

The Rural Lawyer: How to Incentivize Rural Law Practice and Help Small Communities Thrive

Hannah Haksgaard
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Reviewed by: Anna J Lund¹

South Dakota, like many American states, is losing lawyers from rural areas as senior practitioners retire and are not replaced. In 2013, it implemented the Rural Attorney Recruitment Program (the Program), which pays small stipends to lawyers who are willing to relocate to rural areas. In *The Rural Lawyer: How to Incentivize Rural Law Practice and Help Small Communities Thrive*, Hannah Haksgaard examines and evaluates the Program's first ten years of operation.² She interviews lawyers who have participated in the Program, their mentors, people involved in setting up the Program, and lawyers and policy makers from other states. Haksgaard sounds a promising note, finding that the Program has helped to attract and retain lawyers to rural law practice and thereby sustain the vitality of South Dakota's rural communities and provide greater access to justice for their residents.

The Rural Lawyer is a rich book that speaks to multiple audiences. Scholars of rurality can read the book for what it says about how lawyers contribute to rural life. Lawyers with existing rural practices, or who are contemplating rural practice, may read it to see how their peers are building sustainable businesses and navigating the legal conflicts that arise in small communities.³ Scholars and practitioners interested in access to justice can read it for insights into the barriers that hamper people in rural communities from having their legal needs met and how policy initiatives can address those barriers. Scholars of law and society may read it as an exemplar of a theoretically sophisticated empirical project. This book review showcases insights from *The Rural Lawyer* that may be relevant to Canadian readers who are working on the overlapping issues

¹ Anna J Lund is the FR (Dick) Matthews QC Professor of Business Law at the University of Alberta, Faculty of Law.

² Hannah Haksgaard, *The Rural Lawyer: How to Incentivize Rural Law Practice and Help Small Communities Thrive* (Cambridge: Cambridge University Press, 2025) [Haksgaard].

³ Another useful resources for those contemplating or engaged in rural practice is Kevin Bell, "[Challenges Facing Rural Lawyers and Some Practical Solutions](https://perma.cc/B3ML-7K4R)" (Seminar Saskatchewan Legal Education Society) (April 2005) CanLIIDocs 612 online: (CanLII) <tinyurl.com/4mk3h97h> [perma.cc/B3ML-7K4R].

of access to justice and access to lawyers in rural, remote, and northern areas. Haksgaard is careful to point out that rural communities are not a monolith and what worked in South Dakota may not work in the same way in other places, but nonetheless there are valuable lessons to be learned from the South Dakota experience.

The Program provides five years of payments to lawyers who practice in rural areas. The payment amount is modest (12,513.60 USD or approximately 17,000 CAD) and the cost is shared between the local government of the community where the lawyer is practicing (35%), the state bar association (15%), and the state government (50%). Lawyers who leave before the end of the five-year term are required to repay any stipends they have received. The Program was initially only available to lawyers who worked in counties with a population under 10,000 but was expanded in 2017 to include small municipalities (under 3,500 people), which otherwise would not qualify because they are situated in counties with populations that exceed 10,000. Lawyers entering the Program may join existing firms or they may set up as solo practitioners. There are no restrictions on the types of law the participants practice. Participants are contractually obligated to do one *pro bono* case per year and, as of 2022, are required to take part in a formal mentorship program through the state bar association.

A stipend-based program is not the only way to support rural practice. Haksgaard surveys other policy initiatives being used in America. Oregon provides student loan repayment assistance to lawyers who practice in rural areas. Montana and Arkansas have incubators, which provide education, mentorship and financial incentives—loan forgiveness in Montana and a stipend to cover start-up costs in Arkansas—to people willing to practice law in rural areas. Nebraska aims to recruit high school students from rural areas to rural legal practice by providing them with scholarships and “exposure to law school and rural practice.”⁴ Law schools provide courses and clinics aimed at rural practice, stipends for students who work in rural areas during the summer, and job fairs that connect law students with rural practitioners. In South Dakota, there is also a project underway to provide students with an alternative pathway to becoming licensed, whereby they would be evaluated on a portfolio of their work rather than taking the bar exam.

