



Universiteit
Leiden
The Netherlands

Empirical legal studies in the law school curriculum in the Netherlands: what is the state of the art and where do we go from here?

Pannebakker, E.S.; Pluut, H.; Voskamp, S.; Zanger, W.S. de

Citation

Pannebakker, E. S., Pluut, H., Voskamp, S., & Zanger, W. S. de. (2022). Empirical legal studies in the law school curriculum in the Netherlands: what is the state of the art and where do we go from here? *The Law Teacher*, 56(3), 384-403. doi:10.1080/03069400.2021.2022391

Version: Publisher's Version

License: [Creative Commons CC BY-NC-ND 4.0 license](#)

Downloaded from: <https://hdl.handle.net/1887/3513453>

Note: To cite this publication please use the final published version (if applicable).



Empirical legal studies in the law school curriculum in the Netherlands: what is the state of the art and where do we go from here?

E.S. Pannebakker, H. Pluut, S. Voskamp & W.S. de Zanger

To cite this article: E.S. Pannebakker, H. Pluut, S. Voskamp & W.S. de Zanger (2022): Empirical legal studies in the law school curriculum in the Netherlands: what is the state of the art and where do we go from here?, The Law Teacher, DOI: [10.1080/03069400.2021.2022391](https://doi.org/10.1080/03069400.2021.2022391)

To link to this article: <https://doi.org/10.1080/03069400.2021.2022391>



© 2022 The Author(s). Published by Informa UK Limited, trading as Taylor & Francis Group.



Published online: 07 Feb 2022.



[Submit your article to this journal](#)



Article views: 194



[View related articles](#)



[View Crossmark data](#)

Empirical legal studies in the law school curriculum in the Netherlands: what is the state of the art and where do we go from here?

E.S. Pannebakker^a, H. Pluut^b, S. Voskamp^a and W.S. de Zanger^{c*}

^aCivil Law Department, Leiden University, Leiden, The Netherlands; ^bDepartment of Business Studies, Leiden University, Leiden, The Netherlands; ^cFvKG Advocaten, Amsterdam, The Netherlands

ABSTRACT

This paper describes and discusses the portfolio of courses in which empirical legal research skills are currently taught to law students in the Netherlands. It results from an in-depth country-wide study we undertook as part of a project supported by the Dutch Research Council (NWO) in view of the growing attention to empirical legal studies (ELS). The paper concludes with a reflection on the future of ELS education in the Netherlands.

ARTICLE HISTORY Received 20 May 2021; Accepted 18 November 2021

KEYWORDS ELS; overview; education; research methods

1. Introduction

In legal academia, attention to empirical legal studies (ELS) is growing.¹ In the Netherlands, recent publications have addressed the definition of the term “empirical legal studies” and its scope, the value of empirical legal research, the role of theory in ELS, and the relationship between ELS and various “law and ...” approaches.² The recently published Encyclopaedia of Empirical Legal Studies provides an overview of empirical legal research conducted in the Netherlands during the last 25 years. It defines ELS as a field of study in which empirical data is

CONTACT E.S. Pannebakker  e.s.pannebakker@law.leidenuniv.nl  Civil Law Department, Leiden University, Leiden, The Netherlands

*Previously Criminal Law Department, Utrecht University, Utrecht, The Netherlands

¹The concept of empirical legal studies (ELS) has US origins. See inter alia T Eisenberg, “The Origins, Nature, and Promise of Empirical Legal Studies and a Response to Concerns” [2011] UCLR 1713; M Heise, “The Past, Present, and Future of Empirical Legal Scholarship: Judicial Decision Making and the New Empiricism” [2002] UCLR 819; M Adler and J Simon, “Stepwise Progression: The Past, Present, and Possible Future of Empirical Research on Law in the United States and the United Kingdom” (2014) 41 JL & Soc’y 173.

²See inter alia MV Antokolskaia, “Opkomst van Empirical Legal Studies: een vloek, een zegen, of allebei?” [2016] TPR 423; D Blocq and M Van der Woude, “Empirisch-juridisch onderzoek” [2017] 3 RdW 32; G van Dijk, “Naar een succesformule voor empirisch-juridisch onderzoek” [2016] 6 JV 29; NA Elbers, “Empirisch-juridisch onderzoek – toekomstmuziek of werkelijkheid?” [2016] 6 JV 43.

© 2022 The Author(s). Published by Informa UK Limited, trading as Taylor & Francis Group.

This is an Open Access article distributed under the terms of the Creative Commons Attribution-NonCommercial-NoDerivatives License (<http://creativecommons.org/licenses/by-nc-nd/4.0/>), which permits non-commercial re-use, distribution, and reproduction in any medium, provided the original work is properly cited, and is not altered, transformed, or built upon in any way.

used to answer questions relevant to law.³ Scholars in this field rely on quantitative and/or quantitative methods to study (a) the assumptions behind the law, (b) the way in which the law is applied, and (c) the impact of law on society.⁴ ELS has been encouraged by the Dutch government, which gave it a prominent role in the Sector Plan for Law⁵ through which funds are made available to enhance research and education in the legal discipline.

Attention to ELS in legal academia went along with attention to *education* in the field of ELS, which in the Netherlands took the form of two stimulation actions. The report following the *first* stimulation action contained several conclusions and recommendations.⁶ One conclusion was that law students in the Netherlands had no systematic education in empirical research methods. Therefore, it was recommended to (i) educate empirical legal scholars⁷ so that they can conduct empirical research and translate the obtained findings into implications for law, and (ii) (re) design the regular law school curriculum so that law students and law school graduates understand empirical findings and can translate them into implications for practice and legal norms. We have taken an active part in the follow-up of the first stimulation action. The main objective of the *second* stimulation action draws on the recommendation to bring in a focus on empirical skills in the regular law school curriculum so as to ensure that law school graduates are prepared to either conduct empirical legal research themselves or, at least, interpret and make use of empirical findings. However, prior to taking concrete steps towards this objective, one should have a clear overview of the ELS education currently offered at the law schools in the Netherlands.

At this point, it is important to outline the Dutch legal education system. The main way to be admitted to a Dutch university for studying law at bachelor's level is by having completed six years of pre-university education (*vwo*), which leads to a "*vwo diploma*". Another way to be admitted is by successfully completing the first year (propaedeutic phase or "*propedeuse*") at a university of applied sciences, also called higher professional education. In line with the Bologna system,⁸ once admitted to a Dutch university, students can obtain a bachelor's degree (LLB), after which they can follow a master's programme and obtain an LLM. This is not to say that any law school graduate has the so-called "*civiel effect*", a qualification that is a necessary but not a sufficient prerequisite for being licensed to practise law as an attorney, a notary, a judge, or a (public) prosecutor in the Netherlands. A specific set of bachelor's and master's courses are mandatory to obtain this qualification. To be admitted as an attorney to the Dutch Bar, in addition to having *civiel effect*, an LLM graduate has to follow the additional post-academic study "*Beroepsopleiding Advocaten*" as an attorney-

³CCJH Bijleveld and others, *Nederlandse encyclopedie Empirical Legal Studies* (Boom Juridisch 2020) 12. ELS denotes a field of study within legal scholarship that is characterised by empirical legal research. When we discuss ELS in an educational context, we refer to it as ELS education. More on the concept of ELS in section 2.

⁴*ibid*; CCJH Bijleveld, *Research Methods for Empirical Legal Studies* (Boom Juridisch 2020).

