

Summaries

Justitiële verkenningen (Judicial explorations) is published six times a year by the Research and Documentation Centre of the Dutch Ministry of Security and Justice in cooperation with Boom juridisch. Each issue focuses on a central theme related to judicial policy. The section Summaries contains abstracts of the internationally most relevant articles of each issue. The central theme of this issue (no. 6, 2016) is *Empirical Legal Studies*.

American Legal Realism and Empirical Legal Studies

F.L. Leeuw

The American Legal Realism movement, which originated in the beginning of the twentieth century and was active until the Fifties, can be seen as one of the founders of current Empirical Legal Studies because of the importance it attached to social scientific knowledge on behavior of – for instance – judges and others involved in the judiciary. The author sketches several characteristics of Legal Realism at that time. Exploring their range of thought he also examines whether Legal Realism's studies can be seen as a research program. The recent emergence of New Legal Realism in the US and elsewhere leads to the question what characterizes this (re)new(al) movement. Finally it is argued that American Legal Realism especially contributed to scientific progress by posing new questions, changing focus and by stressing the importance of empirical evidence.

Towards a success formula for empirical legal research

G. van Dijck

How to make empirical legal research successful? This article seeks to find an answer. It does so by building on experiences in the US with empirical legal research. Three themes are identified that should be considered when thinking about advancing empirical legal research in the Netherlands, and possibly in other countries. First, empirical legal research should address topics that the legal community can relate to and that are considered relevant. Second, empirical legal research should educate the legal community about the possibilities and pitfalls of empirical legal research in addition to conducting empirical legal research. Third, legal scholars should be educated in conducting

empirical legal research. The combination of these three elements is likely to determine empirical legal research's success.

Empirical research by PhD law students – something for the future or reality?

N.A. Elbers

Empirical Legal Studies (ELS) are studies investigating the law in the real world, using empirical methods. Internationally, ELS is on the rise. However, not much is known about what is being done around ELS in the Netherlands. This article describes the results of a systematic review, investigating how many PhD researchers who defended their thesis at a Dutch law faculty in 2015 have collected empirical data, what topic they investigated, which method they used and what background they have. The findings are that 33% of the PhD theses could be labelled as ELS. The majority of ELS were conducted by researchers who have a social science degree. Some of the (only few) lawyers collecting empirical data did not aim to conduct ELS, even though their research questions were very empirical. It is concluded that more empirical education and research funding are needed to stimulate lawyers to conduct more ELS.

Applying research findings from sociology of law and legal psychology in legal practice

M. Malsch, L. ten Hove and H. Elffers

Findings of empirical research may have direct or indirect relevance to legal practice and policy. This article investigates the relevance of findings from both research in sociology of law and legal psychology and law for legal practice and policy. It then discusses an empirical study in the Netherlands among scholars from these two disciplines into actual use in practice of empirical findings. A distinction is made between direct and indirect application of empirical findings. Both a survey and face-to-face interviews have been conducted. Findings suggest that, although the criminal justice system and policymakers do apply empirical knowledge to a certain degree, the actual use of empirical results seems defective.

Using insights from empirical research to improve the administrative objection procedure

A.T. Marseille

In the Netherlands, someone who disagrees with an administrative order is only allowed to seek redress with the administrative courts after he has lodged an objection with the administrative authority responsible for the order. Administrative authorities have much freedom with respect to the organization of their objection procedure. Their freedom concerns two aspects of handling objections. Firstly, they can choose between setting up an independent external advisory committee or using only their own personnel in preparing their decision. Secondly, they can choose to model their objection procedure after the procedure before the administrative courts or to opt for a more consensual, as opposed to a more conflictual, style of dispute resolution. This article focuses on the question to what extent results of recent research can help administrative authorities in making a choice between these options. While the available research does not provide specific and finite answers as to which way the procedure should be organized, it does show that it is important that the procedure is characterized by information, consultation and neutrality.

Experimenting with information for consumers

W.H. van Boom

In the regulation of private law relationships, the concept of informed choice-making is an important point of departure for policymakers. As a result, professionals and traders are often under a legal duty to offer certain information to the public in order to inform, persuade or warn against dangers. Policymakers and academics alike tend to refer to findings from purely experimental studies to underpin the effects and overall effectiveness of such information duties. This contribution argues that such studies have limited value as a basis for policymaking. Moreover, it is argued here that policymakers may in fact benefit from practice-oriented research which lacks significant findings.