

Empirical Legal Research Methods (LAW4018)

Master Honours Research Track

Academic Year 2019/2020
Course Period 5

Course syllabus

I. Course description

Whether you plan to pursue an academic career, become a judge, a practicing lawyer or take on a different profession, whether your current research is of a normative or a doctrinal nature, understanding of empirical methods may turn out to be invaluable in your daily life. This is because many arguments you will encounter in scholarly literature, in a courtroom or even in a newspaper are based on empirical studies. If you want to be able to assess soundness of these arguments and draw proper conclusions, you need to get familiar with basic rules underlying empirical research methods.

In this course, we will go together through most of the steps of an empirical research project. We will start with practicing the formulation of empirical research questions and hypotheses. You will then learn about various available research designs and data collection methods. We will discuss their strengths and weaknesses. You will also get familiar with very basic statistical terms that should help you understand what it means that something is ‘statistically significant’ or that ‘p-value is below .05’ as well as read graphical representations of data such as box plots or histograms. All this will be done in parallel to developing an empirical group project that will form a basis for your assessment in this course. Even if you plan to only ‘consume’ empirical research instead of conducting them yourself, thinking about your own empirical study will help you understand all the tradeoffs that researchers face when planning and conducting empirical research. This will be helpful when assessing the quality of research described in empirical papers. If you are already familiar with social science research methods, this course will give you a great opportunity to revise some of the concepts and, most importantly, to see how they are applied to legal research questions. You will also have a chance to practice your empirical research skills in a group project.

II. Coordinator and tutor

Dr Monika Leszczyńska (monika.leszczynska@maastrichtuniversity.nl)

Assistant Professor of Empirical Legal Research, Faculty of Law, Maastricht University

III. Structure and timetable

Week	Date	Topic
1	April 15	Course introduction: Thinking empirically
2	April 22	Research design and general principles
3	April 29	Discussion of research questions for a group project
4	May 6	Data collection methods
5	May 13	Data analysis
6	May 20	Invited guest speaker I
7	May 27	Invited guest speaker II
8	June 3	Group project presentations
9	<i>Exams week</i>	Group project written assignment

The course will take place in period 5 every Wednesday 16.00 – 18.00. On June 3, we will have group projects presentations. Therefore, this session will be longer and will take place from 15.00 -18.00.

The sessions in Weeks 1, 2, 4 and 5 will have a format of a workshop. They will consist of a short interactive lecture reviewing the reading material, focusing on new concepts and most important information. The second part of each of these sessions will be devoted to a discussion based on assignments you receive additionally to the readings.

During the session in Week 3, we will be discussing potential research questions for your group project assignment. During the session in Week 8, you will be presenting your group projects.

In Weeks 6 and 7, we will have an invited guest speaker presenting own empirical research in the second part of a session. During the first part we will discuss the details of a particular research design and data collection method that the invited speaker used in her/his research.

IV. Expected preparation and materials

Literature: For almost every session you will be required to read some materials. The main readings will come from two books:

1. Lawless, R. M., et al. (2016). Empirical Methods in Law, Wolters Kluwer. [henceforth: Empirical Methods in Law]. Please note that this book is not yet available in the UM Library. It has been ordered and should be available soon.
2. Singleton, R. and B. C. Straits (2018). Approaches to Social Research, Oxford University Press. [henceforth: Approaches to Social Research]. It might be that we will be using the older edition of this book. If so, the page numbers of the assigned sections will be revised and adjusted to reflect the structure of the older edition.

Sometimes you will be assigned additional readings, the details will be provided in the description of each session.

During this course you will also be exposed to many articles reporting empirical legal research. By reading these articles you will not only learn how to critically assess the results and conclusions taking into account the weaknesses and strengths of the methods used, but often you will also find inspiration and ideas for your own empirical research.

Importantly, I will not provide you with a list of these articles. This will be your task. The reason for this is that you are all interested in very different areas of law and I find it important that you read empirical articles in the area that interests you the most. During the first session, you will receive some guidelines where to search for papers reporting original empirical research in law. By “original” I mean that the research has been conducted by the authors themselves and that it is not a paper that merely describes and refers to someone else’s findings.

