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Empirical Legal Studies, or How I Learned To Stop Worrying and Love the Data

Amy M. Taylor

American University Washington College of Law, amytaylor@wcl.american.edu

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Empirical Legal Studies, or How I Learned To Stop Worrying and Love the Data

by Amy M. Taylor

If you have never heard of Empirical Legal Studies (ELS), it is not because you are woefully behind the times. It is a relatively new field in which data analysis is used to study the legal system. Two components of ELS are a sophisticated body of scholarly research and the methods employed to conduct this research. Its third component, the application of the research by scholars and non-scholars alike, is probably familiar to any librarian who has been asked to find or compile statistics. While ELS scholars apply their research to the legal system itself, attorneys, professors, and students have long used statistics and data sets to substantiate legal arguments.

In this article, I will introduce you to the scholarly field of Empirical Legal Studies. I will also give you an annotated list of data sets and statistical resources. I compiled this list to assist beginners in learning about the range of resources available and their complexity.

Definitions

A data set is a collection of data on a particular topic and can be as simple as a table or as complex as the results of a statistical significance test. To be of any use to researchers, the latter must be used in conjunction with statistical software packages. Within the context of ELS, a data set is often related to the legal system. For example, data on the judicial system, including how many cases a court hears in a year, how many cases are outstanding on its docket, and the average time it takes a case to travel through the court are all available. By using legal and non-legal data, researchers can study issues within the legal system. An example of this is a paper by professors at Eastern Michigan University, "A Study of Juror Expectations and Demands Concerning Scientific Evidence: Does the 'CSI Effect' Exist?" The authors interviewed 1,027 persons called to jury duty about their television viewing habits and their expectations for the prosecutor's use of scientific evidence to determine if the two were causally connected. Their paper is available on the Social Science Research Network.

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If you define a discipline as a group of scholars who identify themselves as researchers in a field, who publish in its scholarly journals, and who meet, formally and informally, to advance their work and build on their shared knowledge, then ELS has definitely arrived. The evidence of this is copious: books, three journals (*Journal of Empirical Legal Studies*, *Law and Social Inquiry*, and *The Journal of Legal Studies*), conferences, workshops, and perhaps most telling in our networked age, a blog.

Scope of ELS

In order to give you an idea of the breadth of topics ELS scholars are researching, I perused the ELS blog in late April. The first post announced a class at Oxford University, "An Introduction to Event History Analysis," along with a "Crash Course in Strata" (a statistics software package used when working with data sets). The next post relays the news that an ELS Listserv has formed and gives instructions on signing up. Other posts included a discussion of the *U.S. News & World Report* law school rankings, specifically whether judge/attorney input contains a coastal bias; a call for ideas and suggestions from a student researcher investigating whether the mixture of civil and common law in Louisiana has had any effect on its rate of growth; and a discussion of the blogger's experience with the intricacies of data coding during his project of reviewing 20,000 certiorari pool memos from the files of Justice Blackmun. As you can see, the field is broad and growing quickly.

Another way to find out more about ELS is to browse journal articles. You can find general articles about ELS, as well as ones on its methods and results. The source list contains several articles on the topic, including the compilation of papers from the First Annual ELS Conference, and the proceedings from the *Empirical and Experimental Methods in Law Symposium*. Additionally, you can find articles on LexisNexis, Westlaw, SSRN, and Google Scholar.

Methods

If you would like to try working with data sets, the three most popular software packages are Stata, SAS, and SSPS. These packages have the same goal: to turn data sets into a form of information that can be used for making decisions. The packages contain several different tools for working with statistics, as well as data management and tabular/graphical capabilities. If you are interested in these software packages, but need help in deciding which one to use, the

Empirical Legal Studies blog contains an entry comparing and contrasting the packages (see Source List).

A great resource to assist you in learning how to use these packages is the UCLA Academic Technology Services web site. It provides a Statistical Computing Resources page that includes starter kits for Stata, SAS, and SSPS, along with example of data analysis, a statistical computing bookmarks page, and a guide to selecting the best software package for your needs.

If your client or patron is interested in data sets from the U.S. Government, DataFerrett is a software program that allows you to work with 15 data sets, including several from the Bureau of the Census: the American Community Survey; the Current Population Survey; and the Decennial Census of Population & Housing. DataFerrett is a free tool that you can download or use in your Internet browser.

