practice* (Thousand Oaks, CA: SAGE Publications Inc, 2015) [Patton, *Qualitative Research & Evaluation Methods*]; Harvard A2J Lab, “[Randomized Evaluation](#)” (2024), online: <<https://tinyurl.com/mv5kev7>> [perma.cc/9YZ9-W48H] [Harvard A2J Lab, *Randomized Evaluation*].

¹⁹ Sumbl Ahmad Khanday & Deeba Khanam, “THE RESEARCH DESIGN” (2019) 6:3 *Journal of Critical Reviews* 360 at 367.

²⁰ Scribr, “[What’s the difference between method and methodology?](#)”, online: <tinyurl.com/5n87hdhh>.

Validity, Reliability, Credibility, Relevance, Robustness (Triangulation)	Validity refers to the extent to which a research study measures what it claims to measure; ²¹ reliability denotes the consistency of the results over repeated trials; ²² credibility involves the trustworthiness and believability of the findings; ²³ relevance indicates the applicability and importance of the research to the real world; ²⁴ and robustness (triangulation) is the strength of the study's conclusions through the use of multiple methods or data sources. ²⁵
Replicability	Replicability is the ability of a study to be duplicated with the same results by other researchers. ²⁶
Critical Reflection (or Critical Self-Reflection)	Critical self-reflection (CSR) is a process deconstructing and reconstructing understanding of a concept or context through iterative self-reflection to highlight possibilities for change or advancement of knowledge. CSR identifies the ways in which we affirm “discourses that work against us, and the people we are working with, through examining our implicit assumptions.” ²⁷ The purpose of critical reflection is to uncover how people participate in discourses that shape power relations. Critical reflection acts as a “conceptual space” for change. ²⁸

Part 1: The Context, Challenge, and Opportunity in Normalizing Use of Empirical Research in the Canadian A2J Arena

In Part 1, we revisit Dr. Jennifer Leitch’s recommendation that scholars conduct quantitative, qualitative, and mixed-methods empirical research

²¹ SAGO, “[The Significance of the Validity and Reliability in Qualitative Research](#)” (2024), online: <tinyurl.com/3mpbnfk5> [perma.cc/28RT-QRGM].

²² Edward Volchok, “[Reliability and Validity](#)” (2015) *The City University of New York*, online: <tinyurl.com/bdf7ttyw> [perma.cc/U7WX-J8LZ].

²³ Sirwan Khalid Ahmed, “The pillars of trustworthiness in qualitative research” (2024) 2:1 *Journal of Medicine, Surgery, and Public Health* at 1.

²⁴ Brian M Belcher et al, “Defining and assessing research quality in a transdisciplinary context” (2015) 25:1 *Research Evaluation* 1 at 1–17: See definition, specifically, in the “Abstract”.

²⁵ Nancy Carter et al, “The use of triangulation in qualitative research” (2014) 41:5 *Oncology Nursing Forum* 545 at 545–547.

²⁶ National Academies of Sciences, Engineering, and Medicine, [Reproducibility and Replicability in Science](#) (Washington DC: The National Academies Press, 2019), online: <tinyurl.com/z8yjek4d> [perma.cc/LS59-YL45] at 1.

²⁷ Christine Morley, “Critical reflection as a research methodology” in Pranee Liamputtong & James Rumbold, eds, *Knowing differently: Arts-based and collaborative research methods* (Nova Scotia: Nova Science Publishers Inc, 2008) at 265–280 [Morley, Critical reflection as a research methodology].

²⁸ Jan Fook, *Critical Social Work* (London: Sage Publications Inc, 2002) [Jan Fook, *Critical Social Work*].

on A2J initiatives, addressing three components that direct attention towards increased research in legal contexts, particularly in A2J realms: 1) context; 2) challenges; and 3) opportunities.²⁹

A) The Context: The need for rigorous empirical A2J research and standards

Canada has had a deficit of research on A2J.³⁰ While there have been improvements over the last decade, there is still a need to develop a stronger empirical research methodology in the Canadian A2J arena—to properly “measure the impact and efficacy of different initiatives aimed at improving individuals’ access to justice”.³¹ The deficit of research exacerbates an existing gap in quality data collection within the justice sector.³² The lack of experimental research into ‘what works’ in A2J can be partly attributed to legal professionals evaluating some, but not all, programs.³³ It is also due to an overarching lack of review and evaluation of programs.³⁴ With little data, there can be little critical reflection or publication.³⁵ Research must be grounded firmly in rigorous research methodology to cultivate robust data and enhance the quality of applicable findings. Thomas Schwardt characterizes research methodology as the structured framework guiding inquiry, analysis, assumptions, principles, and procedures within a specific context and approach.³⁶ According to Schwardt, Abbas Tashakkori and

²⁹ See Leitch, *Looking for Quality*, *supra* note 10.

³⁰ See Harvard A2J Lab, *Randomized Evaluation*, *supra* note 18 at 40. See also Trevor CW Farrow, Lisa Moore & Ab Currie, *Measuring Impacts of Legal Services: Bibliography, Network and Methodology* (Toronto: Canadian Forum on Civil Justice, 2020), online: <tinyurl.com/yswz3j6p> [perma.cc/7J3Y-PMQ6] at 13 [Farrow *et al*, *Measuring Impacts of Legal Services*].

³¹ See Leitch, *Looking for Quality*, *supra* note 10 at 229. See e.g. Amy Salyzyn’s empirical work in the area of court forms: Amy Salyzyn *et al*, “What Makes Court Forms Complex? Studying Empirical Support for a Functional Literacy Approach” (2019) 15:1 *J Law & Equality* 31. See also some exciting developments that recognize the importance of data insights in the justice sector include the following works: Sarah A Sutherland, *Legal Data and Information in Practice: How Data and the Law Interact* (London: Taylor & Francis, 2022); Wolfgang Alschner *et al*, *Decoding the Court: Legal Data Insights from the Supreme Court of Canada* (London: Routledge, 2024).

³² See Harvard A2J Lab, *Randomized Evaluation*, *supra* note 18 at 40.

³³ *Ibid.*

³⁴ *Ibid.*

³⁵ *Ibid.*

³⁶ Thomas A Schwardt, *The SAGE Dictionary of Qualitative Inquiry*, 3rd ed (University of Illinois: Urbana-Champaign, 2007) at 195.

John Creswell,³⁷ and Teddlie and Tashakkori,³⁸ methodologies clarify and frame worthwhile research problems, help formulate testable hypotheses and guide the selection of appropriate data collection methods. For this reason, there is a need to “develop a more compelling and convincing methodology by which to assess and evaluate these different initiatives,” which is not necessarily restricted to purely quantitative or qualitative approaches—but can include an array of mixed approaches as well.³⁹

There is also a current need to collect and collate data to a standard consistent with other disciplines. Legal policymakers can sometimes make decisions “informed by politics or the ‘subjective collective wisdom of professional authorities’ rather than evidence from empirical studies.”⁴⁰ The legal profession differs from other professions, such as health and medicine, where there is a “rigorous universal standard” for research and data collection to inform policy and practice, which we do not currently see in the legal profession.⁴¹ Holly Fernandez Lynch et al indicate that legal services often have equally high-stake concerns as the medical field, both bearing on an individual’s quality of life and freedoms.⁴² We query why do we not then have “the same rigorous standards to evaluate legal interventions that affect our lives as much as [although maybe not the same as] medical interventions?”⁴³

The exploration into rigorous standards is an area that is largely unexplored by legal scholars.⁴⁴ Laura Abel states that despite “high stakes, the legal academy has not yet viewed its mission as encompassing rigorous assessments of the utility of different access to justice tools.”⁴⁵ In particular, poverty lawyers and civil courts are left to innovate without analytic support as it is just not a key focus in the field of law.⁴⁶ The development

³⁷ Abbas Tashakkori & John W Creswell, “Exploring the nature of research questions in mixed methods research,” (2007) 1:3 *Journal of Mixed Methods Research* 207 at 207–211.

³⁸ Charles Teddlie & Abbas Tashakkori, *Foundations of Mixed Methods Research: Integrating Quantitative and Qualitative Approaches in the Social and Behavioral Sciences* (London: Sage, 2009) [Teddlie & Tashakkori, *Foundations of Mixed Methods Research* 2009].

³⁹ See Leitch, *Looking for Quality*, *supra* note 10 at 229.

⁴⁰ Holly Fernandez Lynch, D James Greiner & I Glenn Cohen, “Overcoming Obstacles to Experiments in Legal Practice” (2020) 367: 6842 *Science* 1078.

⁴¹ See *ibid.*

⁴² See *ibid.*

⁴³ See *ibid.*

⁴⁴ Laura K Abel, “Evidence-Based Access to Justice” (2009) 13:3 *U Pa JL & Soc Change* 295 [Abel].

⁴⁵ See *ibid* at 311.

⁴⁶ See *ibid.*

of rigorous empirical standards is a critical endeavour, especially in fields like education and medicine, where neglecting this approach would be faced with huge backlash and criticism. Legal professionals across the country should take this as a *call to action* to ensure that robust standards are established and adhered to.⁴⁷ To best serve our communities, we should be upholding our professional standards to a higher level—one comparable to what is seen in medicine, education, clinical psychology, and other community-serving professions.