⁵M Bovens, "Samen sterker: Beeld van het SSH-domein" (NWO 2018). See also <www.sectorplanrechtsgeleerdheid.nl> accessed 1 November 2021.

⁶NA Elbers and others, "Rapport Nationale stimuleringsactie Empirical Legal Studies" (NSCR 2018).

⁷For the sake of clarity, in this paper we use the general term "practitioner of law" to refer to legal professionals like attorney, notary, judge, and public prosecutor. The term "legal scholar" is used here to refer to academic lawyers – teachers and researchers – working at the universities, thus in legal academia.

⁸See <www.ehea.info> accessed 1 November 2021.

intern at a law firm (“*advocaat-stagiair*”). For the judiciary and notarial practice, students must also graduate with *civiel effect* and in addition they are required to follow specific education, and special selection criteria apply for each of these professions.

Importantly, our study focuses on the role of ELS in the law school curricula, and therefore does not cover specific forms of professional education (see also [section 2.5](#)). Much is already being done when it comes to ELS education in the Netherlands. However, to date, an accurate overview of university courses in which ELS is taught has been missing. Therefore, we inquired into the regular curricula of Dutch law schools and provided a country-wide overview of the courses with an ELS component currently taught in the Netherlands. The inquiry began in 2019 and resulted in a report (in Dutch) published in the summer of 2020.⁹ The current paper presents our findings and discusses those in the context of current debates. We conclude with a reflection on how (under)graduate and postgraduate legal education at universities can prepare the upcoming generation of practitioners of law and legal scholars in the Netherlands for undertaking and understanding empirical research in law.

To introduce the study, we briefly discuss the concept of empirical legal studies, clarify the working definition of ELS education used for the purpose of the study, and describe our focus and methodology ([section 2](#)). Next, we present the main findings by charting the extent to which ELS is taught within the regular curricula at the bachelor’s, master’s, and PhD levels at nine university law schools in the Netherlands ([section 3](#)). This is followed by a reflection on the findings ([section 4](#)) and on the future of ELS education, considering current debates in the Netherlands ([section 5](#)).

2. Overview of ELS education – focus and method

2.1 The concept of ELS

The concept of empirical legal studies originates from the US, where empirical legal research has been around for over a century.¹⁰ The term “empirical legal studies” became widely known after the founding of the *Journal of Empirical Legal Studies*.¹¹ Owing to this journal’s strong focus on quantitative methods, the term ELS in the narrow sense is confined to studies based on quantitative methods. In English language literature, the term ELS has been frequently used in this narrow sense. However, it has also been used in a broader sense, which covers not only quantitative but also qualitative studies.¹² In the Netherlands, scholars called for an inclusive and methodologically eclectic approach to ELS.¹³ The current approach in the Netherlands is exactly that, as illustrated by the quantitative and qualitative studies featuring in the Dutch encyclopaedia.¹⁴ This is not to say there is consensus

⁹ES Pannebakker and others, “Onderweg naar morgen – een inventarisatie van empirische onderzoeksmethoden in juridisch onderwijs” (Platform Empirical Legal Studies 2020). For a detailed description of the selected ELS courses, see *ibid*, Appendix A in ch 6 (in Dutch).

¹⁰Adler and Simon (n 1) 177–84.

¹¹P Cane and HM Kritzer, *The Oxford Handbook of Empirical Legal Research* (Oxford University Press 2010) 2.

¹²*ibid*; A Bradney, “The Place of Empirical Legal Research in the Law School Curriculum” in P Cane and HM Kritzer (eds), *The Oxford Handbook of Empirical Legal Research* (Oxford University Press 2010).

¹³Blocq and Van der Woude (n 2) 32–37.

¹⁴Bijleveld and others (n 3).

regarding the definition of ELS. Although the main building blocks of the Dutch approach to empirical legal research have been crystallised,¹⁵ ELS remains a broad concept, defined in different ways.¹⁶ This makes international comparisons somewhat complicated.¹⁷

While the concept of ELS in the field of *research* covers both quantitative and qualitative studies, no generally accepted definition of ELS in the field of *education* has been formulated. Taking the definition of ELS in research as the starting point, we assumed that affinity with empirical research methods is inherent to ELS. This view corresponds to the twofold objective of the second stimulation action, namely (1) educating prospective practitioners of law who can interpret empirical results and (2) educating legal scholars who can apply empirical methods in their legal research. Therefore, in our view, a course should at least incorporate a focus on empirical research methods in order for it to be characterised as ELS education. As alluded to earlier, these methods can be of quantitative or qualitative nature. For the purpose of the overview, we have defined ELS education (or ELS courses) as education in which students acquire knowledge on the application of *empirical methods* to research questions in the field of *law*.

2.2 Method courses and substantive law-oriented courses

Empirical legal research skills can be taught in two types of courses: (i) courses entirely dedicated to studying scientific research methods and (ii) courses with a focus on substantive law. Courses of the first type are entirely dedicated to the study of various research methods that can be applied in legal research and practice. Along with various other methods, such courses cover empirical methods, including questionnaires and experiments. We refer to such courses as method-oriented courses. For example, the *Research Methods Seminars* (Erasmus University Rotterdam) is a method-oriented course with ELS components. The courses *Quantitative Empirical Research Methods in Law* and *Qualitative Empirical Research Methods in Law* (both Leiden University) are method-oriented courses entirely dedicated to empirical research methods. In method-oriented courses, students are trained in empirical research skills in the context of legally relevant research questions. Courses of the second type are focused on substantive (positive) law but introduce an empirical perspective as one of the ways to look at positive law, for example the course *Labour Law in Socio-Economic Context* (Tilburg University). We refer to such courses as substantive law-oriented courses. In such courses, students study the content of law, but at the same time they are taught to critically analyse (the role of) empirical findings related to law or carry out empirical research themselves.

¹⁵Bijleveld and others (n 3) 11–13.

¹⁶Cane and Kritzer (n 11); Elbers and others (n 6) 24. See also WH van Boom, P Desmet and P Mascini (eds), *Empirical Legal Research in Action: Reflections on Methods and Their Applications* (Edward Elgar 2018); P Cserne and M Malecka (eds), *Law and Economics as Interdisciplinary Exchange: Philosophical, Methodological and Historical Perspectives* (Routledge 2019); D Watkins and M Burton (eds), *Research Methods in Law* (Routledge 2018); various contributions in [2016] 6 JV; FL Leeuw and H Schmeets, *Empirical Legal Research: A Guidance Book for Lawyers, Legislators and Regulators* (Edward Elgar 2016); Antokolskaia (n 2); J Lindgren, "Predicting the Future of Empirical Legal Studies" (2006) 86 BULR 1447.

¹⁷Nevertheless, it could be useful to conduct further research in order to clarify the extent to which the Dutch definition of the concept of ELS corresponds to various definitions given in other countries. See on this [section 5](#).

2.3 Active and passive ELS skills

Various degrees of attention to ELS are possible; that is to say, not all courses deal with ELS to the same degree. Our overview is focused on (and confined to) those courses in which students are trained in empirical legal research methods, including courses with the following degrees of attention to ELS:

- (1) courses in which students are taught to *design, set up, and conduct* empirical legal research;
- (2) courses in which students are taught to *understand and critically analyse* the results of existing empirical legal studies and the methods used therein.

The courses in the first category lead to *active* skills or knowledge: students can conduct research in the field of ELS, whereas the courses in the second category lead to *passive* skills or knowledge: students understand and can analyse empirical legal methods applied in an existing study.