Data Sets and Statistical Resources

In this section, I will provide you with legal and non-legal data sets and statistical resources. From a legal perspective, The S. Sidney Ulmer Project contains both research databases and data archives on the U.S. Supreme Court, the U.S. Courts of Appeals, and State Supreme Courts. Recently, several professors from Northwestern University School of Law launched The U.S. Supreme Court Justices Database, which provides information on all individuals nominated to the Court, whether confirmed or not. The Administrative Office of the Courts compiles annual reports from the case filings and terminations statistics compiled by the U.S District Court clerks.

The Inter-University Consortium for Political and Social Research contains both data sets and researchers' completed projects using these sets. Data sets and compiled statistical reports include such topics as education, health care, wars, geography, legislative bodies, mass political behavior, and social institutions. It has a thesaurus, topic archives, and a tutorial for data use. Non-members may use the data for a fee.

There are several useful online statistics sites. The American Statistical Index abstracts and indexes statistical charts within publications. FedStats contains a collection of statistics from over 100 federal agencies. LexisNexis Statistical is a database of statistical tables and indexes. The U.S. Census Bureau collects and publishes a large amount of statistical data, including the Statistical Abstract, which contains statistics on social and economic conditions.

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Source List (in order of appearance)

Social Science Research Network: www.ssrn.com
Papers are available for downloading, and the database is searchable by author, title, abstract, or keyword.

Sage Publications offers a monograph series "Quantitative Applications in the Social Sciences" at www.sagepub.com/books.nav. The series includes the book *Basic Math for Social Sciences*.

John Henry Schlegel, *American Legal Realism and Empirical Social Science* (Chapel Hill: University of North Carolina Press, 1995)

William M. Evan, *Social Structure and Law: Theoretical and Empirical Perspectives* (Newbury Park, CA: Sage Publications, 1990)

John Baldwin & Gwynn Davis, *Empirical Research in Law in The Oxford Handbook of Legal Studies* 880 (Oxford: Oxford University Press, Peter Cane & Mark Tushnet, eds., 2003)

Journal of Empirical Legal Studies, a Blackwell's publication, is a peer-edited journal publishing empirical articles in a variety of fields, including criminal justice, public policy, corporate law, and economics.

Law and Social Inquiry is the journal of the American Bar Foundation, and publishes articles that bridge legal studies and social sciences.

The Journal of Legal Studies, a publication of the University of Chicago Law School, publishes interdisciplinary articles emphasizing social science approaches to legal studies.

The Conference on Empirical Legal Studies will be held on November 9-10, 2007 at New York University School of Law. Here is the web address to the announcement, www.ssrn.com/update/lsn/lsnann/ann016.html, and also a web address to the proceedings of the 2006

Conference, http://papers.ssrn.com/sol3/JELJOUR_Results.cfm?form_name=journalBrowse&journal_id=884320.

Empirical Legal Studies Blog: www.elsblog.org/
Exchange, *Empirical Research and the Goals of Scholarship*, 69 U. Chi. L. Rev. 1 (2002)

Gregory Mitchell, *Empirical Legal Scholarship as Scientific Dialogue*, 83 N. C. L. Rev. 167 (2004)

Symposium, *Empirical and Experimental Methods in Law*, 2002 U. Ill. L. Rev. 789 (2002)

Google Scholar: <http://scholar.google.com>

Stata: www.stata.com/

SAS: www.sas.com/technologies/analytics/statistics/index.html

SPSS: www.spss.com/spss/family.cfm?source=homepage&hpzone=tech

Empirical Legal Studies Blog posting re: Statistical Software Packages:

www.elsblog.org/the_empirical_legal_studi/2006/02/stats_analysis_.html

UCLA Statistical Computing Resources Page: www.ats.ucla.edu/stat/

DataFerrett:

<http://dataferrett.census.gov/index.html>

The S. Sidney Ulmer Project:

www.as.uky.edu/polisci/ulmerproject/databases.htm

The U.S. Supreme Court Justices Database:

<http://epstein.law.northwestern.edu/research/justicesdata.html>

Judicial Business of the United States Courts:

www.uscourts.gov/judbususc/judbus.html

The Inter-University Consortium for Political and Social Research: www.icpsr.umich.edu/

The American Statistical Index:

www.amstat.org/index.cfm?fuseaction=main

FedStats: www.fedstats.gov/

LexisNexis Statistical: <http://web.lexis-nexis.com/statuniv/U.S.CensusBureau>: www.census.gov/

Statistical Abstract:

www.census.gov/compendia/statab/

Amy M. Taylor is a reference librarian at Georgetown University Law School Library in Washington, DC. She can be reached at amt54@law.georgetown.edu. **A**

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