To continue in a system that does not test or empirically evaluate legal resources or strategies could be seen as unethical or irresponsible and should be avoided.⁴⁸ David Weisburd, a distinguished professor at George Mason University states:

From an ethical standpoint, isolating the effects of treatment is one of the evaluator's most important obligation to society. Stating that a certain treatment or protocol is effective when it is not will lead to significant societal costs, economic and social. Moreover, failing to recognize the harms of treatments or interventions can lead to much suffering on the part of the individuals receiving treatment, or communities that expect benefit not harms from them.⁴⁹

Weisburd indicates it is irresponsible and goes against a lawyer's ethical obligations to provide untested legal interventions. Further, he suggests that it is impossible to determine whether initiatives are helpful rather than harmful if not properly tested or evaluated.⁵⁰ As indicated, rigorous empirical standards are critical across disciplines, and legal professionals play a pivotal role in upholding them. It is our hope this *call to action* inspires collaborative efforts toward accessible justice and accountability.

B) The Challenge: Barriers to conducting empirical A2J research

The empirical study of legal initiatives remains relatively uncommon, likely due to several challenges.⁵¹ The act of isolating the “causes and effects” of a variable is “extremely difficult in the real world” which creates issues surrounding standardization data in the field of law.⁵² Where evaluations have taken place, there often remain inconsistencies in the language and

⁴⁷ See *ibid.*

⁴⁸ See *ibid.*

⁴⁹ David Weisburd, “Ethical Practices and Evaluation of Interventions in Crime and Justice: The Moral Imperative for Randomized Trials” (2003) 27:3 Eval Rev 336 [Weisburd].

⁵⁰ See *ibid.*

⁵¹ See e.g. Harvard A2J Lab, Randomized Evaluation, *supra* note 18.

⁵² Weisburd, *supra* note 49.

metrics that result in difficult to compare data sets across studies.⁵³ This issue hinders coordinated measurement and tracking of A2J initiatives. Historically, there has been no “generally accepted metric for evaluating [A2J] tools”.⁵⁴ Inconsistencies can limit the ability to measure continuous improvements and the efficacy of the Canadian justice system.

Having a “limited vocabulary to describe and measure this system and the ways in which it functions [and] whether and how to measure the legal system’s performance are themselves contentious issues”, serving as a significant roadblock in the progress of Canada’s justice system.⁵⁵ Roadblocks to progress are reinforced by the fact that Canadian law currently does “not have a consensus about the meaning and definition of A2J; although most agree that it is a complex and complicated phenomenon.”⁵⁶ Efforts have been made to create and implement measurement tools in Canada, such as the A2J Measurement Framework and Justice Development Goals; however, until more universally adopted standards are in place, we may have a limited understanding of the collective impact in the A2J arena.

C) High-cost and Low Pay-off: Reasons for a limited scope of A2J research

There are two key reasons why empirical research has not taken off in the A2J field. The first challenge involves the ‘high costs’ and ‘low pay-off’ for the efforts of scholars who undertake empirical research.⁵⁷ Deborah L Rhode, a law professor at Stanford Law School, indicates that empirical research “is typically more expensive and time-consuming than doctrinal or theoretical scholarship [and] requires greater interdisciplinary expertise and risks dismissal in some circles as ‘merely descriptive’”.⁵⁸ Rhode’s second concern is that there simply remains a lack of training in social sciences methodology in the legal academy.⁵⁹ Rhode states that “[l]egal scholars with no training in social sciences methodology run the risks of sloppy survey techniques and findings that cannot be generalized [and

⁵³ See *ibid.* See also D James Greiner, “The New Legal Empiricism & Its Application to Access-to Justice Inquiries” (2019) 148:1 *Daedalus* 64 [Greiner, *The New Legal Empiricism*]; Brea Lowenberger et al, “Utilizing an A2J Measurement Framework for Comparative Justice Data Collection and Program Evaluation Across Canada” (2021) 37:2 *Windsor YB Access Just* 337 [Lowenberger et al].

⁵⁴ Abel, *supra* note 44.

⁵⁵ The Canadian Bar Association, “[Access to Justice Metrics, A Discussion Paper. Envisioning Equal Justice](https://www.cba.org.ca/~/media/2013/06/Access-to-Justice-Metrics-A-Discussion-Paper-Envisioning-Equal-Justice.pdf)” (2013) online: <tinyurl.com/2wn8p4xe> [perma.cc/299L-46Q].

⁵⁶ See *ibid.*

⁵⁷ Deborah L Rhode, “Access to Justice: An Agenda for Legal Education and Research” (2013) 62:4 *J Leg Educ* 531 [Rhode].

⁵⁸ See *ibid.*

⁵⁹ See *ibid.*

that] student-run journals often lack the expertise to monitor quality.”⁶⁰ Empirical studies require a strong and thorough design to be effective. If the design is weak, the study may only contribute unnecessary “noise to the system.”⁶¹

Second, generalizable data may help to construct a high-level overview of a concept or phenomenon; however, general overviews may lack the depth required to capture the nuances and specific details inherent in each unique context of a study. This lack of depth is explained by Rhode, that “the data gathered from such studies may be representative only ‘in the sense of capturing a range or variation in a [concept],’ and not in the sense of ‘allowing for the estimation of the distribution of the [concept] in the population as a whole.’”⁶² Without addressing the issues of cost and competency, there is a risk of producing haphazard research and recommendations that lack generalizability to a variety of contexts in one sense or are overly general, lacking relevance to specific contexts. More value placed on research in the legal profession in general would contribute to more complete, more reliable, and more relevant data for use in a variety of contexts.

D) The Opportunity: Towards coordinated empirical research standards, a justice data commons, and utilizing an A2J Measurement Framework

By taking a *coordinated* approach, we can better address the challenges outlined by Rhode. A coordinated approach to data collection and empirical research could help to advance a culture shift towards normalizing—and embracing—learning from *failure* in justice system design.⁶³ To move forward in a productive way, there should be an emphasis on evidence-based solutions rather than potential “band-aid” fixes, such as policy-based approaches that do not monitor effectiveness through data collection.⁶⁴ Advancing policy is a more passive approach to a solution. Instead, using evidence-based interventions to “rationaliz[e] [A2J] interventions] might assist in developing more effective [decisions] by legal service providers” and may also serve to “inform funding decisions.”⁶⁵ The necessity for an evidence drive approach to data collection and dissemination is ideal, as

⁶⁰ See *ibid.*

⁶¹ See *ibid.*

⁶² See *ibid.* at 255.

⁶³ Access to Justice BC, “[A Culture Shift in the Justice System](#)” (2021), online: <tinyurl.com/5axj4syn> [perma.cc/3YLZ-2ASC].

⁶⁴ See Greiner, *The New Legal Empiricism*, *supra* note 53.

⁶⁵ See *ibid.*

“the stronger and more credible the evaluation result of an intervention is, the more likely it will retain or gain funding.”⁶⁶

Emphasizing evidence-driven approaches supports a more robust understanding of what truly works.⁶⁷ An increase in knowledge benefits service providers, policymakers, and funders alike. Presenting clear evidence and providing explicit guidance on how to apply that evidence enhances service provider’s ability to meet the needs of their clientele.⁶⁸ Additionally, this approach can contribute to securing more funding for future initiatives. In 2013, Jennifer Leitch recommended that legal scholars “conduct quantitative and qualitative empirical research on access to justice initiatives.”⁶⁹ Leitch referred to the concept of a “new legal empiricism”, which ideally combines qualitative and quantitative techniques to understand the outcomes of A2J interventions. In order to study the effectiveness of A2J initiatives, “a practitioner of the new legal empiricism should attempt to supplement RCTs,” for example, “with other quantitative techniques such as comparisons of rates of release.”⁷⁰ Further, “[a] new legal empiricism practitioner should also deploy,” for example, “court observations, interviews, and other qualitative techniques.”⁷¹

Leitch also advocates for the “continuing need for more in-depth qualitative research that examines the experiences, views, and perceptions of individuals engaged with the civil justice system.”⁷² She emphasizes the need for a strong balance of both qualitative and quantitative empirical research, which currently does not exist.⁷³ Leitch believes utilizing a variety of methodologies is ideal for:

[c]ontinuing to incorporate a variety of methodologies that, at a minimum, encourage ongoing discussion about how [A2J] should be conceptualized and optimally are consistent with and support a broad conceptualization of [A2J] goals, particularly as it pertains to advancing democratic values and interests.⁷⁴ She also emphasizes this will “require further and better attention to a [project’s] underlying conceptual and methodological foundations.”⁷⁵ Leitch suggests a “less

⁶⁶ See *ibid.*

⁶⁷ See *ibid.*

⁶⁸ See *ibid.* See also [CLASSIC Law, “Legal Services”](#) (2024), online: <classiclaw.ca> [perma.cc/54KP-MUQG].

⁶⁹ Leitch, *supra* note 10.

⁷⁰ See Greiner, *The New Legal Empiricism*, *supra* note 53.

⁷¹ See *ibid.*

⁷² See Leitch, *supra* note 10 at 230.

⁷³ See *ibid.* at 236-238.

⁷⁴ See *ibid.* at 238.

⁷⁵ See *ibid.* at 255.

narrow approach to empirical work is demanded if [A2J] research is to fulfill its potential [...] one that will value both quantitative and qualitative research.”⁷⁶

Leitch also highlights the importance of public participation and engagement in these studies to drive systemic improvement and facilitate meaningful change:

To the extent that access to justice theory is informed by principles of participatory democracy and engagement, the research undertaken in conjunction with this theoretical approach should also make sure that the individuals ultimately impacted by this approach are provided an opportunity to provide their input.⁷⁷

User feedback would ideally include a “blend of different research approaches,” which can be “best suited to a qualitative analysis that seeks to include both contextual and diverse perspectives.”⁷⁸ However, as Leitch argues, utilizing all approaches to capture user experience feedback is ideal.

Along with utilizing multiple methodologies, enhancing the *quality* of research through *rigorous* research methodologies would also significantly bolster the robustness of data collection within the justice sector.⁷⁹ By adopting rigorous research method standards, we can ensure that the data gathered is reliable, valid, and representative. This, in turn, will lead to more informed policy decisions, better understanding of trends, and improved outcomes for individuals involved in the justice system.