In courses aimed at providing *active* knowledge in the field of ELS, students learn to conduct empirical legal research in a scientifically sound manner. They become familiar with possible methodological choices and pitfalls. Active knowledge implies that students acquire the skills needed to independently carry out an empirical legal study or to develop a research design (without eventually undertaking the designed research). Active knowledge of ELS is a critical learning outcome for those graduates who want to become legal scholars. Not only will they be prepared to undertake empirical legal research, but they will also be equipped to teach a next generation of law students about empirical research, thereby overcoming the issue of a self-perpetuating cycle.¹⁸ Research-based teaching allows students to learn about the process of doing empirical research in law and they may even get involved in the empirical legal research of their professors. For those graduates who become practitioners of law, active knowledge of ELS may help them carry out empirical work,¹⁹ yet it is more common in the Netherlands for attorneys and judges to leave such efforts to others. Hence, active knowledge of ELS as a learning outcome is valuable in particular for legal scholars and to a lesser extent for practitioners of law.

Passive knowledge, on the other hand, implies that students can critically reflect on empirical legal studies that others consider doing or have conducted. Such critical reflections may concern the representativeness of the sample, the reliability and validity of research findings, and the choice for a particular method. In this way, students become familiar with the strengths and weaknesses of empirical research projects in law. Some graduates will become practitioners of law and will be presented with empirical evidence in their daily work.²⁰ Their work might then involve interpretation

¹⁸Also referred to as the training problem, see Adler and Simon (n 1) 196.

¹⁹For instance, trademark lawyers distributing surveys to identify whether consumers have been confused by a product allegedly infringing intellectual property rights; see the example given by Van Boom in P Jonkers, "Empirische kennis als instrument" [2019] 3 *Advocatenblad* 26. Elsewhere, judges have been encouraged to do experiments and evaluation research for evidence-based justice: P van der Laan, M Smit and BC Welsch, "Rechtters, ga experimenteren! Over het belang van evalueren en experimenteren voor een effectieve (straf) rechtspleging" (2013) 4 *Rechtstreeks* 15.

²⁰To stick with the example of trademark lawyers (n 19), they often have to rely on survey or experimental data provided by others in legal proceedings; K Weatherall, "The Consumer as the Empirical Measure of Trade Mark Law" (2017) 80 *MLR* 57.

and evaluation of statistics and probabilities in reports, for instance those created by DNA experts in criminal cases.²¹ Passive knowledge of ELS as a learning outcome enables practitioners of law to consume empirical evidence, thereby contributing to the professionalisation of how court cases are handled. As for legal scholars, passive knowledge enables them to engage in a critical manner with the existing body of empirical legal research in order to appropriately discuss or use the findings in their own research and teaching. Thus, passive knowledge of ELS as a learning outcome is valuable for practitioners of law and legal scholars alike.

It is possible that a course leads to both passive and active ELS skills (for example, by progressively building up the skills), and both active and passive skills can be taught in a method-oriented course as well as in a substantive law-oriented course.

2.4 Grey areas

The twofold focus on method courses and substantive law-oriented courses in which students obtain active or passive ELS skills (as defined above) implies that some courses remain in a grey area. The contours of ELS education in the sense of our inquiry become fainter as less attention is being paid to ELS methodology. The more passive the required student's attitude to empirical research, the fewer reasons to qualify the course as ELS education. It is possible that a substantive law-oriented course includes an empirical component; for example, students discuss empirical findings, but this empirical component does not include any critical discussion of the empirical research *methods* applied to obtain these findings. We qualify such courses as *passive-passive*. While the results of existing empirical research are discussed, students are not taught to develop an understanding of the empirical *method* on which the research relies (in other words, students obtain no skills in *doing* or *understanding* ELS). Therefore, it was decided to exclude passive-passive courses from the definition of ELS education. Moreover, it is possible that a course extends students' empirical toolkit but does not deal with a question in the field of *legal* research. Such courses also fall outside our definition of ELS education. For example, in the course *Business Analytics* (Leiden University), students become familiar with empirical methods, but the methods are not applied to a legally relevant research question. In short, if a course involves empirical findings but does not imply an understanding of the empirical *method* or the empirical methods are not applied to a *legal* research question, this course falls outside our definition of ELS education.

Depending on the scope of the concept of ELS education, it may cover various "law and ..." and other interdisciplinary courses, including sociology of law, psychology of law, and legal anthropology. Any such course falls under our definition of ELS education if it involves obtaining skills in the application of *empirical methods* to questions relevant to *legal* research (in either an active or a passive way, as discussed earlier).

²¹See K Twisk, *Een jurisprudentieonderzoek naar de kwaliteit van de waardering van DNA-bewijs* (Uitgeverij Paris 2019); for other examples on the use of empirical findings in legal practice, including those related to DNA evidence, see M Malsch, *Law Is Too Important to Leave to Lawyers* (Eleven International Publishing 2021). Also the UK Royal Statistical Society identified difficulties for judges related to empirical evidence, see RSS – Statistics Law Guides (RSS) <www.rss.org.uk/news-publication/publications/law-guides/> accessed 1 November 2021. The risk is a miscarriage of justice, of which Lucia de B is an illustrative criminal law case example in the Netherlands. Hoge Raad, 07 October 2008, ECLI:NL:HR:2008:BD4153. See on this case RD Gill, P Groeneboom and P de Jong, "Elementary Statistics on Trial—The Case of Lucia de Berk" (2018) 31, 4 Chance 9.

However, we have not characterised the “law and . . .” and interdisciplinary courses as ELS education by default. Therefore, a course that extends the student’s interdisciplinary toolkit (or contributes to interdisciplinary knowledge by providing insights from other disciplines) may fall outside our definition of ELS education. The reason for this is most often that empirical methods are not applied to legal questions.²² Nevertheless, interdisciplinary courses are important because they incorporate various matters that typically go beyond students’ knowledge of positive law, which enables students to consider legal research questions from an interdisciplinary perspective (for example, by using insights from behavioural science).

The chosen approach to the grey areas has implications for the study’s findings, especially the conclusions about the extent to which ELS is currently taught within the regular legal curriculum. If a less restrictive definition of the concept of ELS education had been adopted, the overview would have included more courses, in particular those that we have labelled as *passive-passive*. The study’s focus needed to be sharpened and the contours of ELS education needed to be drawn to keep the study feasible and the findings clear, so that the overview could contribute in achieving the main objective of the second stimulation action.

The scope of the current study is depicted in Figure 1, which contains the reasoning scheme applied in the assessment of each course. As our study progressed, the focus became increasingly sharp and we could be more selective in charting the courses offered in-house at nine Dutch law schools, although it is inherent to the grey areas that there are nuances and it can be difficult to characterise the courses in the border area.

2.5 Focus on law schools

Our study focuses on the regular curricula at the various law schools in the Netherlands, that is, academic legal education which leads to a bachelor’s and master’s degree in law as well as postgraduate (PhD) education. In line with the goal and focus of the second stimulation action and the Dutch Sector Plan for Law, we wanted to examine the state of affairs in the law school curricula as a basis for further development of ELS in legal education.

Therefore, courses that are not taught at the law schools fall outside our inquiry’s scope. An example would be the curricula of the universities of applied sciences. Furthermore, the overview does not include courses or education that some university graduates may follow after obtaining an LLM degree in order to get access to a specific profession. As noted earlier, in order to become an attorney and be admitted to the Dutch Bar, a university graduate with a master’s degree with “*civiel effect*” must follow a number of courses as part of the education called “*Beroepsopleiding Advocaten*”.²³ In order to become a judge, other additional education should be followed as prescribed by the Dutch judiciary, although dependent on the prior experience of the candidate.²⁴ While we acknowledge that this education may include training in empirical research methods, it falls outside the scope of our inquiry. The same applies to specialised forms of training that practitioners of law receive and that provide them with skills that are not purely empirical skills, but that do in fact equip them for empirical investigations. For example, interns at law firms may be

²²This applies to criminology and forensic science courses (fields of study which cover non-legal questions): Pannebakker and others (n 9) ch 4.