Policy initiatives might also aim to address the legal needs of people in rural communities with lawyers who are located elsewhere.⁵ In Minnesota,

⁴ Haksgaard, *supra* note 2 at 37.

⁵ Jamie Baxter & Albert Yoon, “No Lawyer for a Hundred Miles?: Mapping the New Geography of Access of Justice in Canada” (2015) 52:1 Osgoode Hall LJ 9; Jamie

‘Justice Buses’ bring urban lawyers to rural areas to provide services. Technology has been touted as a way to provide legal services to people in remote areas, yet its successes have been limited in South Dakota. People in rural areas lack access to internet, either because it is not available, or they cannot afford it. Also, Haksgaard wryly notes, “it turns out that rural clients like face-to-face interactions.”⁶

Initiatives like the Rural Attorney Recruitment Program require political will. Haksgaard traces the inception of the Program to a law student paper. While attending the University of South Dakota, a law student wrote a paper arguing in favour of student loan forgiveness for attorneys who practices in rural areas. The paper was passed along to the Chief Justice of the South Dakota Supreme Court and the president of the South Dakota Bar Association. The Chief Justice started using his annual address to the legislature to highlight the problem of rural lawyer attrition. The Bar Association president established a Rural Practice Task Force to study the issue. Ultimately, a State Senator took on the project and after two attempts, the legislation establishing the Program was adopted by both the State Senate and House of Representatives.

The name of the Program indicates that it is aimed at the *recruitment* of lawyers to rural areas. Some the participants opted for rural practice because of the Program, but fully half were already hoping to practice in a rural area when they came to law school. Most of the participants had grown up in rural areas, in South Dakota or elsewhere. They wanted to be rural lawyers to be close to family or the family farm, because they wanted to be of service, and for the lifestyle, including access to outdoor activities, an enhanced sense of community and safety, and a slower pace of life. For those who were recruited to rural practice by the Program, the stipend mattered, but so too did the Program administrator’s encouragement. One participant signed up for the Program noting that the administrator seemed like the “‘first person’ who was ‘excited for [that participant] to be a lawyer.’”⁷

A different measure by which the Program could be evaluated is in terms of lawyer *retention*. By this metric, the Program has been a success. 32 lawyers have participated in the Program since its inception. Of those, 24 (75%) are still practicing in rural communities, either full or part-time. Half of these 24 lawyers (12) completed their five years and have continued

MacLaren, “[Access to Justice in Rural and Remote Communities: Where to From Here?](http://tinyurl.com/bdfx9e37)” (6 May 2011), online: <tinyurl.com/bdfx9e37> [perma.cc/V27K-HMFG].

⁶ Haksgaard, *supra* note 2 at 25; making a related argument about the benefit of holding in-person mediations in rural communities, see Daniel E Pascoe, “The Benefits of In-Person Mediation Sessions in Rural Areas” (2004) 17:1 Can J Admin L & Prac 107.

⁷ Haksgaard, *supra* note 2 at 58.

practicing in their rural communities despite no longer receiving the stipend. The other half (12) were still completing their five-year terms at the time of being interviewed, but most expressed an intention to stay in their communities after the end of the Program. Of the eight who have left the Program, three completed their five-year term and five did not. Two left law to become teachers, four moved to larger centres, one moved to a different state to be closer to his wife's family, and one continued to practice in a rural area, but had to leave the Program when he moved to a different county.

The Program aims to make rural practice financially feasible, especially in the early years when lawyers are establishing a book of business. Haksgaard's research suggests that it has achieved this aim. The stipend reduced the perceived risk of practicing in a rural area and helped to ease the hardship that many Program participants experienced in the first few years of practice. Student debt was a significant concern for many participants, and several used the stipend to pay down their debt. In addition to the stipend, many of the participants in the Program relied to some extent on government work: as salaried prosecutors, as court-appointed defence counsel, as counsel to public entities such as local governments, utilities and road districts, and as paid members of administrative boards. Paid government work helps lawyers to sustain a viable practice and thus enabled many of the participants to provide services to private clients on a part-time basis, in areas that could not support a full-time private practice lawyer.