In moving towards a more coordinated empirical research standard, highlighting the existing data deficit helps to bring awareness to the need for a nationwide research strategy and ensure the coordination of research efforts to allow for researchers to “build off of each other’s efforts” to achieve a robust justice data commons.⁸⁰ A coordinated national strategy would be a move toward developing a “person-centred” Canadian justice system.⁸¹ Since Leitch’s article, steps have been undertaken to develop an organized approach to research across Canada. Both the CBA and Action Committee reports encourage the legal academy to improve A2J-related

⁷⁶ See *ibid.*

⁷⁷ See Leitch, *supra* note 10 at 249–251.

⁷⁸ See *ibid* at 254.

⁷⁹ See Harvard A2J Lab, Randomized Evaluation, *supra* note 18 at 40.

⁸⁰ See *ibid* at 40. Also see generally Lowenberger et al, *supra* note 53.

⁸¹ See Action Committee Report, *supra* note 10. See also Access to Justice Research Network, “[Access to Justice Organizations Collaborating on Person-Centred Justice, Change & Connection Workshop](https://tinyurl.com/4h96z2em)” (2023), online: <<https://tinyurl.com/4h96z2em>> [perma.cc/RQ54-PZ44] [Access to Justice Research Network].

empirical research.⁸² In fact, the CBA Report called on three Canadian Law Schools to establish an “access to justice centre of excellence”—and Canadian law schools responded. In 2016, such research centres were announced at both the University of Saskatchewan College of Law and the University of Victoria Faculty of Law.⁸³ Then, in spring 2023, for the first time, A2J researchers came together for a Person-Centred Justice Workshop. Spring 2024 marks further developments—a new collaboration among CREATE Justice, the Canadian Forum on Civil Justice, University of Victoria’s A2J Centre of Excellence, and McGill University to attempt to build on the inaugural gathering to annually hold a symposium of A2J researchers.⁸⁴ The objective of the workshop will be to “build connections between scholars, researchers, practitioners and other A2J stakeholders across Canada; it will also facilitate the development of scholarly works for publication in journals that accept submissions on the themes of A2J and person-centred justice.”⁸⁵ Such efforts to advance and normalize the use of empirical research in the Canadian A2J arena are promising, though a coordinated justice data commons and measurement framework remains much needed.

Efforts are also underway to establish a coordinated approach to evaluating A2J initiatives by operationalizing a justice data commons and A2J Measurement Framework. In Saskatchewan, we have completed a study on establishing a provincial justice data commons.⁸⁶ In doing so, we have taken into account national efforts, such as Canada’s Justice Development Goals,⁸⁷ and international efforts, such as the Justice Data Observatory.⁸⁸ Along with colleagues in British Columbia, we have been implementing the A2J Measurement Framework.⁸⁹ Both the justice data commons and utilizing the Framework aid in building capacity

⁸² See Action Committee Report, *supra* note 10 at 29.

⁸³ CBA Report, *supra* note 5 at 33; University of Saskatchewan, “[Justice research centre established at the U of S](#)” (2016), online: <tinyurl.com/nxdvnpa4> [perma.cc/GGM2-83ZQ]; Canadian Lawyer Magazine, “[UVic Law launches new access to justice centre](#)” (2016), online: <tinyurl.com/swm95xuz> [perma.cc/5ZWN-ESXD].

⁸⁴ Access to Justice Research Network, *supra* note 81.

⁸⁵ See *ibid.*

⁸⁶ Lisa Jewell et al, “[Legal Data in Saskatchewan and Implications for a Justice Data Commons: Results from an Environmental Scan and Key Informant Interviews](#)” (2023), University of Saskatchewan: Centre for Forensic Behavioural Science and Justice Studies, online: <tinyurl.com/yzzj3fnd>. [perma.cc/ES3Z-EJCY].

⁸⁷ Action Committee on Access to Justice on Family and Civil Matters, “[2022 Progress Report: Canada’s Justice Development Goals](#)” (2022), online: <tinyurl.com/maz3dapp> [perma.cc/9D94-RK4M].

⁸⁸ Research Advancing Justice, “[Justice Data Observatory](#)” (2023), online: <tinyurl.com/yhkmrtvk> [perma.cc/3E9Q-C4M4].

⁸⁹ See e.g. Lowenberger et al, *supra* note 53.

for comparative data collection and program evaluation across Canada as we undertake more empirical A2J research. There are examples of studies that have incorporated and adopted Leitch's recommendation on "conducting empirical research that incorporates quantitative and qualitative components," such as those which are analyzed next.⁹⁰

Part 2: Reflecting Outward on Evaluation and Empirical A2J work

As noted, Rhode posits that a lack of training and knowledge has impeded empirical A2J work.⁹¹ Remedying such a knowledge gap may require significant educational changes. However, incremental progress may also be made by understanding the work of those practicing in the field. Part 2 of this paper aims to address the knowledge gap Rhode identifies in a twofold manner: 1) through a summary of existing papers and 2) a discussion of issues that arise when conducting A2J research through a process of critical self-reflection.

First, we summarize three empirical A2J papers, aiming to platform such work to a wider audience and incrementally educate readers new to the topic on the possibilities of empirical research.

In selecting particular papers, we hope that readers will do the following:

a) Reflect on the diverse range of empirical research options:

While the idea of empirical research may bring to mind access to discussions with justice system participants, some of the work highlighted below demonstrates other possibilities. For example, David Wiseman's analysis on the impact of paralegals in Ontario tenancy hearings used publicly available CanLII decisions and *Freedom of Information and Protection of Privacy Act*, RSO 1990, c F.31 requests to obtain the data necessary for analysis. While a limited number of A2J system participants available for research may inhibit researchers' ability to follow Leitch's recommendation of incorporating qualitative and quantitative data, it does not need to bar one's ability to conduct empirical research at all. There are numerous viable alternatives that can be explored to ensure the research remains robust and relevant.

b) Challenge narrow conceptualization of A2J solutions: A2J interventions need not always target the process by which a person attains

⁹⁰ Alexander FD Stirling, *Measuring the Access to Justice Impacts of a Law School Clinical Program* (MPA Dissertation, University of Victoria, 2017) [unpublished].

⁹¹ See Rhode, *supra* note 57.

a decision. Instead, they could encompass a broader scope, including the preliminary stages of accessing legal information and understanding one's rights before even reaching the stage of seeking legal remedies. O'Hare and Erdelez's work considered the legal information landscape—a precursor to seeking out legal remedies. We must understand A2J (and associated interventions) as being enmeshed in each step of the justice process and involving everyone with a legal issue. As noted by Albiston and Sandefur: "current definitions and understandings of A2J may blind [us] to more radical, but potentially more effective, solutions."⁹²

c) Contemplate research that focuses on more than a legal outcome: None of the work we discuss in this paper examines whether an individual *won*. Intertwined with the above notion that A2J interventions can do more than facilitate appearances in front of decision-makers is the idea that a successful justice system can do more than simply facilitate just outcomes. A2J interventions can play a broader role than just enabling individuals to appear before decision-makers or obtain a favourable outcome. Instead, a successful justice system should be evaluated on more dimensions than just the final legal outcome—it can and should provide various forms of support and positive experiences for individuals engaging with the system.

This summary modestly complements existing compilations of empirical A2J research. Lisa Moore's work, for example, provides additional considerations for how researchers may use randomized control trials (RCTs) and longitudinal studies in legal systems research and is an excellent primer for those seeking directions on how to engage in such research.⁹³ The creation of these collections can offer an entry point into such work. By situating this paper alongside others, we aim to support ongoing research and encourage innovative approaches to analyzing A2J initiatives.

In an attempt to elevate Rhode's concerns about research conducted by untrained individuals "add[ing] noise", we next discuss specific issues that may arise when conducting empirical legal research. Our purpose here is *not* to provide a primer that researchers should use to design their work. Instead, in summarizing the minefields that experimental design must navigate to achieve good data, we aim to encourage legal researchers to embark upon interdisciplinary studies rather than take on this work alone. As will be discussed in Part 3 of this paper, our empirical research involved such an interdisciplinary team, a point which was critical to the quality of the final report.

⁹² Catherine R Albiston & Rebecca L Sandefur, "Expanding the Empirical Study of Access to Justice" (2013) *Wis L Rev* 101 at 103 [Albiston & Sandefur].

⁹³ See Farrow et al, *Measuring Impacts of Legal Services*, *supra* note 30.

A) Empirical A2J Work

Process Based Evaluation

Laura Abel offers a process analysis as an alternative to empirical research that focuses solely on judicial systems outcomes by examining a 2000s analysis of court processes completed by other researchers.⁹⁴ Abel notes that outcome-focused work may help researchers understand the impact of a particular intervention, but it may not reveal how such a result was affected.⁹⁵ Such data gaps may impact replicability across jurisdictions and legal problem types.⁹⁶ Process analysis permits researchers to narrow their focus and, as Abel identifies, consider non-legal interventions that may also help reduce litigant stress.⁹⁷

Process analysis involves identifying the tasks required in a particular case, the obstacles that litigants face in completing those tasks, and the A2J interventions that can help overcome those obstacles.⁹⁸ Qualitative and/or quantitative data can be gathered at each activity step, and the effects of small changes can be measured and reported as secondary data use.

Task identification requires a comprehensive analysis of even the most minute steps. For example, the interdisciplinary study Abel references identifies major components of the legal process that litigants would need to take (e.g. hearings, filing documents)—but also disaggregates such components into “specific activities and the functions that compose them.”⁹⁹ Even the act of identifying such steps can lead to a better understanding of justice system experiences—and writing about them provides much to the literature and context of legal decision-making. As Abel notes, those who work within the system may be blind to barriers that exist in a system that is familiar to them.¹⁰⁰ Providing a map of each step may allow a better understanding of such barriers.