²³For the content of the mandatory education of the Dutch Bar, see <<https://beroepsopleidingadvocaten.nl/vanaf-2021/de-opleiding/schematisch-overzicht>> accessed 1 November 2021.

²⁴See the website of the Centre for Education of the Dutch Judiciary <<https://ssr.nl/>> accessed 1 November 2021.

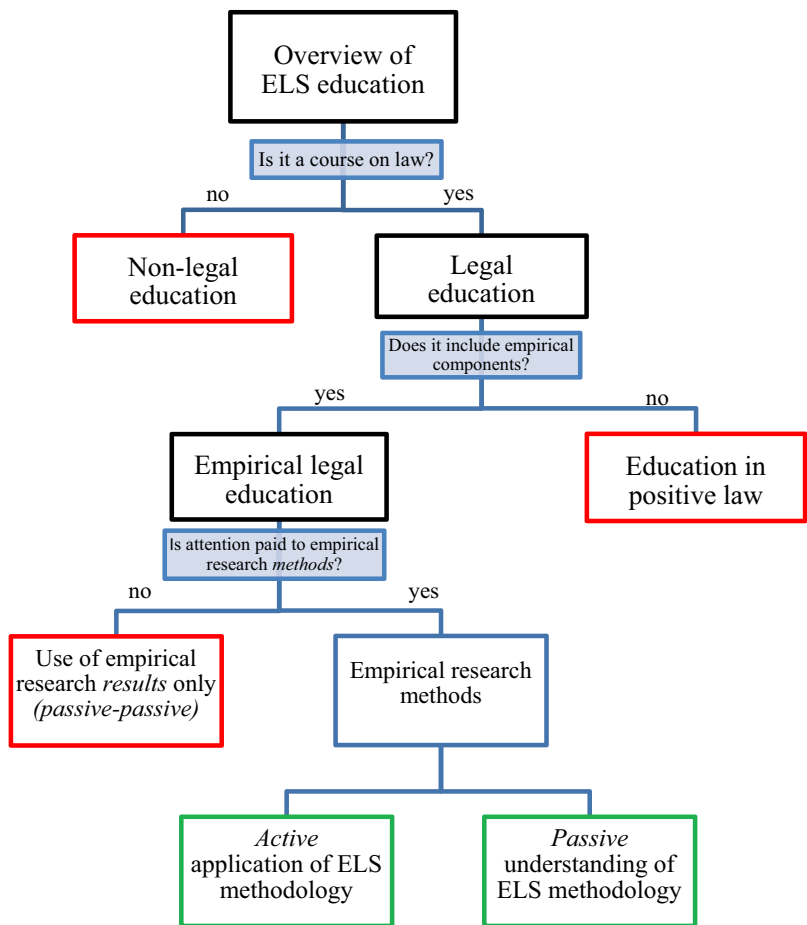


Figure 1. The concept of empirical legal studies in education.

taught by senior staff to interview clients. We limit our focus to courses and training offered in the regular curricula of law schools available to all university graduates and PhD candidates.²⁵

2.6 Methodology

We studied the curricula of legal education offered in-house at nine law schools, namely at Leiden University, Utrecht University, University of Groningen, Erasmus University Rotterdam, Radboud University Nijmegen, Maastricht University, University of Amsterdam, Free University Amsterdam, and Tilburg University.²⁶ The inquiry began with an online inventory. We consulted the law schools' websites to identify which

²⁵In the Netherlands, PhD candidates are usually staff members with an employment contract and salary.

²⁶The overview does not include the Open University (*Open Universiteit*) because no empirical legal education was offered at this university's Faculty of Law at the time of study. Since the focus is on university courses offered in-house, courses offered by research schools such as *Ius Commune* fall outside the scope.

courses are offered in-house and possibly incorporate ELS. To do so, the online course descriptions of the PhD programmes, master's programmes (including the specialisations), and bachelor's programmes (including the specialisations) were examined. If a course description referred to an empirical component, the course was pre-selected for further consideration. This pre-selection was made in the first half of 2019 and was updated at the beginning of 2020.

The second step consisted of explorative research based on the pre-selection. In the first half of 2019, we visited each law school and spoke to the teaching staff, coordinators, and directors of education involved in teaching the pre-selected courses. The main objective of these conversations was to verify the online selection results. Furthermore, these conversations were used as an opportunity to snowball. We asked respondents whether they could point us to other courses that we overlooked during the online selection and courses for which no online course description was available. We also asked them for recommendations on which other colleagues at the faculty to approach.

Based on the outcome of the explorative research, several pre-selected courses were excluded from the selection (false positives) and many courses were added (false negatives). At the beginning of 2020, we returned to the teaching staff and coordinators involved in the respective courses to validate the new selection. We sent them an email asking them to confirm whether the selected course, in which they were involved, could be characterised as ELS. This validation email was accompanied by the reasoning scheme shown in [Figure 1](#). The 115 emails that we sent resulted in an average response rate of 73% across law schools, with a standard deviation of approximately 13. The final overview consisted of 96 courses.

3. Overview of ELS education in the Netherlands

3.1 General findings

We now turn to the main general findings and sketch a general picture of ELS education at the undergraduate (bachelor's), graduate (master's), and doctoral (PhD) levels. This contribution is confined to the main general observations. For a complete overview of the courses, accompanied by the tables, including the course descriptions, we refer to the full report.²⁷ It should be noted that the report is in Dutch, but some course descriptions are in English. Although we strive to describe ELS education as consistently as possible for each level of education, the general picture is not homogenous, as the degree of attention to ELS and the type of ELS skills vary considerably across universities.

At bachelor's level, the law schools' portfolios of ELS education are relatively diverse and fragmented. In some regular bachelor's programmes, all first- or second-year students were introduced to empirical legal research. However, most regular bachelor's curricula include no specific courses dedicated to the ELS methodology. Instead, the teaching of empirical legal methods is incorporated into interdisciplinary courses, minors, and elective courses. A relevant development in this regard is the recent emergence of new ELS-oriented bachelor's programmes, honours courses and related tracks, in which students are trained to conduct and critically analyse empirical legal research and obtain active and passive ELS skills.

²⁷Pannebakker and others (n 9) chs 3 and 6.

The regular master's programmes incorporate no systematic education in passive or active knowledge in the field of ELS. In contrast, most research master's programmes include one or more specific method-oriented courses that cover empirical legal methods. Sometimes they overlap with the education at the PhD level, for example, when research master students and PhD candidates follow the same course together.

At the doctoral (PhD) level, active or passive knowledge of various quantitative and qualitative methods is taught to PhD candidates at all law schools. Either a regular course is offered or a tailor-made training is initiated on demand. To meet the needs of the particular PhD candidate, the universities call on appropriately trained teaching staff and outside experts who provide tailor-made supervision.