Retention of lawyers was not merely a question of finances. Mentorship and belonging played a significant role in determining which participants wanted to stay in their communities and which participants have left or planned to leave.

Mentorship is important for lawyers in the early years of practice. This need is not unique to rural lawyers, but the challenges to finding good mentors can be. Participants in firms received mentorship from their senior colleagues, but like everywhere, some lawyers are talented mentors and others are either unsure of what being a good mentor requires or are unwilling to put in the time necessary to mentor junior colleagues. Program participants who set up as solo practitioners often struggled to find mentorship. In some communities, there were no lawyers remaining to mentor the newcomers. In others, the existing lawyers were hostile to the Program participants, who they perceived as unwelcome competition. Yet even some of the solo practitioners received good mentorship: from local lawyers who welcomed their presence and from lawyers elsewhere in the State who were willing to spend time guiding them through their early years. In one case, the Program participant was the son of a lawyer

at a mid-sized firm in an urban area and was able to call on his father's colleagues for advice. Other participants sought guidance outside of the private bar, relying instead on their former law professors, experienced paralegals, and courthouse staff. The early participants in the Program recognized the value of mentorship and were paying it forward, mentoring newer entrants to the Program.

Lawyers are more likely to stay in communities where they experience a sense of belonging. Seventeen of the participants either moved back to their home county or a nearby one, and these lawyers had ready-made social networks. They found a sense of belonging more easily than other participants, but faced different challenges. They struggled to have older community members view them as responsible adults and found it difficult being on the opposite side of files from people with whom they had longstanding relationships. For those who moved to communities where they had no pre-existing relationships, having kids helped them to integrate into the community, as they met people through school and other activities. Volunteering helped too. Other participants had a local champion who helped them build a social network. One participant never felt a sense of belonging and attributed some of her difficulties to racist reactions to her husband, who is Black. She was practicing in a community that was 95% white.

Haksgaard argues persuasively that having lawyers in rural areas helps to sustain the viability of the communities they serve. In the United States the myth of the country lawyer looms large. Country lawyers are “do-gooders embedded in their hometown communities. They are admired by their neighbours, value community members, do not hold themselves aloof, possess knowledge (both legal and practical), are generalists in their practices, are unconcerned with pecuniary gain, and defend the underdog.”⁸ They are typified by the fictional lawyer Atticus Finch and the real one Abraham Lincoln. Expecting rural lawyers to emulate Abraham Lincoln is unrealistic, but Haksgaard found that the lawyers in the Program are contributing to their communities. Lawyers contribute to the local tax base, as business owners, property owners, and consumers. The lawyers help local businesses and non-profits to thrive by providing needed advice. Municipalities save money when there is a local lawyer, because they can reduce how much they are paying for lawyers to travel from urban areas to do criminal prosecution and defence work. All of the Program lawyers are required to do one *pro bono* case a year, but every lawyer did more *pro bono* work than this, and many did additional ‘low

⁸ Haksgaard, *supra* note 2 at 14.

bono' work, making legal services more accessible by charging reduced fees.⁹ Many of the lawyers were also active volunteers in their communities.

Despite these contributions by participants to their communities, a difficult question that haunts the Program is whether it is the best way to ensure access to justice in rural South Dakota. Even when a local, private practice lawyer is available, many rural residents are not able to afford their services. One participant in the Program suggested that public funding should be used to pay legal aid lawyers rather than assisting private practice lawyers to establish their businesses. Yet, Haksgaard's research suggests that it may be possible to promote both rural practice and access to justice. As noted above, many rural lawyers rely on part-time government work to sustain their practices. Haksgaard suggests that government funded, part-time legal aid positions in rural areas could help to address the access to justice gap while enhancing the financial viability of rural lawyers' practices.¹⁰

The Program has failed to benefit two constituencies: people with family law disputes and Native Americans. The lawyers in the Program can be selective about the work they take on, especially as they get more senior, and many refuse family law work. They cite the emotional toll of family disputes, the potential for conflicts with other work, and the complexity of divorces involving farmland as reasons for refusing the work. South Dakota has a large Native American population, but only two of the 32 lawyers in the Program have chosen to locate in "Indian Country".¹¹ Because counties are required to pay part of the price of the stipend, the Program is unaffordable for some counties, including some of the counties in Indian Country. Haksgaard also uncovers that lawyers in private practice relied to a significant degree on lucrative estate and probate files to derive a profit, but estate and probate cases are not as lucrative when serving people living on reserve, because reserve land is not held by individuals. One of the two lawyers who had chosen to practice in a community with a large Native American population has left.