Legal Decision Based Evaluation

In one example, David Wiseman’s analysis of the “A2J potential” of paralegal services in Ontario tenancy hearings further demonstrates how

⁹⁴ Abel, *supra* note 44 at 295–314.

⁹⁵ See *ibid* at 304.

⁹⁶ See *ibid*.

⁹⁷ See references within *ibid*: Ronald W Staudt & Paula L Hannaford, “Access to Justice for the Self-Represented Litigant: An Interdisciplinary Investigation by Designers and Lawyers” (2002) 53:4 Syracuse L Rev at 1017 [Staudt & Hannaford].

⁹⁸ See Abel, Evidence-Based Access to Justice, *supra* note 44 at 307.

⁹⁹ Staudt & Hannaford, *supra* note 97 at 1027.

¹⁰⁰ See Abel, Evidence-Based Access to Justice, *supra* note 44 at 305.

researchers can go beyond purely outcome-based analysis when examining implemented A2J initiatives.¹⁰¹ Wiseman set out to consider the effect of Ontario's creation of a regulated paralegal profession as one means to improve A2J in the province.¹⁰² This particular study arose from anecdotal observations by students at the Housing Justice Project that paralegals were increasingly representing landlords at residential tenancy hearings. Wiseman aimed to determine whether paralegals were contributing to A2J in that space and, if so, how.¹⁰³ The study "gathered and analyzed" all CanLII reported "Ontario Landlord Tenant Board" hearings for a specific region over a six-year period.¹⁰⁴ Each decision was coded for, *inter alia*, "type of party (landlord or tenant) and type of representation (e.g., paralegal)."¹⁰⁵ Wiseman then considered the prevalence of various types of representations, for both tenants and landlord, beginning approximately 18 months after the introduction of paralegal licensing.¹⁰⁶

This research suggests that while paralegals were "playing a role in maintaining or improving access to justice for landlords," such access comes at the risk of "direct detriment[] to tenants who ... may be facing relatively more effectively represented opponents."¹⁰⁷ Approximately 65% of self-represented tenants faced a landlord with representation, while the opposite was true only 39% of the time.¹⁰⁸ Further, when tenants were represented against self-represented landlords, 71% of the time, the representation was by a lawyer.¹⁰⁹ Wiseman concluded from this research that paralegals were "playing almost no role at all in maintaining or improving access to justice as representatives for tenants."¹¹⁰

Wiseman acknowledges the contrasting data from studies examining the impact of non-lawyer representation on legal outcomes.¹¹¹ However, in choosing to eschew that debate in this study, his work touches on complexities not apparent via outcome analysis, *i.e.* the potentially detrimental effect of A2J initiatives in systems where both parties commonly did not have representation.

¹⁰¹ As discussed in David Wiseman, "Paralegals and Access to Justice for Tenants" in Trevor CW Farrow & Lesley A Jacobs, *The Justice Crisis* (Vancouver: UBC Press, 2020) at 173.

¹⁰² See *ibid* at 174.

¹⁰³ See *ibid* at 176–178.

¹⁰⁴ See *ibid* at 178.

¹⁰⁵ See *ibid* at 179.

¹⁰⁶ See *ibid* at 179.

¹⁰⁷ See *ibid* at 185.

¹⁰⁸ See *ibid* at 184.

¹⁰⁹ See *ibid* at 184.

¹¹⁰ See *ibid* at 187.

¹¹¹ See *ibid* at 174.

Environment and Demographic Based Evaluation

The 2016 study by O’Hare and Erdelez examines how the general public acquires and encounters legal information via a mixed-method analysis.¹¹² Their research looks at how personal, contextual, affective, and environmental factors influence the acquisition of legal information, both through deliberate searches and incidental encounters. The quantitative component of the study involves an online 45-question survey administered to 385 adults without formal legal training.¹¹³ Participants were asked about their “frequency of intentional legal information acquisition” and their incidental encounters with such information.¹¹⁴ The survey investigated whether certain demographic variables were “significant predictors” of intentional searching for legal information or incidental encounters.¹¹⁵

O’Hare and Erdelez’s work seems to exemplify Leitch’s conceptualization of balanced qualitative and quantitative empirical research. The research focuses on citizens’ understanding and experience with the systems they interact with—which collects quantitative and qualitative data.¹¹⁶ O’Hare & Erdelez’s work calls for information science, the field in which they practice, to fill knowledge gaps about the current legal information infrastructure. These contextual choices either serve, or fail to serve, the public.¹¹⁷ Such analysis is critical to positioning A2J interventions.

B) Importance of Interdisciplinary Empirical Research

Prior to setting out our own empirical research and providing critiques of the same, we wish to underscore the following: while empirical research on A2J is critical, it is not without potential pitfalls. As indicated in Part 1, Rhode discusses in detail the danger associated with untrained empirical researchers simply adding noise to a system that is already under-resourced and overwhelmed.¹¹⁸ Albiston and Sandefur’s work also discusses potential harms. With the expansion of interest in empirical A2J research, there must be corresponding attention placed on ensuring policy maker’s desire for

¹¹² Sheila O’Hare & Sanda Erdelez, “Legal Information Acquisition by the Public: The Role of Personal and Environmental Factors” (80th Annual Meeting of the Association for Information Science & Technology, 2017): Note that while survey data was “augmented by a qualitative interview phase, which proved to have significant explanatory value”, this paper only addresses survey results.

¹¹³ See *ibid* at 300–301.

¹¹⁴ See *ibid* at 300–301.

¹¹⁵ See *ibid* at 301.

¹¹⁶ See *ibid* at 298.

¹¹⁷ See *ibid* at 299.

¹¹⁸ See Rhode, *supra* note 57 at 542.

“effective” programs does not drive all such work.¹¹⁹ Doing so, “allow[s] the policy agenda to define the research questions before the problem and potential responses are fully understood.”¹²⁰ Interdisciplinary research is one means by which such biases can be addressed.

Even those who evangelize the use of empirical A2J research, including the authors of this paper, remain alive to the hazards of setting out to obtain as much research as possible without careful thought. Harvard’s A2J Lab website and main page touts the slogan “[u]sing empirical research to make the U.S. justice system work better for everyone”—nonetheless provides A2J research summaries that are critical of the results of numerous randomized control trials.¹²¹ Writing, for example, of “certain limitations,¹²² “lack of data,”¹²³ and work that may not be “generalizable to long-term results”, are abundant.¹²⁴ Exploring the limitations within legal research is critical—particularly in the A2J space as it allows researchers to refine their methodologies, choose appropriate data collection methods, and consider alternative approaches that might yield more reliable results.

As many A2J initiatives focus on providing representation and services to marginalized and vulnerable groups, adhering to robust empirical methods is critical. Funding in such spaces is often sparse and hard-won. Low-quality empirical research that focuses entirely on outcomes and suggests that programs do not improve *justice efficacy* runs the risk of creating further scarcity and marginalization. As the next section describes, this work must be undertaken with great attention to detail (i.e., methodology and methods appropriate to the inquiry).

Each of the three studies explored above in this section are interdisciplinary: Abel discusses research conducted by “law students, graduate design students, and National Center for State Courts researchers”;¹²⁵ Wiseman’s work appears connected to the Social Sciences and Humanities Research

¹¹⁹ See Albiston & Sandefur, *supra* note 92 at 105.

¹²⁰ See *ibid.*

¹²¹ Harvard A2J Lab, “[Prior RCTs in Law](#)” (2024), online: <tinyurl.com/d2rkk5jn>.

¹²² Melissa Labriola, Michael Rempel, & Robert C Davis, “[Testing the Effectiveness of Batterer Programs and Judicial Monitoring: Results from a Randomized Trial at the Bronx Misdemeanor Domestic Violence Court](#)” (Access to Justice Lab Harvard Law School, 2005), online: <tinyurl.com/59vsnfrk> [perma.cc/CF6K-JL8Y].

¹²³ John Goldkamp & Michael Gottfredson, “[Judicial Guidelines for Bail: The Philadelphia Experiment](#)” (Access to Justice Lab Harvard Law School, 1984), online: <tinyurl.com/pb6ed4w3> [perma.cc/T5ZN-F9ZK].

¹²⁴ Douglas B Marlowe et al, “[Are Judicial Status Hearings a Key Component of Drug Court?: During-Treatment Data From a Randomized Trial](#)” (Access to Justice Lab Harvard Law School, 2003), online: <tinyurl.com/4w5rykjd> [perma.cc/79FN-AAWA].

¹²⁵ Abel, *supra* note 44 at 305.

Council of Canada; and O’Hare and Erdelez are information scientists. For our own empirical research, which we discuss next, we partnered with the Canadian Hub for Applied and Social Research (“CHASR”). Ensuring expertise in legal matters *and* research methodologies/data analytics is key to ensuring successful empirical work.

Interdisciplinary work may guard against haphazard outcomes, which are particularly evident given Rhode’s observation about the lack of training many legal researchers face. Plans for legal research must include comprehensive and well-written discussions about the limitations of research and its applicability, or not, to other legal circumstances. Such nuanced analysis may be beyond the skills of many with the necessary legal knowledge to design the A2J initiatives themselves, and partnerships may, therefore, be a necessary aspect of this work. This brings forward the need for a necessary review of current initiatives to demonstrate the need for purposeful and critical partnerships to better design initiatives within the legal field.