Notably, there is no standard textbook that is used as mandatory reading when ELS is taught. Instead, three types of study materials are referred to in the course descriptions: (i) handbooks on empirical legal research; (ii) textbooks dedicated to (qualitative and quantitative) methods of research in the social sciences, but not necessarily dealing with research in law; and (iii) articles reporting empirical findings or providing insights into empirical research methods.²⁸ Thus, study materials are not lacking, but the plethora of resources on offer seems to be rather diffuse. Moreover, according to our respondents, the existing textbooks go into too much depth. Although our study did not aim to provide an overview of the study materials that are available and used, the excerpts from the course descriptions included in the report contain references to mandatory readings (if those were in fact available).

3.2 ELS education at each law school

At the Faculty of Law of Leiden University, at bachelor's level (Bachelor Law, Bachelor Notarial Law, and Bachelor Tax Law), ELS components are incorporated in the elective courses. For example, passive knowledge in the field of ELS is taught in the courses *Socio-Legal Studies*, *Criminology for Lawyers*, *Law and Culture*, *Law and Governance in Asia*, and *Law in the Multicultural Society*. In these courses, students become familiar with the basics of empirical research and learn to critically evaluate empirical findings. Undergraduate students can also be introduced to empirical research methods by taking part in Honours College Law – a set of courses for selected excellent students. At the master's level, the curricula of various master's programmes offered at Leiden University sporadically contain courses that deal with the ELS methodology and result in passive knowledge in the field of ELS. An exception is provided by the courses of the recently established master Law and Society. Within this master's programme, active ELS skills are taught. At the doctoral level, methods of empirical legal research are taught in two specific courses: *Quantitative Empirical Research Methods in Law* and *Qualitative Empirical Research Methods in Law*. These courses aim to develop passive and active knowledge in the field of ELS; in the former course, students get knowledge on quantitative methods, and in the latter, they get knowledge on qualitative methods. In both courses, the study of methods is closely tied to the specific research project of each PhD candidate. It can be concluded that, at Leiden University, the focus on ELS lies mainly with PhD education. It is also to be found in elective courses that are closely related to the specific expertise of the teaching staff who carry out empirical legal research themselves.

²⁸For examples, see *ibid* section 4.4. on mandatory readings in ELS education.

At the Faculty of Law of Utrecht University, research methods play a prominent role in the curriculum, in which Context and Method is one of the learning outcomes. This learning outcome covers inter alia education in ELS methodology. Within the regular bachelor's programmes, some elective courses and mandatory courses incorporate teaching of passive ELS skills. The regular bachelor's programme (Bachelor Dutch Law) includes no mandatory courses in which students would learn to (actively) conduct empirical legal research. At the master's level, empirical research methods are taught in the Legal Research Master. Furthermore, within the master Law and Economics, the course *Methodologies of Law and Economics* devotes attention to empirical research methods. All law school PhD candidates follow a mandatory course, *Introduction to Research Methods & Techniques*. This course includes ELS methodology; students acquire passive and active knowledge of quantitative and qualitative empirical research methods.

The Faculty of Law of the University of Groningen has a centre of expertise in empirical legal research – the Groningen Centre for Empirical Legal Research. This centre has a research and a teaching component. The focus of ELS education is with the Bachelor Legal Governance. Within this programme, active ELS knowledge is taught inter alia in the course *Research Project in Legal Governance*. Other courses, such as the courses *Methods of Socio-Legal Research* and *Introduction into Sociology of Law*, combine passive and active ELS skills. The course *Introduction into Sociology of Law* may be followed by the students of the regular Bachelor Dutch Law as an elective in the third year. Within the regular bachelor's programme, the (second-year) course *Legal Research Skills 2* provides students with passive knowledge of various research methods, including empirical methods. Students of this course also get an opportunity to actively adopt an empirical approach when they conduct their own research. Within the Research Master's programme, active ELS skills are taught in two courses that build on each other: *Introduction to Empirical Legal Research* and *Empirical Legal Research Lab*. The master's programme Law and Governance, specialisation Legal Governance, contains several ELS components. Doctoral education in Groningen includes no mandatory courses dedicated to empirical research methods. Instead, law school students attend regular meetings with a special focus. The focus varies: the meeting can be on qualitative methods one time, and, another time, on quantitative methods, depending on the PhD candidates' needs and wishes. Furthermore, PhD candidates may attend ELS courses offered by the Winter School of the Graduate School of Law and may join courses taught within the Research Master.

At Erasmus School of Law (Erasmus University Rotterdam), bachelor's students are offered an opportunity to study empirical research methods in the course *Sociology of Law* and in a set of courses that form the minor *Criminology*. At the master's level, in the Master Legal Theory and Socio-Legal Studies, active knowledge in the field of ELS is built up in two courses: *Socio-Legal Studies* and the follow-up course *Advanced Socio-Legal Studies*. The curriculum of the European Master in Law and Economics includes a mandatory course *Empirical Legal Studies*. At the doctoral level, education in empirical legal methods is incorporated in the course *Research Lab* offered by the Erasmus Graduate School of Law (EGSL). This course consists of regular coaching and peer-review meetings organised during one academic year. Furthermore, PhD candidates follow the course *Research Methods Seminars*, which includes one seminar dedicated to empirical research methods. During this seminar, students get information about existing methods and are challenged to elaborate on the possibility of using empirical

methods in their own research. Furthermore, Erasmus University Rotterdam takes part in an international programme called the *European Doctorate in Law and Economics* (EDLE). EDLE candidates have the possibility to choose the EDLE Empirical Track, offered in cooperation with foreign universities.

At the Faculty of Law of Radboud University Nijmegen, regular bachelor's programmes focus primarily on positive law, while education in the field of ELS is available in elective courses, for example, in the courses *Sociology of Law* and *Criminology*. Two research master's programmes are offered: Entrepreneurship & Law and Public Law. In these programmes, some attention is devoted to empirical research. In the Research Master Entrepreneurship & Law, ELS is incorporated in the course *Research Methodology*, and the students of the Research Master Public Law follow the course *Law and Society*. At the master's level, the specialisation Criminal Law includes the course *Empirics of Criminal Procedure*, which contains ELS components. It offers students at the master's level the possibility to follow courses with a focus on empirical methods, although they are not required to do so (except the research master's students). Doctoral education includes no courses with an ELS component. Instead, PhD candidates attend meetings organised on demand and dedicated to various topics, such as data management, conducting interviews, or how to do quantitative research.

At the Faculty of Law of Maastricht University, empirical research methods have received increasing attention. The law school has chosen to focus on data-driven (quantitative) research on digital information processing. At bachelor's level, all first-year students of the regular bachelor's programme (Dutch Law) follow a mandatory course, *Skills for Lawyers*. Part B of this course provides active and passive knowledge in the field of ELS. Furthermore, attention to empirical research methods can be found in three elective bachelor's courses: *Research Methods*, *Legal Decision-Making and Neurosciences*, and *Law and Neurosciences*. Bachelor's students who participate in the Maastricht University Law College and in a programme entitled "MaRBLe@LAW" can also receive training in ELS. At the master's level, they are trained in passive and active ELS in elective courses, such as *Legal Analytics* and *Computational Science of Taxation*. Furthermore, students can be selected for participation in honours programmes at the master's level, where they can follow the course *Empirical Legal Research*. The content of this course can be linked to the writing of the master thesis, if the student chooses to use an empirical research method for the master thesis. The content of the education offered to PhD candidates is flexible and not defined in advance. Yet one course is mandatory for all PhD candidates – *The Art of Doing Research*, which highlights the different stages of a research project.