In the description of the content of each session (below), you will also find detailed instructions what to pay attention to when reading the papers you selected. Additionally, you will be required to ‘sign up’ for a paper selected by another course participant and read it as well.

Assignments: There will be additional assignments for some of the sessions. Instructions are provided below in the weekly syllabus. It is crucial that you not only read all the assigned materials,

but also prepare these additional assignments. They will be the basis for our discussion in each session and you will learn the most if you come prepared.

Group project: Whereas reading articles may help you understand empirical research better, the best way to learn how to *use* empirical methods is to work on your own empirical project. Empirical research is seldom conducted by a single researcher but rather by a group of collaborators. Therefore, in parallel to the course, you will be working on an empirical group project. Since we have only 8 weeks, you are not required to conduct a full project including data collection and analysis. It might be, however, that you and your group decide to continue working on this project after finishing the course. Therefore, I encourage you to think about it as something that may potentially be implemented in the future.

You will be assigned to groups during the first session. The assignment will be conducted in a way to make sure that the groups are diverse when it comes to your research background. This way you will be able to profit from each other's expertise.

Each group will need to agree on a topic they want to work on. I will not provide you with a list of topics, you will need to select a topic yourself. However, during the first session we will talk about possible sources of 'inspiration' that may help you with the topic selection.

Within the group project, you are asked to develop research questions and hypotheses, as well as propose a research design and data collection method that will be best suited to address your question(s). The group project is a basis for the assessment of your performance in this course. The exact deliverables are described below in section V.

Attendance: The Master Honours Research Track has strict rules on attendance of tutorials. You are only allowed to be absent for a maximum of three sessions in the entire honours programme, but no more than two sessions absence in one course. If you are absent you need to notify Licette Poll and Monika Leszczyńska as the course coordinator beforehand.

V. Assessment

You are asked to provide four deliverables as outputs of the group project. Only two of them will form a basis for the assessment (more details below).

1. Register a topic in Week 2.

By **April 22, 2020** a representative of a group will need to send me the topic that all group members agreed to work on. If there is no agreement within a group, you will be able to schedule a meeting with me on April 22, 2020 during which we will jointly select the topic.

2. Three ideas for potential research questions. We will discuss them in Week 3.
3. Presentation of the final research question and hypotheses, proposed research design and data collection method in Week 8 (30% of the final grade).
4. Written research proposal including a description of the research question and hypotheses, research design and data collection method (70% of the final grade).

Besides feedback that you will receive during the discussion of research questions and the presentation, each group will also be able to schedule a meeting with me on Monday, **June 8, 2020**

to discuss any issues that will still remain open. It is during the exam week, so if there are any time conflicts, we will try to find a solution that will accommodate everyone's schedule.

The proposals need to be submitted at the latest on **June 12, 2020 at 17.00** (the end of the exam week of the course period 5) on the EleUM course page. You will receive written feedback on the proposal.

Grading

I will grade the presentation and research proposal according to the content and style.

Content:

1. Research question:
 - a. Researchability and scope
 - b. Precision and clarity
 - c. How it relates to the existing literature and body of empirical research
2. Hypotheses
 - a. Testability and falsifiability
 - b. Precision and clarity
 - c. Consistency and logic of reasoning applied to derive the hypotheses
3. Research design
 - a. Operationalization of the variables
 - b. Fit between the research question and research design
 - c. Reliability and validity
 - d. Identification of strengths and limitations
4. Data collection methods
 - a. Reliability and validity
 - b. Fit between the research question and data collection method
 - c. Identification of strengths and limitations

Style:

1. Presentation:
 - a. Structure
 - b. Use of visual tools (layout, readability, functionality)
 - c. Language and formulation
2. Proposal:
 - a. Structure
 - b. Language and formulation
 - c. Layout and readability

Each component will be graded on a scale from 1-10. The presentation will contribute to 30% of the final grade, the written assignment (research proposal) will contribute to 70% of the final grade.

Please also note that each member of a group is required to present in Week 8. Of course, I do not require that each member presents for exactly the same amount of time. It is up to you how you

divide the presentation among all group members, but I would like each group member to be responsible for presenting at least part of a project.