⁹ Luz E Herrera, "Encouraging the Development of Low Bono Law Practices" (2014) 14:1 U Maryland L J Race Religion Class & Gender 1.

¹⁰ On the challenges of legal aid service delivery in rural areas of Canada see Tim Roberts & Associates Consulting, *Legal Aid Service Delivery in Rural and Remote Communities across Canada: Issues and Perspectives in the Context of COVID-19* (Ottawa ON: Department of Justice Canada, 2023) <tinyurl.com/ruu97nsu> [perma.cc/4EC7-EGGL].

¹¹ The terminology used for describing Indigenous and First Nations people in the United States is different than the terminology considered appropriate in Canada, see Kelti McGloin, "Best Practices for Writing About Indigenous Peoples in the Canadian Legal Context: An Evolving Style Guide for the Schulich School of Law at Dalhousie University" (13 June 2024), online (blog): <tinyurl.com/5fhmv6h4> [perma.cc/K3WS-L846].

The other works as a prosecutor and described his position as “difficult”, given that he is white and the defendants are “mostly Native American.”¹² Haksgaard notes that all of the participants in the Program during its first decade were white, raising additional concerns about the diversity of who is benefitting from it.

The dual problems of access to lawyers and access to justice plague rural, remote and Northern regions of Canada.¹³ Various initiatives have been implemented across the country, ranging from financial support for summer law student positions in rural areas, to student loan forgiveness, to offering law school programs in regional and remote communities.¹⁴ People working to address these problems can draw insights from Haksgaard’s work. Initiatives should be aimed at supporting both *recruitment* and *retention*. Financial incentives can help with both, but other aspects of the lawyers’ work and living experiences matter too, especially mentorship and community integration. Private practice and government work do not need to be thought of in ‘either/or’ terms, but rather lawyers and their home communities may benefit when lawyers have the option of doing both. Special care may be required to ensure that family law clients and Indigenous peoples benefit from any program. Finally, flexibility in program design and administration can be important. For example, participants in the South Dakota Program appreciated that they could choose how to spend the stipend, meanwhile administrators have refined the Program over its first decade of operation to better meet its aims. Along the way, there have been successes and failures, but Haksgaard’s book strikes a hopeful note that such initiatives can have a meaningful, positive impact.

¹² Haksgaard, *supra* note 2 at 83.

¹³ Nicole Aylwin & Lisa Moore, “[Rural & Remote Access to Justice A Literature Review](#)” (November 2015), online: (PDF) <tinyurl.com/47h9kxkj> [perma.cc/CC8G-NSVR].

¹⁴ Surveying some of these initiatives, see Tonya Lamber, “[Promoting the Practice of Law in Rural, Regional & Remote Communities](#)” (7 January 2020), online: <tinyurl.com/4d3kkadh> [perma.cc/62FD-PRYA]; and see Canadian Bar Association, “[Beyond Big City Law](#)” (2014), online: (PDF) <tinyurl.com/pbym87dn> [perma.cc/HDH7-TC72]. Lakehead Law School in Thunder Bay Ontario “focuses on three realities that affect the North and rural Canada in general: Aboriginal and Indigenous Law and issues related to Indigenous peoples; Essentials of small firm and solo practitioner law practice; and Law as it relates to natural resources, with emphasis on mining, forestry and development” see Lakehead University, “[The Curriculum](#)” online: <tinyurl.com/mr2rjupn> [perma.cc/4TDC-AS28]; attracting lawyers to Kamloops and nearby areas was also part of the rationale when the law school was opened at Thompson Rivers University, see Tim Johnson, “[Canada’s Newest Law School](#)” (05 March 2012), online: <tinyurl.com/ms773hy4>.