At the Faculty of Law of the University of Amsterdam, ELS education is primarily incorporated in bachelor's courses and elective minor programmes (a minor is a set of elective courses with an overarching theme or in a particular field of law). The first encounter with ELS takes place in the course *Law and Human Behaviour*. The course is mandatory for all first-year students of the regular Bachelor and the Bachelor Tax Law (approximately 1000 students). Attention to empirical legal research is also paid in the minor Rule of Law, Professional Ethics and Integrity for Lawyers, and in the minor Law and Economics. At the master's level, the curricula sporadically include courses with ELS components. For example, the course *Individual Research Project European Public Law and Governance* is taught in the Master International and European Law. Students of the Research Master Information Law and of the Research Master Public International Law used to have the possibility to follow any course offered at the doctoral level. However,

the University of Amsterdam no longer offers these research master's programmes. At the doctoral level, ELS education is incorporated into two courses: *Philosophy of Legal Research* and *Research Design and Methods*. The latter is a three-day course with a focus on qualitative and quantitative methods. Finally, "socio-legal research" is discussed as part of the course *Research Seminar Series* (the course includes seven seminars on doctrinal research, historical research, critical perspectives, socio-legal research, normative research, law and economics, and on law, language and interpretation).

Legal education offered at Free University Amsterdam (Vrije Universiteit Amsterdam) approaches law from the perspective of current developments in society. Therefore, considerable attention in the curriculum has been devoted to insights from empirical studies. In the regular bachelor's programme, there is only limited room for the development of empirical research skills, although some courses incorporate a discussion of empirical insights into legal questions. One development is highly relevant for ELS education, namely the recent launch of a new interdisciplinary bachelor's programme, Law and Society. This internationally oriented programme in English aims to educate students broadly as lawyers who have a background in ELS. At the master's level, a Research Talent Track has been open since 2019–2020 for (selected) talented students interested in (conducting) empirical legal research. At the doctoral level, the Graduate School offers the course *Methodology Option 1: Empirical Research Design*. In this way, empirical research methods form a mandatory component of doctoral education. PhD candidates can also follow an elective course *How to Do a Scientific Interview*, in which active ELS skills can be gained.

At the Faculty of Law of Tilburg University, law is taught from the perspective of current developments in society. In the regular bachelor's curriculum, empirical research methods are presented in the course *Methods and Techniques of Research*. The course prepares students to write a bachelor's thesis, for which the students may adopt an empirical approach. The course *Law and Society* is an example of a "law in context" course. It aims to enrich students' conception of law from an external perspective, based on empirics and social science. The international bachelor's programme Global Law includes two courses in which students are trained in passive ELS skills. At the master's level, various courses incorporate ELS components. For instance, students of the regular master's programme may follow an elective course, *Labour Law in Socio-Economic Context*. This course aims to introduce law students to empirical insights from the socio-economic and socio-legal disciplines. The course *Introduction to Social Sciences and Research Methods* provides students with (passive) knowledge of the application of empirical methods to labour law issues. Furthermore, courses in which students learn to understand and critically analyse empirical legal research findings are offered within interdisciplinary master's programmes, such as the Master International Law & Global Governance. Education offered at the doctoral level includes the course *Qualitative Research Methods* and the course *Building Your Methodology – What Is Out There?*, in which empirical research methods are taught.

4. Reflection

4.1 Methodological caveats

Based on the data we collected, a general impression of ELS education in the Netherlands has been formed. However, one can never be sure that an inquiry like the one reported herein is complete. Various steps have been taken to eliminate false-

positive and false-negative results. Nevertheless, the validity and reliability of our study warrant a critical note. An overview of ELS education in current law school curricula is a complex task for a number of reasons. First, the curricula of each of the nine law schools include many courses. This implies the need to collect and carefully study a considerable amount of data. Second, one may assume that not all course descriptions are always available on faculty websites. Therefore, our overview may mistakenly omit some relevant courses. There is also a risk that not all people involved in ELS education were approached, although we did snowballing during interviews held at the universities. Furthermore, our findings provide a snapshot of ELS education and should therefore be interpreted in light of the period in which the study was conducted. All the course descriptions, even after updating the information at the time of finalising the research, correspond to the study year 2019/2020. It is, therefore, possible that universities have meanwhile taken further steps in developing or offering ELS education. Finally, some courses remain in the grey areas because the concept of ELS can be defined in different ways. It has been decided to rely on a workable definition of ELS, but even after the delimitation of the concept, its interpretation affects the conclusion as to whether a particular course is to be characterised as ELS education. Therefore, the overview is, to some extent, subjective, especially with respect to the decision whether a course falls under the definition of ELS. However, we still believe that we have sketched an evidence-based picture of the current offer of ELS education in the Netherlands, providing a basis for further inquiries. For instance, it can assist in assessing the desirability of further development of the current law school curricula and in determining the specific steps to be taken to incorporate empirical research methods in the law school curricula.

4.2 *The current state of affairs*

In recent years, legal academia has witnessed an increasing attention devoted to data, empirical findings, and interdisciplinary insights. While disciplines closely related to law, such as legal sociology, legal anthropology, and various “law and . . .” movements, have already been incorporated in the law school curricula, ELS constitutes a relatively new field. Considering the growing attention to ELS, it might also merit a place in law schools’ graduate and postgraduate programmes. This would help in broadening the education of law students and improve their understanding of law, but the field of ELS is also important from the perspective of employability, irrespective of whether law graduates envisage a career in academia or in legal practice.²⁹

Against this background, in 2012, a group of Dutch legal scholars called for setting up of a country-wide knowledge centre for methods in research and education.³⁰ It was suggested that a first step could be to identify what is already being done in the field of ELS and by whom. Our research responds to this call in the domain of education. That is, we have attempted to assist in the further development of ELS education by charting which university courses incorporate ELS at undergraduate and postgraduate levels at nine law schools in the Netherlands.

²⁹H Pluut and others, “Statistiek in het rechtencurriculum: nut en noodzaak” [2021] AA 87; Elbers and others (n 6); E Mak, *The T-Shaped Lawyer and Beyond: Rethinking Legal Professionalism and Legal Education for Contemporary Societies* (inaugural lecture Utrecht University) (Eleven International Publishing 2017).

³⁰R van Gestel, I Giesen and WH van Boom, “Een landelijk Centrum voor Methodologie en Empirische Rechtsbeoefening” [2012] NJB 2032.

It remains difficult to describe the ELS skills of an “average Dutch law student” due to the differences between law schools in terms of their portfolios of ELS education. Further research to increase our understanding of why some law schools or some levels of education incorporate more ELS education than others might inform future discussions on the law school curricula. Although not the focus of our study, we believe that one possible explanation for differences between universities may be the presence of established empirical legal research groups or relative lack thereof. Although individual experts in the field of ELS can be found at each law school, some law schools have coherent ELS research groups or even expertise centres, such as the Groningen Centre for Empirical Legal Research. The activities of such research groups have a spillover effect within the faculty: staff members become familiar with the possibilities offered by empirical legal research and can reach out to a colleague who can advise on qualitative and quantitative methods. The effect may also spill over to education. While ELS is still largely absent from the Dutch law school curricula, the rise of empirical legal research will likely go hand in hand with teaching staff experienced in empirical research methods, which should ultimately allow for more research-based education. ELS can enrich the teaching of law when teachers bring in their own research experience and empirical knowledge, thereby creating a stimulating learning environment. However, the question of whether such a spillover effect occurs should be the subject of further research.