Part 3: Reflecting Inward through a Critical Self-Reflection of Our Own Study ‘Effectively Communicating Legal Information to Newcomers in Saskatchewan’ (2023)

A) The Impact of Legal Research—Framing the Scope of This Work

Individuals and organizations who wish to understand or analyze existing laws, assess the impact of laws, programs and regulations, or understand access to information issues can benefit from rigorous research efforts—as will the individual users of these systems. As indicated previously, legal research is especially impactful for vulnerable, marginalized, or compromised groups (i.e., newcomers to a particular region).¹²⁶ Legal research that employs an experimental design providing evidence-based solutions to common problems accomplishes two goals: (1) it furthers efforts that promote inclusivity and equitable opportunities, and (2) it contributes necessary research to the growing landscape of empirical legal studies. Experts in research methodology (i.e., social scientists) are uniquely positioned to assist legal professionals in paying attention to rigorous standards and methods in the undertaking of such scholarly legal work.

Critical self-reflection (CSR), as a methodological approach, is a powerful tool in fostering reflexivity and enabling transformation within

¹²⁶ See OECD Conference Paper, *supra* note 3.

legal scholarship.¹²⁷ CSR can allow legal scholars to actively examine their assumptions, biases, and the broader discourses that shape their understanding of law and justice. According to Jan Fook,¹²⁸ the purpose of critical reflection is to uncover how individuals contribute to sustaining existing power structures, offering a means to challenge and potentially reconstruct these frameworks. By engaging in critical self-reflection, legal scholars create a “conceptual space” where they can transcend restrictive modes of thought, fostering an openness to alternative perspectives and transformative insights.¹²⁹ This reflexive process encourages scholars to re-evaluate their positions and engage more critically with issues of power, equity, and social justice within the legal field, thereby enriching and diversifying the discourse in legal scholarship.¹³⁰

We engage in the process of CSR in an analysis of our research with the assistance of an education researcher who works primarily outside of the discipline of legal research and writing. This section highlights one study—on the effective communication of legal information to newcomers in Saskatchewan—through a critical analysis of the methodology and methods. The research analyzed in this section was conducted in partnership with CHASR, a Canadian research hub that provides quality assessment, evaluation, and reports (“Canadian Hub for Applied and Social Research”). It is our position that processes of legal scholarship such as this could be enhanced with training or the support of research specialists in a variety of fields to amplify methodological rigour in legal research. However, the latter is not necessarily the role of partnering organizations such as Canadian Hub for Applied and Social Research (“CHASR”). From this review, recommendations are made for further, more refined research based on the strengths and limitations of well-intended legal scholarship that could benefit from partnership with trained researchers in addition to partnering with organizations that support robust efforts to collect data.

We examine the Saskatchewan study from both a critical and constructive lens, which, if replicated, can improve research like this in the future. We remind the reader that criticisms of work do not make

¹²⁷ Jan Fook, “Reflexivity as Method” in Jeanne Daly, Allan Kellehear, & Don E Willis, eds, *Annual Review of Health Social Sciences*, Volume 9 (La Trobe University: Bundoora, 1999) at 11–20.

¹²⁸ Jan Fook, *Critical Social Work*, *supra* note 28.

¹²⁹ Morley, Critical reflection as a research methodology, *supra* note 27.

¹³⁰ See generally Jan Fook, “Critical Reflection in Education and Practice” in Bob Pease & Jan Fook, eds, *Transforming Social Work Practice: Postmodern Critical Perspectives* (Allen & Unwin: St Leonards, 1999) at 195–210; Jan Fook, “Critical Reflection and Transformative Possibilities” in Linda Davies & Peter Leonard, eds, *Social Work in a Corporate Era: Practices of Power and Resistance* (Ashgate: Aldershot, 2004) at 16–30 [Fook, *Critical Reflection and Transformative Possibilities*].

it invaluable or unimportant. In fact, quite the opposite: critical self-reflection enhances the validity and value of scholarly work and is essential for effective research.¹³¹ Defining the limitations of research deepens engagement in topics and supports transparency, which are markers of quality work. We wish to thank the CHASR for their contributions to this research endeavour, one which would not be possible without their continued efforts and support of legal research in Saskatchewan.

B) Legal Research and Scholarship

As indicated in Part 1, legal research is commonly referred to as “legal scholarship,”¹³² and it takes place within a unique interdisciplinary framework that has not always traditionally been “evidence-based—in a scientific sense.”¹³³ The lack of a robust scholarly approach to legal research can be discouraging as other disciplines rely heavily on empirically based rigorous studies to represent issues related to justice and to make informed decisions.¹³⁴ Though it is imperative for members of the legal community to engage in research endeavours that offer high-quality (scientific) information, any research can be a starting place for services that inform legal professionals or those who access the legal system. Legal scholars who further any efforts towards accessible justice by engaging in defined research in their field and assessing and increasing the academic rigour of that research contribute greatly to legal scholarship. It is in the spirit of leading by example—i.e., being part of the culture shift in Canada towards both greater reflective practice and methodological rigour for continuous improvement of A2J interventions—that this critical reflection has been undertaken.¹³⁵ We hope that other A2J stakeholders will do the same.

C) Critical Self-Reflection of One Saskatchewan-Led Research Initiative

At the centre of this critical self-reflection¹³⁶ is a research initiative that was undertaken by the Centre for Research, Evaluation, and Action Towards

¹³¹ See generally Jan Fook, *Critical Social Work*, *supra* note 28.

¹³² Paul Chynoweth, “[Legal research](#)” in Andrew Knight & Les Roddock, eds, *Advanced research methods in the built environment* (United Kingdom: Wiley-Blackwell, 2008), online: <tinyurl.com/5f3ju7e8> [perma.cc/74GJ-7Y5U].

¹³³ See *ibid.*

¹³⁴ Paul Daly & Joe Tomlinson, “Introduction to Researching Public Law in Common Law Systems” in *Researching Public Law in Common Law Systems* (Edward Elgar Publishing, 2023) at 1–23.

¹³⁵ See e.g. Michele Leering, “Conceptualizing reflective practice for legal professionals” (2014) *JL & Soc Pol’y* 23.

¹³⁶ Fook, *Critical Reflection and Transformative Possibilities*, *supra* note 130 at 16–30.

Equal Justice (“CREATE Justice”) in collaboration with the Government of Saskatchewan Ministry of Justice and Attorney General, through the support of the Right Honourable Beverley McLachlin A2J Fund. The research aimed to improve the communication of legal information to newcomers in Saskatchewan. The original evaluation was conducted by CHASR, and it involved a needs assessment followed by the development and testing of legal resources in three different formats: (1) an infographic, (2) a video, and (3) a plain-language summary. The lens of critical self-reflection is used to assess some of the strengths and limitations of this work and each are juxtaposed for a strong argument in favour of reflective practice to support professional growth.

Methodology

This study employed a quasi-randomized control format. As defined in the Introduction, a randomized controlled trial (“RCT”) is a type of scientific experiment often used in medical and social sciences research to evaluate the effectiveness of interventions or treatments.¹³⁷ In RCTs, participants are randomly assigned to either an experimental group, which receives an intervention being tested, or a control group, which does not. This random assignment helps to minimize bias and ensure that any observed effects can be attributed to the intervention rather than other factors. RCTs are often considered the *gold standard* for determining causality in research; however, the reality is that researchers should employ a variety of methods and not rely on one ‘standard’ to address and prioritize particular research, stakeholders, or participant needs in given situations.¹³⁸

Having a named methodology does not necessarily mean standards for methodological rigour are fulfilled. Only if the research aligns itself with a thorough process, well-thought-out design, ethical emphasis, and astute credibility can it call itself rigorous. Michael Patton denotes that the strengths of any research design depend on four distinct elements: systematic, in-depth fieldwork, yielding high-quality data; systematic and conscientious data analysis; credibility of the inquirer (training, experience, presentation, etc.); and readers’ use and belief in the data and the value of the inquiry (i.e., trust):¹³⁹ “Rigour in the research process and presentation of results are achieved when each element of the study methodology is systematic and transparent through complete, methodical,

¹³⁷ See Patton, *Qualitative Research & Evaluation Methods*, *supra* note 18.

¹³⁸ See *ibid.*

¹³⁹ See *ibid.* at 2.

and accurate reporting.”¹⁴⁰ Given the authors’ commitment to rigour in research design, we enlisted such expertise outside of the original project team to complete this part of the paper, to critically reflect on the study’s methodology, and to learn how continuous improvements can be made in the future.

Methodology is the overarching framework guiding a study. In short, research methodology can be defined as the systematic framework of principles and techniques employed to gather, analyze, interpret, and draw conclusions from data in order to investigate a particular phenomenon or problem, ensuring rigour, reliability, and validity in the research process.¹⁴¹ The methodology starts with the beliefs and values of the researcher(s) or organizations conducting the research, and those orientations (ontology, epistemology, axiology) help to frame all choices made throughout a study.¹⁴² As long as the paradigm or framework is logical, appropriate, and fits the needs of the research, it can be deemed an effective strategy for framing quantitative, qualitative, or mixed methods inquiry.¹⁴³

A wide range of possibilities exist when selecting methods within a particular methodology: “The point is to do what makes sense and report fully on what was done, why it was done, and what the implications are for findings.”¹⁴⁴ There is no *right* way to make methodological decisions when it comes to research design.¹⁴⁵ Research methods choices are a result of careful analysis of the purpose, questions, and people at the heart of the work. A good design has an important question and an inherent purpose that aims to advance knowledge in a particular field. The question and purpose of a study are the first point of reference, followed by critical reflection, which should guide inquiry that aims to fill a gap in knowledge while supporting growth for people, systems, and organizations.