Although it is a group project, I will take into account your individual performance. Thus, the grades may differ within a group. To account for the individual performance, the grading will be done in a two-step procedure. First, I will give a grade to the group as a whole and then adjust it individually. The adjustment will be done based on your individual performance during the presentation in Week 8 as well as based on self- and peer-assessment of your contribution to the project. The details of this assessment will be explained during our first session.

Resit

If you fail the course, you will be offered a chance to resit the course in the week scheduled for resits of period 5. Please note that you are not offered a chance to resit if you passed the course overall despite failing one of the components.

If you qualify for the resit, the rules are as follows: If you or the whole group fail the written component, you are given the chance to submit a revised written assignment. This time, however, the improvements will need to be done and submitted individually. If you or the whole group fail the presentation component, you will need to describe in writing the process of developing the project identifying what, in your opinion, went wrong.

Weekly course syllabus

Week 1 Course Introduction: Thinking Empirically

The nature of empirical legal research differs a lot from most of other types of legal research that you got familiar with in the course on Legal Research Methods in Period 4. First, it differs with respect to its objectives. The goal of doctrinal or normative research is to provide a definitive answer to a specific question and support it with strong arguments and references to authoritative sources. In contrast, the objective of empirical research is to increase our knowledge about the real world. Importantly, our conclusions will never be definitive as the knowledge about the world develops constantly. Furthermore, instead of arguments our conclusions will be backed by evidence, i.e., the data collected and analyzed according to a procedure adopted and recognized in the field.

Because of these features any field that is based on empirical research develops differently than fields relying on non-empirical research. More specifically, it relies on a scientific process. In crude terms: Before conducting empirical research, a researcher formulates hypotheses – that is predictions as to what will be the relationship between the phenomenon that he or she is going to observe in the world. Next, a researcher collects the data that either confirm or disprove the hypotheses. If the evidence disproves the hypotheses, the theory that was used to derive them needs to be refined, i.e., it needs to take into account these new evidences that are not in line with it and its predictions.

At the very end of the session, I will ask you all to participate in a short 5-10 minutes study that will generate the data we will later use in Week 5 when discussing data analysis. Please note that participation in the study is absolutely voluntary.

In this session you will learn and practice:

1. How to identify issues that can be addressed using empirical legal research methods.
2. How to formulate an empirical research question.
3. How to formulate a testable and falsifiable hypothesis.

Readings:

Empirical Methods in Law: pp. 5-19

Approaches to Social Research: pp. 1 – 44

Instructions and assignments:

First, read the assigned materials. The best way is to start with the reading from Empirical Methods in Law and then continue with Approaches to Social Research. The first one is more general, the second one should help revise what you read in Empirical Methods in Law and provide some more details and sometimes an alternative view.

Afterwards, look again at p. 8 of *Empirical Methods in Law*. There, the authors give an example of an empirical claim made by Judge Blackmun in *Carnival Cruise Lines v Shute*. Your task is to:

1. Find three empirical claims either in court opinions or scholarly non-empirical articles that you have recently read and that were not explicitly referring to any empirical evidence.
2. Post the court opinions and/or articles where you found such claims together with the claims that you identified on EleUM Course page/Discussion Board/ Week 1 Assignment by clicking Create Thread, writing the claims you identified in the Message box and attaching relevant opinions/articles.
3. Think about the claims you identified. Could you think of alternative predictions? How would you formulate a research question that would address the issue mentioned in the claim? How would you formulate a hypothesis?

Week 2 Research design and general principles

As you will notice during our first meeting, empirical legal research questions come in many different flavors. You might be interested in exploring how a certain legal institution developed over time. You may want to look at differences in behavior between certain groups, e.g., whether male and female judges perform differently. Often, you would like to explore the cause of a phenomenon that you observed. For example, you may want to learn why people do not read contracts, but nevertheless sign them.

Depending on what it is exactly that you want to learn, you will need to decide on a *research design* that specifies in advance all the steps and the strategy that you will adopt to answer your research question. You may need to adopt a *longitudinal* or *cross-sectional* research design, run an *experimental* study or explore *correlations* between variables in already existing data. There are several caveats of each research design that you will need to take into consideration. In particular, you will need to think about *validity* and *reliability* of your research. Most importantly, you will notice that every research design entails certain trade-offs regarding *validity* and *reliability* that you will also face when deciding for a research design and data collection methods in your group project. For instance, you may decide to run a lab experiment to ensure *causal validity* but then you may run into issues with *ecological validity*. You may decide to conduct a correlational study but you need to realize that you will not be able to make any *causal* claims based on it. In this session, you will get familiar with all these concepts and learn how to address them when developing a research design.