So what have we learned? Taking a helicopter view of the current situation, we can conclude that mandatory curricula of the regular bachelor’s programmes do not incorporate much education in empirical legal research methods. At the bachelor’s level, ELS education is more present within specialisations, minor trajectories, honours programmes, and elective courses. Empirical components are clearly identifiable in interdisciplinary bachelor’s programmes, which have a specific focus on the interplay between law and other disciplines. For example, the Bachelor Politics, Psychology, Law and Economics (PPLE) (University of Amsterdam) has a multidisciplinary curriculum, including the teaching of qualitative and quantitative research methods over three years. Furthermore, new bachelor’s programmes dedicated to empirical research on law have been established, such as the Bachelor Law in Society (Free University Amsterdam).

At the master’s level, the picture is mostly comparable. New master’s programmes with a focus on ELS are the masters Law and Society (Leiden University) and Legal Theory & Socio-Legal Studies (Erasmus University Rotterdam). In the regular master’s programmes, education in ELS methodology is offered primarily outside the mandatory curricula, in elective courses. The programmes of the research masters and extracurricular (honours) programmes for master’s students devote more attention to passive and active ELS skills. Research master’s programmes incorporate specific method-oriented courses, which cover empirical methods. Sometimes the content of the latter overlaps with that of doctoral education.

At almost all nine law faculties, doctoral education includes training in empirical legal research methods. This training is often shaped as a specific course or as a series of courses building on each other. However, even if no such course is offered, appropriate education is organised on demand, so that the PhD candidates may benefit from the expertise of staff members and experts from outside. All in all, it follows that as students advance in their studies and as they come closer to the stage at which they are

expected to conduct legal research themselves, the more extensive is the ELS education on offer. Notably, at a couple of law schools, a first ELS seed is already planted within the regular bachelor's programmes.

5. Looking to the future

5.1 Recommendations

The growing attention to ELS and discussions on the value of empirical skills in legal education touch upon the more general plea for broadly educated law school graduates.³¹ In the literature, it has been suggested that along with academic skills, broader interdisciplinary skills should be instigated at an early stage.³² This can be achieved by enhancing students' affinity with research methods from other disciplines. As empirical research methods draw on other disciplines, especially social sciences, the development of students' empirical profile goes hand in hand with the development of their interdisciplinary profile.

This is not to say that an interdisciplinary focus should replace disciplinary education, that is, the study of positive law. On the contrary, disciplinary education is the core of the law school curriculum; it is a necessary foundation for interdisciplinarity. In our view, if ELS is to be introduced into the regular curriculum, it needs to be better embedded in legal education, with a focus on adding to the regular legal curriculum and integrating relevant aspects from other disciplines. The most obvious opportunity to do so can be found in interdisciplinary courses. We believe that interdisciplinary courses currently taught at law schools, including various "law and . . ." courses, can be relatively easily transformed into ELS education by focusing on empirical methods or shifting the current focus to legally relevant topics. Most interdisciplinary courses can accommodate a critical discussion of the empirical methods applied in the required (interdisciplinary) readings. Some interdisciplinary courses already include a critical discussion of empirical methods but do not focus on law. These courses can be transformed into ELS education by adding a discussion of *legal* questions (or by replacing some non-legal questions with legal ones). This would also contribute to better embedding such courses in the law curriculum. Therefore, cooperation should be encouraged between on the one hand teaching staff involved in interdisciplinary courses and on the other hand legal scholars with a traditional background.

In the long term, universities could consider adding empirical skills to the set of competencies a graduate should have at bachelor's, master's, and doctoral levels. Various sources of inspiration can be used for a focused legal research skills framework, such as the skills in criminology programmes. Empirical skills also play a role in several consecutive courses within the bachelor programmes PPLe (University of Amsterdam), Law in Society (Free University Amsterdam), and Legal Governance (University of Groningen). Inspiration may also be drawn from the way empirical research skills are developed at the faculties of social sciences.

³¹ See M Snoep and others, "Opleiding jurist moet breder" [2014] NRC Handelsblad 17; Mak (n 29). This plea has led to a debate that covers also the requirement of "*civiel effect*"; see MJAM Ahsmann, "Civiel effect: nut en noodzaak" in MJAM Ahsmann (ed), *Herijking van de juridische opleidingen* (Wolters Kluwer 2018); M Ahsmann, *De juridische opleiding en de T-shaped lawyer: hoe leiden universiteiten goede juristen op?* in Stichting LNSC (ed), *De kwaliteit binnen het notariaat* (Wolters Kluwer 2016) 7–25.

³² HK Elzinga, "Interdisciplinariteit in de initiële juridische opleiding" in MJAM Ahsmann (ed), *Herijking van de juridische opleidingen* (Wolters Kluwer 2018) 65–92.

Centring skills training and committing to the development of ELS skills as part of a (research) skills framework would help prevent situations in which students are introduced to ELS but there is no follow-up in the remainder of the study programme. Instead, ELS skills should be developed consistently throughout the years of study, so that the student's knowledge is progressive and matches the increasing difficulty of ELS-related tasks they will encounter. One could think of a preliminary encounter with empirical findings when studying law, followed by teaching passive ELS skills, where students would learn to critically analyse the results of existing empirical research and identify which methods are used therein. Thereafter, students may deepen their understanding of ELS methodology by gaining active knowledge and skills. This entails at least learning to design an empirical legal research project, but students can also be taught to conduct independent or supervised empirical legal research using quantitative and/or qualitative methods in a scientifically sound manner.

Incorporating ELS into law school curricula would require both staff that can teach the relevant (parts of the) courses and appropriate teaching materials. With regard to staff, the focus on ELS in the context of the Dutch Sector Plan for Law is prompted by, amongst other things, the small numbers of empirical legal researchers at law schools. ELS education requires academics with specific expertise. When this type of expertise is limitedly available at law schools, law students are not trained in empirical legal skills and will be unlikely to take up the challenge of empirical non-doctrinal research if they become academics, nor will they be equipped to teach it to the next generation of law students. Also in other countries this cycle of self-perpetuation has been recognised.³³ We believe it is important to be aware of this need for "critical mass", also among teaching staff, in the development of ELS education in the Netherlands. ELS courses would also benefit from a textbook that, in terms of writing style, (legal) topics, and level of difficulty, appeal to the average Dutch law student and match the reader's level of education. These conditions are probably met by the books recently published by Van den Bos and Bijleveld,³⁴ which contain materials for setting up and carrying out empirical legal research and can therefore be used in teaching ELS skills to law students and young researchers in the field of ELS.

5.2 The wishes of law students, the requirements of practice, and the content of curricula

While we have noted earlier that incorporating ELS into the regular law school curriculum might be merited, whether this should be done undoubtedly requires further consideration. Our study has only addressed the *supply* side of ELS education, that is, what is currently offered at law schools in the Netherlands. However, the *demand* for ELS education should also be assessed. What are the preferences of law students? Do law students and doctoral candidates want to see empirical research methods and techniques of empirical analysis (including statistics) in their study programme? Would

³³H Genn, M Partington and S Wheeler, *Law in the Real World: Improving Our Understanding of How Law Works* (The Nuffield Foundation 2006) 29; M Adler, "Recognising the Problem: Socio-Legal Research Training in the UK" (University of Edinburgh 2007) 2; TC Hutchinson and K Burns, "The Impact of 'Empirical Facts' on Legal Scholarship and Legal Research Training" [2009] TLT 28–29.

³⁴K van den Bos, *Empirical Legal Research* (Edward Elgar Publishing 2020); K van den Bos, *Inleiding Empirische Rechtswetenschap* (Boom Juridisch 2020); C Bijleveld, *Research Methods for Empirical Legal Studies: An Introduction* (Eleven International Publishing 2021).

they prefer gaining passive or active ELS skills, and what would they prefer at which stage?³⁵ These questions warrant examination to ensure that the development of ELS education does not overlook the interests and needs of law students.