James Greiner states: “Achieving [A2] requires employing a new legal empiricism. It starts with sharply defined research questions that

¹⁴⁰ Jessica L Johnson, Donna Adkins, & Sheila Chauvin, “A review of the quality indicators of rigor in qualitative research” (2020) 84:1 *Am J Pharmaceutical Ed* 7120.

¹⁴¹ John W Creswell & David J Creswell, *Research Design: Qualitative, quantitative, and mixed methods approaches*, 4th ed (Newbury Park: Sage Publications, 2017).

¹⁴² Egon G Guba & Yvonna S Lincoln, “Competing paradigms in qualitative research” in Norman K Denzin & Yovonna S Lincoln, Eds, *Handbook of qualitative research*, (Thousand Oaks: Sage Publications, Inc, 1994) at 105.

¹⁴³ Teddlie & Tashakkori, *Foundations of Mixed Methods Research 2009*, *supra* note 38.

¹⁴⁴ See Patton, *Qualitative Research & Evaluation Methods*, *supra* note 18 at 92.

¹⁴⁵ See *ibid* at 2.

are truly empirical.”¹⁴⁶ Greiner describes the importance of establishing techniques that fit the nature of the research questions and suggests that following the rules of research ethics and integrity are key to challenging conventional legal thinking and practice. As stated in Part 1 of this paper, rigorous research is not the only concern when it comes to legal studies; a *justice and data deficit* also exists in the legal system, emphasizing the need for increased legal research of all kinds in Canada.¹⁴⁷ Though quality empirical research is necessary, this critical review is based on the premise that research ‘need not be perfect to be valuable,’ and all research, regardless of quality, provides a platform for growth. The Saskatchewan-led initiative provides such a platform for critical reflection for us as authors, as it represents a quasi-experimental design showcasing mixed data (qualitative and quantitative methods) regarding newcomer access to information.¹⁴⁸

In the Saskatchewan case, several key questions guided this study, which had the overarching purpose of exploring the best ways to communicate legal information to newcomers in Saskatchewan. Key questions included: *What legal information knowledge gaps exist? What legal topics do newcomers want to know more about? What format of communicating legal information is preferred? What can be done to make legal information resources accessible and useful?*¹⁴⁹ These questions informed both methodology and methods, which can be undertaken with varying degrees of rigour.

Methodological Rigour

Strengths and limitations existed in the three phases used to answer the research questions, each pertaining to methodological rigour. Methodologically, the study was framed as a needs assessment, though no specific procedure was cited, and—although the project team undertook a literature review at the onset of the study—no systematic process of framing the research through connections to valuable literature was shared in the final report. A needs assessment typically presents a systematic process for understanding a community, program, or service,

¹⁴⁶ See Greiner, *The New Legal Empiricism*, *supra* note 53.

¹⁴⁷ Benjamin Perrin, Richard Audas, & Sarah Péloquin-Ladany, “[Canada’s Justice Deficit](https://www.tinyurl.com/ye2349yx)” (Macdonald-Laurier Institute for Public Policy, 2016), online <[tinyurl.com/ye2349yx](https://www.tinyurl.com/ye2349yx)> [perma.cc/UR4Q-6NZE].

¹⁴⁸ Roger E Kirk, “Experimental Design” in Roger E Millsap & Alberto Maydeu-Olivares, *The SAGE Handbook of Quantitative Methods in Psychology* (SAGE Publications, 2009) at 23–45 [Kirk].

¹⁴⁹ CREATE Justice, “[Effectively Communicating Legal Information to Newcomers in Saskatchewan: Evaluation Report](https://www.tinyurl.com/srw7cxy)” (October 2023), online: <[tinyurl.com/srw7cxy](https://www.tinyurl.com/srw7cxy)> [perma.cc/PT4Z-CH6K] at 5 [CREATE Justice].

and it can involve a comparative analysis of people or services for clarity and context of the work.¹⁵⁰ A lesson learned for future studies could be to choose and cite a systematic process undertaken for literature review, which in this case would have been helpful for readers of the report. In addition, the study is presented as mixed-methods research, denoting both qualitative and quantitative domains. The research questions, for the most part, fit a traditional mixed methods application, as the questions are congruent, convey the need for an integrated approach, are answerable using a combination of methods, and are important questions shaped by many influences.¹⁵¹ Therefore, relevant methodological choices were made at the outset of this study. For future consideration, however, a more concise framing, reference, or report of those choices would denote a more replicable design that could denote rigorous efforts in the research.

Critical examinations of research practice such as this can be seen as a response to *calls to action* for best (or better) practice in legal research—especially for research that aims to reduce harm or increase access to services for those in need. This discussion centers specifically on the methodological rigour of the Saskatchewan study by highlighting the success of the study through thoughtful approaches to research (strengths), along with recommendations to enhance legal research based on some limitations also inherent in the work. The goal of analyzing rigour in legal research is to improve and advance research standards to include considerations for more robust methodologies. Critical reviews of legal research can greatly enhance the integrity of data collection and presentation of findings within the justice sector.¹⁵² As noted, however, rigorous research methods alone do not guarantee the reliability, validity, and accurate representativeness of gathered data; they greatly enhance it by reducing systematic bias and data distortion during the analysis and presentation of findings, thereby increasing credibility.¹⁵³

Strengths of the Study

Scholarly research can be sustained through diverse and appropriate methodological choices.¹⁵⁴ These choices are defined by both qualitative and quantitative methods, which, on their own or combined, support

¹⁵⁰ Catherine M Sleezer, Darlene F Russ-Eft, & Kavita Gupta, *A Practical Guide to Needs Assessment* (John Wiley & Sons, 2014).

¹⁵¹ Vicki P Clark & M Badiee, “Research Questions in Mixed Methods Research” in Abbas Tashakkori & Charles Teddlie, eds, *SAGE Handbook of Mixed Methods in Social & Behavioral Research* (SAGE Publications, Inc, 2010) at 275–338 [Clark & Badiee] .

¹⁵² Lee Epstein & Gary King, “The Rules of Inference,” (2002) 69:1 U Chic L Rev 1.

¹⁵³ See Patton, *Qualitative Research & Evaluation Methods*, *supra* note 18.

¹⁵⁴ Martin Lipscomb, “Mixed method nursing studies: a critical realist critique” (2008) 9:1 Nursing Philosophy at 32–45.

rigorous inquiry in diverse disciplines. The foundation of producing credible and impactful findings lies in making appropriate (for the study) methodological choices combined with accurate reporting of the results. The researcher(s) and the research are trusted through these choices, and a fair presentation of the work that contributes to advancing the discipline can be all that is required for sound research.¹⁵⁵

The Saskatchewan newcomer initiative demonstrated a commitment to academic rigour through a quasi-experimental design with a variety of adequate research choices. These choices strengthened the presentation of the findings beyond simply offering *sound research*: (a) they used a multi-method approach to the research, (b) they honoured active stakeholder engagement throughout several processes or phases, (c) they understood the importance of cultural sensitivity, (d) they implemented an iterative design process, and (e) they used rigorous quality control measures to complete the work.¹⁵⁶ Each of these strengths, further detailed under the headings below, contributed to the enhancement of the research's credibility, relevance, and overall impact on the topic of Saskatchewan newcomers accessing critical legal information.

A Multi-Method Approach

The Saskatchewan newcomer initiative used a multi-method approach to data collection,¹⁵⁷ combining key information from stakeholders and participants through interviews, a focus group, and an experimental survey. This multi-faceted design allowed for the triangulation of data, and it greatly enhanced the credibility of the findings. It is important to distinguish that this approach, though multi-method, is not confused with an authentic mixed-methods design, as “mixed methods research has evolved to the point where it is a separate methodological orientation with its own worldview, vocabulary, and techniques.”¹⁵⁸ The newcomer study completed by CHASR indeed employed multiple methods, modes, and phases as a process for asking appropriate research questions and gathering in-depth and relevant data; however, it was not a mixed-methods study by design.¹⁵⁹

¹⁵⁵ David Silverman, *Doing qualitative research* (Sage Publications, Inc, 2021).

¹⁵⁶ See CREATE Justice, *supra* note 149.

¹⁵⁷ See Creswell, *Research Design*, *supra* note 17.

¹⁵⁸ Abbas Tashakkori & Charles Teddlie, *SAGE Handbook of Mixed Methods in Social & Behavioral Research* (USA: SAGE Publications Inc, 2021).

¹⁵⁹ Clark & Badiee, *supra* note 151.

1. Triangulation

Data triangulation is a term used to describe a method used to enhance the validity and reliability of findings by collecting and collating evidence from multiple independent sources, methods, or perspectives.¹⁶⁰ In this study, triangulation was achieved through three phases of formal data collection: (1) participant meetings/interviews, which allowed for an in-depth exploration of individual experiences and perspectives; (2) focus groups, which facilitated interactive discussions, revealing shared understandings and the development of a group dynamic; and (3) an experimental survey, which yielded quantitative data, enabling statistical analyses and possibilities for the generalization of the findings to a larger population—though the generalization of any findings in naturalistic inquiry can be highly criticized and are not recommended in this case.¹⁶¹ The methods used compare and integrate the data collected in meaningful ways and strengthen the overall trustworthiness of the findings—this is key in all research; however, it is especially so when working with and reporting on vulnerable populations. Triangulation, in this case, involved multiple forms of engagement with the data (phases) and using several data analysis formats (e.g., a summary of themes or factors and a robust statistical analysis).¹⁶²

In phase one, the stakeholder interviews/meetings provided great insight into the complex individual experiences and contexts for the newcomers (i.e., language) who were consistent with a population who would be accessing information. Next, a focus group captured the particular group dynamics, social norms, and shared beliefs among a select group of newcomers, offering a broad understanding of collective perspectives on some of the key considerations that may influence the development of resources. This phase supported an understanding of the importance of “emphasizing keywords, using clear language, using visuals, and including contact information if people have questions or want to know more.”¹⁶³ The final phase was comprised of an experimental survey that quantified several variables and identified trends across a larger sample. Each phase provided a broad overview of needs, which “helped make decisions about what group of newcomers to focus the evaluation on, effective strategies to recruit newcomers for data collection, the level of English to use for data

¹⁶⁰ Abbas Tashakkori & Charles Teddlie, *Mixed Methodology: Combining Qualitative and Quantitative Approaches* (Thousand Oaks, CA: SAGE Publications Inc, 1998).