Readings:

1. *Empirical Methods in Law*: pp. 19-45
2. Leszczyńska M. and van Dijck, G. (forthcoming) Assessing the Methodological Quality of Empirical Research on Social Media Influencers. In Goanta, C., Ranchordas, S. (Ed.), *The Regulation of Social Media Influencers*. (optional)
3. *Approaches to Social Research*: pp. 81-115 (optional), 131 – 148 (optional)

Assignment:

1. Read the materials listed above. The readings from Approaches to Social Research and Assessing the Methodological Quality of Empirical Research on Social Media Influencers are optional and serve to give you more details on the concepts discussed in Empirical Methods in Law as well as introduce some additional ones.
2. Please choose a paper reporting 'original' empirical study that is relevant to your research interests. Read the paper very carefully and try to assess the validity and reliability of its research design based on what you learned from the readings. What are its strengths? What are its weaknesses? What alternative research designs could address these issues?
3. Post the article you selected by going to EleUM Course page/Discussion Board/ Week 2 Assignment. Click Create Thread and attach the article you selected. In the Message box describe very shortly (2-3 sentences) what the article is about. The articles must be posted at the latest by Sunday evening before our session in Week 2.
4. 'Sign up' for an article posted by another participant by simply answering to the thread created by him/her. If you see that someone else has already responded, choose another article. You need to 'sign up' for an article at the latest by Monday noon before our session in Week 2.
5. Download the article that you signed up for, read it and think about the validity, reliability, strengths and weaknesses of the research design.
6. Be prepared to introduce briefly to other participants the research question and design from the paper you selected and discuss it (addressing the questions listed in point 2 above). Be also prepared to comment or add to what will be presented by the fellow student about the paper you 'signed up' for.

Week 3 Research questions for a group project

In this session, we will discuss possible research questions that you could work on in your group project. We will discuss their formulation with respect to precision and clarity. We will also talk about their researchability and scope.

Assignment:

1. Each group is asked to come up with 3 ideas for a research question that they want to work on in the group project.
2. Formulate your research questions in writing. Each question should be accompanied by 4-5 sentences explaining the background and the importance of investigating this research question. In total, the whole document with research questions should not exceed 750 words.
3. A representative of each group is asked to post the research questions with a short description (see above) on EleUM. To this end, go to EleUM Course page/Discussion Board/ Week 3 Research Questions. Click Create Thread and attach a file with research questions and their description. Please do so by Monday evening in Week 3.
4. Before our session in Week 3, please read research questions proposed by other groups. Think about their precision, clarity, researchability and scope.

Week 4 Data collection methods

Once you have chosen a research design for your study, you need to decide how you are going to collect your data. There is a huge variety of choices – you can conduct a survey, run a vignette study, collect the data in a lab, use available data either by relying on existing databases or collecting digital data, conduct in-depth interviews or field research. Unfortunately, we will not have enough time to discuss the details of all these available methods. Therefore, you will be only provided with an overview that will focus on strengths, weaknesses and other challenges related to each of these methods. Also, new approaches that rely on computational methods will be briefly mentioned.

It is important that when starting an empirical research project you consider also alternative methods and approaches and do not stick to the ones you are most familiar with. Therefore, the goal of this session is to make you aware of the menu of options that you can choose from. In the end, you need to select the method that is best suited to address your research question(s). It may be that you will not have skills necessary to conduct a project using data collection methods that you find the most appropriate. This should not stop you from pursuing your project – you can always either acquire these skills or find a collaborator that has experience using this method.

Just as with the research design, the data collection method chosen may determine the reliability and validity of your research. In this session, you will have an opportunity to again practice the use of some of the concepts introduced in Week 2.