The demand for ELS education has yet another aspect: the skills that law graduates should have according to their (future) employers. Some practitioners of law have explicated which practical skills they think a recent law graduate should have.³⁶ The role of universities in preparing students for legal practice is an important point in discussions about the value of empirical research and education. Empirical research can provide enriching insights for law and enhance understanding of the law, for instance, by critically addressing the assumptions underlying legal norms or by examining the societal impact of rules and regulations. If they can deal with empirical facts in a knowledgeable way, practitioners of law can professionalise legal practice and make it more evidence based.³⁷ Dutch legal scholars have argued that the same holds true for interdisciplinarily trained practitioners of law; legal decisions and advice increasingly require interdisciplinary competences,³⁸ and insights from sociology, psychology and economics are increasingly used to evaluate effectiveness (of laws and policies).³⁹ All in all, it seems that the areas of law- and policymaking would benefit from practitioners of law who are broadly educated.

This brings us to the so-called *T-shaped lawyer*. This ideal stands for a deep knowledge of positive law and broad knowledge of methods, empirics, and other disciplines.⁴⁰ Broad legal education, including a focus on ELS skills, corresponds to the model of the T-shaped lawyer and would allow practitioners of law to translate empirical findings into implications for the law and legal practice, which is one of the objectives of the second stimulation action (referred to in the introduction of this paper).

Having said this, one may question to what extent the law school curricula should be determined by the demand side. Prior research outside the Netherlands has identified that the wishes of students “do not necessarily chime with what the law school sees as its mission”⁴¹ and should therefore not be decisive in determining whether the law school curricula should include ELS education and whether the aim should be passive or active ELS skills.⁴² Nor should the wishes of employers be a deciding factor, although this is important from the perspective of employability of law school graduates.

In our view, what should be at the core of this discussion is what it is that will enable students to better understand law. Arguing for the need to introduce ELS components into the curriculum might subscribe mostly to the ideas of legal realism.⁴³ Legal realists suggest that not only positive law and its norms and values (law in the books) but also

³⁵See van Gestel, Giesen and Van Boom (n 30).

³⁶See Snoep and others (n 31).

³⁷See on *evidence-based* law making, N Doornbos and others, “Laat wetgever empirische kennis beter benutten” [2020] NJB 3298.

³⁸See also Mak (n 29); B van Klink, “Juridische vaardigheden in het onderwijs: tijd voor een upgrade?” [2020] AA 1080.

³⁹JB Spath, “Iedereen T-vormig?” [2017] NTBR 41; Antokolskaia (n 2).

⁴⁰The first call was made by Snoep and others (n 31). See also B van Klink, B de Vries and T Bleeker, “Recht in context: Naar een bredere academische vorming van juristen” [2017] NJB 916; Mak (n 29). But see also, for another perspective, Ahsmann, “Civiel effect: nut en noodzaak” (n 31) and Ahsmann, *De juridische opleiding en de T-shaped lawyer* (n 31).

⁴¹Bradney (n 12) 1039.

⁴²Bradney (n 12) 1039, with further references.

⁴³This philosophical movement is rooted in the writings of the American legal scholar Roscoe Pound (1870–1964).

how the law is actually applied in society and the impact it has (law in action) belong to the discipline of law. If the primary objective of law schools is to teach students to understand law, then ELS education would help them to achieve depth in knowledge about *law in action*. In Dutch literature, this has been referred to as the contextual approach to law,⁴⁴ according to which the philosophical ideas of both legal positivists and legal realists as well ideas on natural law all form essential components of understanding (and teaching) law.

5.3 Points for discussion and further research

Both the development of a coherent legal skills framework with ELS skills and the choice of study material imply several choices, which are closely related to debates that have not been addressed in this paper. These debates include the discussion about “*civiel effect*”,⁴⁵ the use of the English language in higher education in the Netherlands, international collaborations between universities, and the Dutch “ELS signature” in the world. Herein, we leave these debates aside, but we formulate some questions that could be relevant to future discussions and choices.

As noted earlier, ELS is a broad concept that is defined in different ways in different countries. Should a Dutch textbook be oriented at ELS as understood in the Netherlands or is it appropriate to take foreign approaches into account? We noticed that US and UK sources are currently used as study materials in the Netherlands. However, it is unclear whether ELS is taught in the Netherlands in the same way as in other countries. Overviews of ELS education in other countries are scarce;⁴⁶ therefore, prior to drawing any international comparisons regarding ELS education or learning from other countries’ experiences, the difference between the Dutch and various foreign approaches to ELS as a field of study should be clarified. The following questions may be relevant: To what extent is ELS used in law- and policymaking in other countries? How frequent are references to empirical findings in case law in other jurisdictions? How does ELS relate to research in the sociology of law carried out in other countries? By shedding light on the role of ELS abroad, the Dutch ELS signature in the world can be clarified and specified further.

Finally, we emphasise our earlier suggestions to shed light on the demand for ELS education. Although the education on offer does not need to be driven by the demand side and although the universities – as guardians of academic freedom – have an important role in determining what it should mean to study law, we believe that insights into the preferences and wishes of law students could inform further developments of ELS education in the Netherlands. To better understand the perspective of practitioners of law, it is imperative to examine when and under which circumstances they are required to deal with empirical facts as well as what kind of problems they face and what prevents them from effectively using this information.⁴⁷ Such a research

⁴⁴Van Klink and others (n 40) 916.

⁴⁵The qualification required to be admitted to the Dutch Bar, the judiciary and the office of public prosecution in the Netherlands. On the importance of the Dutch *civiel effect*, see Ahsmann (n 31).

⁴⁶See inter alia recent plans to create an overview of German ELS education; T Herklotz, “Law and Society Studies in Context: Suggestions for a Cross-Country Comparison of Socio-Legal Research and Teaching” (2020) 21 GLJ 1332. For a less recent but extensive UK overview, see Genn, Partington and Wheeler (n 33).

⁴⁷It has been identified in the literature that practitioners of law are not sufficiently trained and face problems when they are required to deal with empirical facts; see RSS (n 21); Twisk (n 21); J de Poorter, “De rol van empirische assumpties in de rechtsvorming door de hoogste (bestuurs)rechters” (2021) 38 NJB 2906.

endeavour would contribute to understanding the roles of university education on the one hand and of specialised education, such as the one needed to access the Dutch Bar, on the other hand.

5.4 Joining forces

Following an impetus to ELS, which was recently given by the Sector Plan for Dutch law schools, Dutch universities are encouraged to join forces and share their ELS knowledge and experience in order to institutionalise an exchange between law schools for the benefit of legal scholarship in the Netherlands. A good match between the demand and supply sides of ELS education would enable bachelor's and master's students as well as doctoral candidates to follow – in-house or as exchange student – courses that provide them with passive or active knowledge in the field of ELS. In the long term, this can develop into a country-wide network of courses on empirical legal studies. We hope that our research will provide a helping hand to universities in their further endeavours.

Disclosure statement

No potential conflict of interest was reported by the authors.

Funding

This work was supported by the Nederlandse Organisatie voor Wetenschappelijk Onderzoek [2018/SGW00546100].

ORCID

E.S. Pannebakker  <http://orcid.org/0000-0002-7700-8217>

H. Pluut  <http://orcid.org/0000-0003-2119-6105>

S. Voskamp  <http://orcid.org/0000-0003-3852-5817>