¹⁶¹ Yvonna Lincoln & Egon Guba, *Naturalistic inquiry* (Newbury Park, CA: SAGE Publications Inc, 1985).

¹⁶² Michael Quinn Patton, “Enhancing the Quality and Credibility of Qualitative Analysis” (1999) 34:5 *Health Serv Res* 1189.

¹⁶³ CREATE Justice, *supra* note 149 at 5.

collection materials, and the importance of providing translated materials in future studies.”¹⁶⁴ By examining this phenomenon in a natural setting—and from different angles and lenses— patterns were identified, and findings were validated, somewhat minimizing the impact of bias that can be inherent when only a single method or source is used.

The multi-method approach used in this case was adapted to meet the specific needs of the research context (i.e., newcomers in Saskatchewan). Each method was tailored to address a different aspect of the overarching key questions, maximizing the depth and relevance of data collection and providing a holistic understanding of the complex phenomena of accessing legal material as Saskatchewan newcomers. The conclusions, based on this triangulated understanding of the phenomenon under investigation, were fairly reliable and informative as a result. By employing multiple methods, the findings could also be cross-validated, influencing the development of more accessible legal resources and enhancing the credibility and trustworthiness of the materials and the results. The complexity of this phenomenon was captured thoughtfully from multiple angles, providing a nuanced and holistic understanding of the topic.

2. Stakeholder Engagement—A Sensitive, Iterative Processes

Research topics centered on the needs of humans are multifaceted and complex, requiring a comprehensive understanding that can often not be achieved through one single method.

The engagement of stakeholders, such as newcomer agencies and the Saskatchewan Association of Immigrant Settlement and Integration Agencies (“SAISIA”), ensured that this initiative was informed by the perspectives and needs of the people at the heart of the work. A participatory approach through multiple recruitment strategies was used to recruit a diverse group of participants, enhancing the relevance and applicability of the findings, which are important for those with limited or no access to legal resources.

An iterative approach enhanced the relevance and effectiveness of the resources. Involving various participants in the research activities to achieve this was a critical methodological choice, ultimately leading to more meaningful outcomes for stakeholders. The initiative demonstrated cultural sensitivity by recognizing the diverse language needs of newcomers by altering surveys with an online language tool.¹⁶⁵ This consideration

¹⁶⁴ See *ibid.*

¹⁶⁵ VocabKitchen, “[VocabKitchen CEFR Profiler](https://www.vocabkitchen.com/cefr-profiler)”, online: <tinyurl.com/muj9jhz6> [perma.cc/P7C7-8UU8].

reflected a commitment to inclusivity and accessibility. A goal of all A2J initiatives is to produce rich, actionable insights that translate directly to meeting community needs. The iterative process of developing themes (though no formal thematic analysis was conducted) through the data, involving feedback from key informants and stakeholders, facilitated the refinement of resources to better meet the needs of those accessing them.¹⁶⁶

3. Quality Control Measures

Rigorous measures were implemented from start to finish to ensure data quality. These measures ultimately enhanced the reliability and validity of the findings. First, the research initiative exhibited a pre-launch testing phase, commencing with a pilot survey. This phase involved a small but valuable sample size ($n = 3$). The sample ensured functionality and provided early feedback and this was a proactive initiative, enhancing the survey's accessibility and user-friendliness. The survey design also allowed for the implementation of exclusion criteria, underscoring a commitment to data quality overall. Participants failing to meet predefined thresholds for survey engagement, such as time spent interacting with provided resources, were excluded from the analysis in the end—as a quick response time may have indicated that their contributions may not have been valid. These methodical choices not only safeguarded against incomplete or haphazard data collection but also ensured the integrity and, again, the reliability of the data.

4. Limitations

Though the strengths of this initiative were many, several methodological limitations in this work are also noted. Several of these limitations were recognized by CHASR data scientists themselves in the final report, highlighting that any study can concurrently provide helpful insights as well as suggest continuous improvements in replicating similar studies. Recognizing limitations enhances transparency and trustworthiness. Any quality study sets out its limitations, and as alluded to throughout, limitations in research design are inevitable. Honouring limitations aids in the growth and replication of the work.

The limitations of our study under critical review are categorized into two overarching themes: (a) resource constraints and (b) the robust nature (or lack thereof) of the sample itself. Each limitation impacts different

¹⁶⁶ Virginia Braun & Victoria Clarke, "Using Thematic Analysis in Psychology" (2006) 3:2 *Qualitative research in psychology* 77 [Braun & Clarke].

facets of the study's methodological design, process, and outcomes in different ways and thus are grouped as follows:

(a) *Resource Constraints:*

- No systematic (literature) review.
- A small pre-launch test group (n=3).
- Limitations with the focus group (no cameras, some inconsistencies, possibility of imposter participants).
- No method was explored for thematic analysis (a thematic analysis with multiple methods could help identify converging themes and patterns, as well as inconsistencies or contradictions, leading to more robust conclusions).

(b) *Sampling Biases:*

- The experimental survey (from which most data was analyzed) was not entirely representative of the population of newcomers in Saskatchewan (most had completed at least some university, and most rated their English reading and writing skills as "advanced").
- There was no replication or control group used (as is common with experimental design).
- Participant (or researcher) predisposition was not acknowledged.
- Language accessibility issues were present.

These limitations underscore the complexities inherent in all research endeavours, however, particularly when striving for inclusivity and comprehensive data collection for marginalized or vulnerable groups. Each aspect plays a critical role in shaping the study's validity and relevance and is therefore explored further.

5. Resource Constraints

Resource constraints imposed significant limitations on the scope of the initiative. Time and budget constraints curtailed the depth of engagement with stakeholders and potential participants and the potential of a preliminary systematic review impacting the thoroughness of the evaluation process. While efforts were made to enhance accessibility by

considering a test group and expanding the survey in multiple languages, logistical challenges and resource limitations hindered these provisions. Individuals with limited English proficiency were excluded as a result, compromising the representativeness of the sample. The development of the resources also relied heavily on input from select partners and legal experts, potentially overlooking valuable perspectives from other stakeholders such as a greater number of legal aid organizations or community advocates. These limitations are outlined in detail in the following sections.

a) No Systematic (Literature) Review:

Phase one of the evaluation could have included a comprehensive systematic (literature) review of relevant or related research on the topic of newcomers' access to information in Canadian contexts. Instead, a limited scope review of relevant community organizations was sought to assess the evaluation's appropriateness and to gain insight into potentially important legal topics to focus on. Format options for presenting the legal information were also gleaned from these organizations without a full-scale review of relevant literature. Each of these topics could have been explored first through a formal systematic review—as is often done in applied research and included in the final report. Systematic reviews represent the highest level of scientific evidence, and when properly conducted, they use methods designed to minimize bias by systematically gathering, critically evaluating, and synthesizing all pertinent studies on a given topic. In contrast, expert opinions can be considered a weaker form of evidence. This is not a reflection on the experts themselves, as such opinions raise questions that, when explored through rigorous clinical scrutiny, can lead to higher levels of evidence, therefore playing a positive role in advancing the symbiotic relationship between science and practice. That said, expert opinions cannot be considered sufficient evidence on their own.¹⁶⁷

b) Small Pre-Launch Test Group:

The reliance on a small pre-launch test group comprised of only three participants raises concerns about the adequacy of the pilot testing phase. A limited sample size may fail to capture the full range of potential issues or challenges that could arise during the actual implementation of the study. As a result, the validity and reliability of the research findings may be compromised. It is imperative researchers recognize the importance of

¹⁶⁷ Douglas Henrique Marin dos Santos & Andrea Bueno Magnani, "Evidence-Based Law: A New Approach to Legal Practice Under the Scope of the Pragmatic Methodologies of Evidence-Based Medicine" (2021) 15 Beijing L Rev 1493.

robust pilot testing procedures with adequate study participants to identify and address potential methodological flaws or logistical challenges before full-scale implementation occurs whenever possible.

c) Limitations with the Focus Group:

The problems encountered during the focus group sessions included the absence of cameras, inconsistencies in participant responses, and the possibility of *imposter participants*. These issues highlight the practical challenges inherent in conducting qualitative research within resource-constrained environments. These limitations could undermine the credibility and trustworthiness of the qualitative data collected from these groups, as well as the overall validity of the study's conclusions. Legal researchers can prioritize the implementation of rigorous methodological protocols and quality assurance measures to mitigate such risks and enhance the reliability of qualitative data collection processes.

d) Lack of Thematic Analysis as—Formal Data Analysis Method:

The absence of a formal method reported for thematic analysis represents a significant oversight in the research design, limiting the depth and richness of the data interpretation process.¹⁶⁸ Thematic analysis offers a systematic and rigorous process to identifying patterns, themes, and inconsistencies across qualitative data sources, thereby enhancing the robustness and reliability of research findings.¹⁶⁹ Employing comprehensive data analysis techniques, such as thematic analysis, to uncover nuanced insights increases the validity of the research and provides an in-depth perspective into participant needs.

