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Article

Transferring Methods to Law: A Reflection on Using Scoping Reviews

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Abstract

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

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

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

Article Text

1. Introduction

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

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

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

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

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

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

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

2. Research design

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

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

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

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

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

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

⁵ P Dargue and others, 'Editorial to the Inaugural Edition of the Journal of Legal Research Methodology on "Virtual Research Methodology"' (2021) 1(1) Journal of Legal Research Methodology 1, 1.

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

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

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

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

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

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

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

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

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

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

¹³ Eg Casey (n 12).

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

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

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

¹⁷ Boud (n 6) 52-53.

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

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

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

¹⁸ Boud (n 6) 53.

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

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

3. Overview of scoping reviews

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

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

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

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

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

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

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

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

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

knowledge puzzle’.²⁶

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

Algan and others observe that:

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

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

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

²⁶ Dalmer (n 20) 2366.

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

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

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

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

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

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

3.1. Scoping review methodology

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

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

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

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

³⁵ See Section 4.1.

³⁶ Arksey and O'Malley (n 32) 22.

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

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

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

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

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

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

⁴⁰ Arksey and O'Malley (n 33).

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

⁴² Khalil and others (n 32) 2.

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

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

3.2. Limitations of scoping reviews

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

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

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

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

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

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

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

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

⁴⁸ Arksey and O’Malley (n 32) 31.

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

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

⁵¹ Pham and others (n 47) 378.

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

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

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

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

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

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

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

⁵⁶ Chambers and others (n 54) 181.

⁵⁷ *ibid.*

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

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

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

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

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

4.1 Communicate rationale and purpose

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

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

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

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

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

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

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

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

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

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

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

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

⁶⁶ Thorne (n 64).

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

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

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

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

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

⁷¹ *ibid.*

4.2 Identify methodological steps

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

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

⁷² See text to n 31 and Section 4.1.

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

⁷⁴ *ibid.*

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

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

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

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

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

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

⁷⁷ *ibid.*

⁷⁸ See n 12.

⁷⁹ Hall and Wright (n 73) 74.

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

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

4.3 Reflect on underlying assumptions and ideologies

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

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

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

⁸³ See Section 3.

⁸⁴ Miller and other, 2008, p.1

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

5. Conclusion

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

⁸⁵ See Section 3.2.

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

⁸⁷ *ibid.*

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

⁸⁹ Tobi and Kampen (n 60) 1210.

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

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

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