



Implementing Best Practices & Educating Lawyers: Teaching Skills and Professionalism Across the Curriculum

Workshop  
5C

Phenomenological Practitioner Research:  
How to Study Your Students' Problems to Improve  
Your Teaching

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Aida M. Alaka is an Associate Professor of Law at Washburn University School of Law. Professor Alaka earned her B.A. in both Comparative Literature and German from the University of Wisconsin-Madison in 1981, and her J.D. from Loyola University Chicago School of Law in 1993. Before joining Washburn Law, she was a partner at the Chicago law firm of Winston & Strawn, focusing on employment law counseling and litigation. Professor Alaka then lectured at the University of Kansas, where she taught courses in legal research and writing, race discrimination law and higher education law.

During law school, Professor Alaka was editor-in-chief of the *Loyola University Law Journal* and a staff writer for the *Loyola University Consumer Law Reporter*. She is licensed to practice in Kansas and Illinois and has been admitted to the bars of the Northern and Central Districts of Illinois and the Eastern District of Wisconsin. She is also a member of the Legal Writing Institute and the Association of Legal Writing Directors, as well as the Association of American Law Schools Legal Writing and Employment Law Sections.

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### A. Key Characteristics of Qualitative Versus Quantitative Research

QUALITATIVE	QUANTITATIVE
Hypotheses Emerge as Study Develops	Hypotheses are Stated at the Outset
Definitions Developed in Context	Definitions are Stated at the Outset
Preference for Narrative Description of Data	Data is Reduced to Numerical Scores
Preference for Purposive Samples	Preference for Random Sampling
Results Described through Narrative	Results Described Statistically
Results Rarely Generalized	Results Generalized
Constructivist – Individuals Construct Views	Positivist – An Objective Reality Exists

### B. Common Methods of Qualitative Research

#### 1. Observation

- a. Participant Observation – The researcher participates in the situation or setting.
- b. Nonparticipant Observation – The researcher sits on the sidelines.
- c. Naturalistic Observation – The researcher observes subjects in natural settings.
- d. Simulations – The researcher asks subjects to act or simulate roles or activities.

#### 2. Interviews

- a. Structured – The researcher creates standard questions designed to elicit answers related to particular issues, to be compared and contrasted.
- b. Semi-structured - The researcher creates prompts designed to elicit open-ended responses related to particular issues, which can be compared and contrasted.
- c. Informal – The researcher is conversational, but follows protocol to address relevant issues.
- d. Retrospective (oral history) – The researcher asks the participant to recall something that has happened in the more distant past. These can be structured, semi-structured, or informal.

#### 3. Case Studies

- a. Study of particular individual, institution, place, event or other discrete entity.
- b. Seen as “bounded system,” with contextual elements affecting development.
- c. Qualitative methods used to examine process of change within this framework.
- d. Mixture of methods dictated by circumstances of the case; not generalizable.

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### 4. Action Research

- a. Examines change in controlled setting, focused on particular outcomes.
- b. Researcher typically is participant, initiating change to study effect.
- c. Uses all of the methods outlined above; designed to fit circumstances.
- d. Widely used in education settings, to study curriculum, instructional change.

### C. The Phenomenological Approach

Researchers use interviews to attempt to understand the meaning of events and interactions to ordinary people; they emphasize the subjective aspects of people's behavior. Phenomenological interviews place the participants' experiences in context of other events and provide the opportunity for participants to reflect on those experiences. Phenomenological research is derived from the disciplinary field or movement of phenomenology in philosophy. Phenomenological interviews primarily use open-ended questions to allow participants opportunity to recall experiences and to reflect on them.

### D. Research Steps

- a. DEFINE PROBLEM
  - i. Identify the research question
  - ii. Conduct a literature review
- b. DECIDE WHAT USE TO MAKE OUT OF RESEARCH
  - i. Identify the reason/rationale for the study
  - ii. Identify who will benefit from the study
- c. DEFINE STUDY PARTICIPANTS
  - i. Identify your purposive samples
  - ii. Decide whether to have comparatives
- d. DECIDE HOW BEST TO CONDUCT THE STUDY
  - i. Investigate how similar studies were conducted
  - ii. Determine the method(s) you will use