6. Sampling Bias

The limitations, categorized under sampling biases, present notable barriers to the validity, reliability, and generalizability of the findings as well.

a) Non-Representative Sample:

The experimental survey, which served as the primary source of data analysis, was not representative of the newcomer population in Saskatchewan, unfortunately, and this is problematic for a couple of reasons. The skew towards participants with higher education levels and advanced English skills undermines the external validity of the study

¹⁶⁸ Braun & Clarke, *supra* note 166 at 77–101.

¹⁶⁹ See *ibid.*

but also risks perpetuating inequities in access to legal resources.¹⁷⁰ This limitation highlights the need for more inclusive sampling strategies that capture the diversity of the newcomer population, including those with varying levels of education, language proficiency, and socioeconomic backgrounds.

b) Lack of Replication or Control Group:

The absence of replication or control groups, which are standard components of experimental design, could further compromise the internal validity of the study. Without these essential elements, it can become challenging to establish causal relationships or draw meaningful comparisons between different intervention groups.¹⁷¹ Following robust and rigorous experimental design principles can enhance the credibility and rigour of findings.

c) Unacknowledged Participant Predisposition:

Failure to acknowledge participant (or researcher) predispositions can introduce bias into the research process and undermine the objectivity of the findings.¹⁷² By overlooking potential biases stemming from participants' preconceptions or the researchers' own perspectives, the study risks producing skewed results. Prioritizing transparency and reflexivity in research practices by actively interrogating and addressing biases upholds the integrity of the work. In this study, the potential for imposter participants was acknowledged but not the potential for bias in terms of participant predisposition which can impact the "internal validity of an experiment."¹⁷³

d) Language Accessibility Issues:

The possibility of language accessibility issues can further compound sampling biases present in a study. Due to financial and scope limitations, the research excludes a significant portion of the newcomer population based on language accessibility, thereby limiting the inclusivity and representativeness of the findings. Legal professionals have a responsibility to ensure that research methodologies are accessible to all individuals, regardless of linguistic background, to avoid perpetuating systemic inequalities in A2J. The researchers advertised through a number of

¹⁷⁰ Rose McDermott, "[Internal and external validity](#)" in James N Druckman et al, in *Cambridge Handbook of Experimental Political Science* (Cambridge: Cambridge University Press, 2011) at 27, online: <tinyurl.com/3rv7a829> [perma.cc/9MDF-AAL6].

¹⁷¹ Kirk, *supra* note 148 at 23-45.

¹⁷² See *ibid.*

¹⁷³ *Ibid* at 31.

mediums in this case; however, this was the only group that responded. The decision to focus on newcomers with proficient English language and online navigation skills introduces a notable sampling bias, as one could question why this was the only group to respond. Other questions might include whether or not the recruitment materials were inaccessible or biased. Vulnerable groups lacking such skills may have inadvertently been excluded, and this limits any generalizability of findings—potentially neglecting the needs of a larger marginalized population.

Summary

While the Saskatchewan initiative demonstrates many strengths in data collection methods, stakeholder engagement, and data quality control, which should be acknowledged, we highlight the notable limitations that affect the validity, transparency, and generalizability of the findings for the sake of this critical reflection. We also expand the conversation on the importance of robust research that integrates professional and academic knowledge and skillsets. The identified resource constraints and sampling biases underscore the need for legal professionals to advocate for the establishment and adherence to such robust standards in legal research, in particular to methodology and methods which have been neglected to date in legal studies. We can learn valuable lessons from analyses of our work as they encourage the examination of our experiences, assumptions, and reactions thoughtfully and intentionally. The presence of resource constraints and sampling biases, in reflection, highlights the importance of legal professionals advocating for increased standards in legal research methodology. By addressing these challenges and implementing rigorous protocols, the overall quality, credibility, and impact of research in the field can be improved.

D) Implications and Recommendations for Future Research

This critical reflection of the Saskatchewan-led initiative is meant to shed light on several implications for future research endeavours and highlight areas for increased attention. It underscores the need for legal professionals across the country to heed the *call to action* and advocate for the establishment and adherence to robust research standards in legal research—that include methodological considerations as well as methods clarification considerations. Our reflection on this work does not negate its impact, however. The work of CHASR and the dedicated professionals who supported this research is valuable and honourable, and our goal herein was simply to bring attention to the benefits of collaboration with researchers to enhance and advance legal scholarship more than merely criticize what is powerful and important work. The need for increased funding to support such legal scholarship remains an issue, and it is our

hope that highlighting the scope and practice of research with its strengths and limitations can guide others into deeper, more reflective research at the outset.

Broad recommendations include the following five overarching suggestions for future research and funding initiatives that may advance legal research for the benefit of all.

1. Conduct systematic reviews of relevant literature prior to embarking on the research and include this background in the final reporting. A systematic review can help to frame the study methodologically as well as minimize bias that exists in a limited perspective or scope.
2. Prioritize providing a detailed description of the methodology employed, including the research design, data collection methods, and data analysis techniques, citing the process accordingly by situating methodological considerations within the research literature. More details could allow for a better understanding of the research process and could facilitate the replication of the study by other researchers.
3. Ensure the use of robust data analysis techniques to enhance the reliability and validity of the findings. Depending on the nature of the research, employing thematic analysis for qualitative data, for example, can significantly strengthen the research outcomes and impact transparency and replicability (Virginia Braun and Victoria Clarke outline six phases of thematic analysis and a rigorous 15-point checklist for this type of work).¹⁷⁴
4. Increase educational initiatives for legal scholars to enhance their understanding of research methodologies and data analysis techniques. Workshops, seminars, and online resources could be developed to provide legal professionals with the necessary skills and knowledge to conduct methodologically sound studies.
5. Further explore the powerful impact and benefits of having funders both continue to support and increase funding for A2J research and adopt a data-driven approach. Advocating for sustained funding for legal research could help future initiatives to meet basic standards of rigour, as noted above, and enable the potential for comprehensive or longitudinal evaluations that, more broadly, improve A2J for diverse groups. Specifically, increased

¹⁷⁴ Braun & Clarke, *supra* note 166.

funding and resources may support the scope of more person and *user-centered* legal research in the following capacities:¹⁷⁵

- a. It may encourage engaging consultation from professionals with experience in a variety of empirical studies, slowing the process and increasing the credibility of the work;
 - b. It may lend itself to the completion of a methodologically sound needs assessment (with attention to process and procedural guidelines) to identify a wider range of legal topics that are relevant (in this case) to newcomers in Saskatchewan—with newcomers who may have different cultural backgrounds and may require specialized legal information resources tailored to their specific needs and experiences;
 - c. It may help to thematically prioritize topics based on their significance to communities and their legal needs beyond renting rights and responsibilities;
 - d. It may highlight ways to assess and offer legal information resources in multiple languages, reflecting the linguistic diversity of populations in Saskatchewan;
 - e. It may support the inclusion of a broader range of stakeholders, including community organizations, legal experts, research experts, and representatives from diverse newcomer communities, ensuring the relevance and effectiveness of resource and methodologically-based choices.
6. Lastly, critical self-reflection should be engaged often to advance and deepen the experience of research for future efforts to help researchers develop a more nuanced understanding of their own influence on the research process.

¹⁷⁵ User-Centered Design Approach: “The term ‘user-centered design’ originated in Donald Norman’s research laboratory at the University of California San Diego (UCSD) in the 1980s and became widely used after the publication of a co-authored book entitled: Donald A Norman & Stephen W Draper, eds, *User-Centered System Design: New Perspectives on Human-Computer Interaction* (CRC Press, 1986). See also specifically Chadia Abras, Diane Maloney-Krichmar, & Jenny Preece, “User-centered design” in William Bainbridge, *Encyclopedia of Human-Computer Interaction* (Thousand Oaks: Sage Publications, 2004) at 445–456.

Conclusions

Critical reflection of legal research such as this helps to acknowledge flaws in research design and highlight strengths and needs that may advance legal scholarship and facilitate more informed policy-making through rigorous research. The results of such work can amount to a deeper comprehension of trends and issues, enhancing outcomes for individuals accessing the justice system. In Part 1 of this paper, we advanced Lietch's argument from over a decade ago of the need to continue normalizing empirical research to inform and address A2J interventions continuously. In Part 2, we share a summary of various evaluation models and examples of A2J scholars conducting such work to highlight the pros and cons of such advancements. Part 3 concluded by arguing that legal research is imperative and should continue to be scrutinized based on the importance of making sound methodological choices that are conducive to evidence-based decision-making.

The strengths of the noted study—"Effectively Communicating Legal Information to Newcomers in Saskatchewan"—are evident in the use of multiple methods (data sources), stakeholder engagement, and quality control; however, limitations existed due to the lack of a firm methodological design, limited resources, the potential for bias through sampling methods, and a lack of systematic (literature) review included for general readership to frame the context of the study at the outset. Implementing the cumulative recommendations from each of the three sections could broaden the scope and impact of future research *and* contribute to the development of more inclusive, accessible, and effective legal information resources for newcomers.

Constructive critical reviews, reflection, and continuous improvement are vital to ensuring that research initiatives can effectively address the needs of diverse communities, contribute to positive social change, and inform legal professionals. Our hope is that other researchers will also engage in critical reflection of their own empirical research, alongside embracing the idea that empirical research does not need to be perfect to be valuable in this underdeveloped area. An open and critical mindset promotes continuous learning and growth, enabling researchers to refine their approaches, ask more meaningful questions, and remain responsive to the evolving contexts of their work.

We wish to thank the contributions of the University of Saskatchewan, the Canadian Hub for Applied and Social Research ("CHASR"), and CREATE Justice—organizations and stakeholders who facilitated and continue to facilitate valuable research endeavours that support

populations of the general public and continue to inform and improve legal scholarship.