

## **Revisiting the Concept and the Merits of Empirical Legal Studies: Lessons from Taiwan's Commutation Policy**

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### **Abstract**

With the establishment of Taiwan Database for Empirical Legal Studies (ELS), the first national conference on ELS, and the first publication which introduced the fundamentals and methodology of ELS, Taiwan's ELS has entered new era since 2006. Due to the sophisticated research methods, however, ELS in Taiwan seems to be restricted among few researchers rather than to be widely adopted in the past ten years.

In order to promote ELS in Taiwan and engage more legal researchers into this field, this article revisits the essence of ELS through the groundwork laid by predecessors and attempts to reframe the concepts of ELS in a way that ELS could be more approachable to legal scholars without professional background in other disciplines. Also for this purpose, this article advocates conducting ELS by a simple quantitative research method, i.e. descriptive statistics, through which the methodology and results of ELS could be more easily understood and adopted by policy makers and legal scholars.

In addition to the elaboration of ELS fundamentals, this article also applies the simple quantitative research method to two unusual phenomena occurring in Taiwan's criminal justice system. First, Taiwan's government granted a commutation policy in 2007 to relieve the overcrowded prisons and believed the recidivism rates would be as low as after previous commutation policies granted about 20 years ago. However, the high rates of recidivism were unprecedented in 2007. Second, the effect of relieving crowded prisons had only lasted for an

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unexpectedly short period. In 2008, prisons in Taiwan became more crowded than 2006, the year prior to commutation policy. Why would Taiwan's government believe that statistics gathered two decades ago can still apply? Why the public and the government attributed the packed prisons to the recidivists released by the commutation policy, even though they actually only occupied 7% of the new coming prisoners in 2008? How to explain the new prisoners who were not released early by the commutation emerged in a historically large numbers in 2008? This article not only finds the answers to the questions above but discovers more crucial facts regarding policy making and legal research, which clearly shows the merits and indispensability of ELS.

**Keywords:** Empirical Legal Studies, quantitative research/quantitative analysis, methodology/research method, criminal proceedings, criminal procedure, criminal justice, descriptive statistics, commutation policy, prisoner/prison population, interdiscipline