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- iii. Decide how to conduct a pilot study
  - iv. Determine how you will capture the information
  - v. Determine how you will analyze the information you obtain
  - vi. Determine how you will safeguard your participants
- e. DEVELOP QUESTIONNAIRE OR PROTOCOL (GUIDE)
- i. Establish context
  - ii. Establish rapport
  - iii. Be open-minded
  - iv. Decide whether to use open-ended or more structured questions
- f. DRAFT PROPOSAL AND WRITTEN RELEASE
- i. Obtain institutional consent
  - ii. Provide full disclosure
  - iii. Explain purpose, methods, safeguards
  - iv. Stress that participation is voluntary
- g. SOLICIT PARTICIPANTS
- i. Determine effective method of reaching purposive group
  - ii. Be prepared to use alternative methods
- h. CONDUCT STUDY
- i. Track where, when, and how you obtain individual information
  - ii. Record and transcribe observations and/or interviews
- i. ANALYZE AND REPORT FINDINGS
- i. Determine what you have learned
  - ii. Determine how to use the information
  - iii. Determine what further research could be done
  - iv. Publish the information to your target group

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### THINKING ABOUT A POTENTIAL RESEARCH PROJECT

1. DEFINE PROBLEM: What observation(s) have you made that you wish to understand?

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2. DEFINE PARTICIPANTS: Who will help you understand the phenomenon you wish to study?

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3. DEFINE PURPOSE: What will you do with the information you obtain or the observations you make?

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4. DEFINE YOUR METHODS: Will you interview, observe, survey, or combine methods?

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## STATEMENT OF INFORMED CONSENT

### EXAMPLE

The Washburn University School of Law supports the practice of protection for human subjects participating in research. The following information is provided so that you can decide whether you wish to participate in a study planned by Professor Aïda M. Alaka. You should be aware that even if you agree to participate, you are free to withdraw at any time.

#### Description of the research study

##### Background:

Although some variations exist, Washburn's first-year Legal Analysis, Research and Writing course is similar to those at law schools nationwide. Studies show that notwithstanding the rigor of these first-year legal writing courses, professors teaching upper-level courses, judges and legal practitioners often find that law students and practicing lawyers continue to demonstrate weaknesses in writing skills. Almost no research exists regarding why these weaknesses continue past the first year.

##### Purpose of the study:

The purpose of the study is to discover how law students experience the first-year legal writing course. In particular, the study seeks to discover what students do to address technical writing errors with an eye toward understanding why law school faculty and the bench and bar perceive problems with the writing skill levels of attorneys. By discussing the first-year program from Washburn students' point of view, Professor Alaka hopes to provide valuable information to professors teaching legal writing nationwide. Ultimately, future law students will benefit from the use of this information.

##### Participation:

Professor Alaka seeks students who took LARW during the 2006-2007 academic year. In particular, Professor Alaka seeks students whose technical writing improved as well as those whose writing did not demonstrably improve.

Although it does not matter who your LARW professor was, what your class rank is, or what grade you received in LARW, if you agree to participate in this study, you agree to allow Professor Alaka to obtain information relating to your LSAT score and class rank. You also agree to allow Professor Alaka to review the draft and final versions of your first semester open memorandum and second semester appellate brief assignments *with professor comments*. At your request, Professor Alaka will obtain those documents directly from your LARW professor's files.

You will then meet with Professor Alaka for two interviews during which you agree to be audio recorded. The first interview, which will take approximately 30 minutes, will focus on your writing

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experience before law school. The second interview, which will take approximately 60 minutes, will focus on your writing experience during your first-year LARW course.

After the interviews are transcribed, Professor Alaka will analyze the information received during the interviews with an eye toward discerning whether any patterns exist. Professor Alaka will write an article regarding this research, which she will submit to law reviews for publication.

Your identity and privacy will be protected to the fullest extent possible. You agree, however, to allow Professor Alaka to discuss your potential participation with your LARW professor and/or to obtain copies of your work product from their files. If you agree to participate, you will be assigned a pseudonym and any references to you and to the information you provide will be by pseudonym. This is true whether or not you were Professor Alaka's student. Furthermore, if you agree to participate, Professor Alaka will not identify you by name as the source of any particular information to any of Washburn's faculty, including LARW faculty, staff or students. The only individuals who will know the identity of participants and the information they provide will be Professor Alaka and the person who transcribes the interviews.

Your participation is solicited, but strictly voluntary. Do not hesitate to ask any questions about the study. Be assured that your name will not be associated in any way with the research findings. We appreciate your cooperation very much.

Sincerely,

Aida M. Alaka

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785-670-1653

I am interested in participating in the above-described study and agree to the terms as outlined above.

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Signature of individual agreeing to participate

Date: \_\_\_\_\_

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