Reading:

Empirical Methods in Law: pp. 51-116

Assignment:

During our first session we discussed various empirical claims that you found in court opinions and articles. We formulated research questions that would need to be answered using empirical legal research methods in order to support these claims and suggested some tentative hypotheses. Your task for the session on Data Collection Methods is to:

1. Think of two different methods of data collection that you would find the most suitable to address the research questions inspired by the claims you found. Think about advantages and disadvantages of the proposed methods.
2. Find an empirical paper that addresses this or a similar research question, read it and think about the following:
 - a. What data collection method did the authors decide to choose?
 - b. Is it the same as what you have thought about?
 - c. What are the advantages/disadvantages of their approach?
 - d. Do the authors say anything about the limitations of the methods they used?
3. Post the article you found and ‘sign up’ for an article of a fellow student following the steps as described in section on Week 4 – Research Design. To this end go to EleUM Course page/Discussion Board/ Week 4 Assignment.

4. Be able to present in class the research reported in the paper you selected and your answers to questions in point 2 above. Also, be prepared to comment on the paper you “signed up” for.

Week 5 Quantitative data analysis

Data analysis is, in my opinion, the most thrilling moment in conducting empirical research. Before you get to this point, often you have already spent months on the project – first developing your research question and hypotheses, carefully thinking and designing your research, sometimes spending other months collecting your data or trying to get access to the existing data set. And here it is – you finally have your data set and can start analyzing it to test your hypotheses and provide empirical insights into the issue that interests you so much. Unfortunately, the process of analyzing data in and of itself also often takes months, if not years. This is not to discourage you. First, with some research designs and data collection methods you can indeed have the first analysis done within hours or days. Second, data analysis is also a fascinating process.

Usually entire courses are devoted exclusively to data analysis as part of the empirical research process. In this session we will only introduce the most important concepts that will make it easier for you to read and understand the results sections of empirical research articles. We will talk about concepts such as *statistical hypothesis testing*, *normal distribution*, *standard deviation*, *mean* and *median*. We will look together at box plots and histograms and learn how to interpret them. All this will be done based on the data set you generated yourself by participating in the study in Week 1.

Reading:

Empirical Methods in Law, pp. 189-207

Approaches to Social Research, pp. 489-523

Assignment:

As in previous sessions, start with reading the section from Empirical Methods in Law. Afterwards, read the selected pages from Approaches to Social Research to make sure that you understood all concepts introduced in Empirical Methods in Law and to get familiar with a few new terms.

Before this session you will also receive the data set from the study run in Week 1. The exact instructions and tasks will be provided together with the data set.

Week 6 Guest speaker I

Week 7 Guest speaker II

The objective of these two sessions is to let you practice all these concepts and ideas that you learned about in previous sessions. Additionally, you will have a chance to learn about the most recent empirical research projects conducted by our faculty members.

A week before each session, I will post on EleUM a working paper or an already published article reporting the results of research that our guest speaker will talk about. I will also post one or two additional papers that look at the same or a similar research question but using a different approach.

Each of these two “guest speaker” sessions will consist of two parts. During the first hour we will discuss selected features of the research that our guest speaker will talk about. We will also have time to discuss some additional concepts that were not mentioned in the first weeks of the course such as, for instance, sampling, coding or qualitative data analysis. We will also have time to clarify any issues that were left unclear after the first five weeks of the course. This all will be done in the context of the research that will be presented by our guest.

In the second hour, our guest speaker will join us to give a 30-minute presentation followed by a 30-minute discussion during which you will be able to ask questions to our guest speaker.

Readings

1. Working paper or a published article by the guest speaker
2. Additional readings will be announced a week before each session.

Assignment

During these two weeks you will be working hard with other group members on finalizing your research proposal. Therefore, the assignments for the two sessions with guest speakers will be relatively straightforward, so that you have enough time and resources to develop your research projects.

When reading the paper by the guest speaker, please think about questions that you would like to ask during the discussion. Please post at least two questions by going to EleUM course page/Discussion Board. In Week 6 select the forum “Questions to the guest speaker I – Week 6” and post your questions there by creating a new thread. In Week 7 do the same, this time selecting the forum “Questions to the guest speaker II – Week 7”.

Week 8 Group project presentations

Your task for this final week is to present a refined research question and hypotheses of your group project. Furthermore, you should give details of your research design and data collection methods. The presentation should address the issues of validity and reliability as well as other limitations of the selected design and data collection approach. You should be able to support all your choices with strong arguments.