

# Teaching Research Methods to Understand Business Crimes

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In legal education, professors often wish to go beyond the black letter law to challenge students with unresolved legal questions. Professors' main goal in the classroom—as effected through the Socratic method or otherwise—is to help students learn to think critically about these questions to arrive at reasonable and thoughtful answers. But what about the questions that require more than classroom discussion—those that demand the application of various accepted research methods such as surveys, data mining, experimentation, and the like—to analyze trends or behavior in hopes of finding acceptable solutions to hard questions? My remarks here discuss the idea of lifting the various research techniques professors often employ in scholarship and using those methods as a teaching tool to provide answers to important questions. Highlighting different approaches to answering a research question can be a unique pedagogical tool in the quest to help students learn to think critically and question the information they receive.

Business crime is one area in which highlighting different research methods can be especially useful. Within the ambit of the phrase “business crime” falls a broad array of illicit activity, including fraud, tax evasion, and money laundering, among other nefarious ventures. Because of the degree of secrecy and sophistication that are the hallmarks of such schemes, business crimes can be difficult to investigate. As such, exposing students to various research methodologies can be helpful when trying to guide them toward thinking about what solutions to big-picture problems are reasonable and workable in practice. It may also help them to more critically evaluate statistics or better research cases in legal practice.

One study that a team of researchers (Michael Findley, Daniel Nielson and Jason Sharman) and I undertook (reported in two recent articles) will hopefully provide a useful illustration of how students can benefit from learning about different research methods in studying business crime. Both articles, *Does International Law Matter?*<sup>1</sup> and *Funding Terror*,<sup>2</sup> came about due to a desire to

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<sup>1</sup> Shima Baradaran et al., *Does International Law Matter?*, 97 MINN. L. REV. 743 (2013) [hereinafter *Does International Law Matter?*].

<sup>2</sup> Shima Baradaran et al., *Funding Terror*, 162 U. PA. L. REV. 477 (2014) [hereinafter *Funding Terror*].

answer one basic research question: how easy is it to set up a shell corporation internationally?<sup>3</sup> Shell corporations pose continual problems for law enforcement. While they do serve legitimate purposes, such as facilitating corporate mergers, protecting corporate assets from liability, and serving as asset holding companies,<sup>4</sup> anonymous shell corporations can also be used as vehicles for corruption and money laundering.<sup>5</sup> More recently, terrorist organizations have relied heavily on shell corporations to finance terror-related activity.<sup>6</sup> Accordingly, the first major purpose in obtaining an answer to this research question was to determine the effectiveness of, and level of compliance with, domestic and international laws that regulate the formation of shell corporations.<sup>7</sup> The second major purpose was to determine what motivates private firms to comply with these laws.<sup>8</sup>

To determine answers to these questions, we undertook an international randomized field experiment, in which we used aliases and posed as international consultants seeking to create a shell corporation to discover what motivates compliance with international financial transparency measures<sup>9</sup> and to determine the effectiveness of those measures.<sup>10</sup> While the details of the field experiment process cannot be related in these brief remarks, it suffices to say that the results of the process have created lasting implications for policymaking in this area going forward.<sup>11</sup> The experiment results contradicted the outcomes of audits and other studies in this area and demonstrated how easy it is to contravene international laws on financial transparency.

Students can benefit greatly from a discussion and illustration of differences between various research methodologies, including the field experiment I conducted with other researchers. First, students may benefit from knowing the strengths and weaknesses of different research methods so that they better understand the means by which scientific information is gathered. Because law school may be some students' first exposure to research, they may not understand that different research methods yield different kinds of information. This vital piece of knowledge—that a particular research methodology may be better tailored to meet a particular research need—is something that professors can impart in the course of pedagogical practice. As a case in point, while the study described above was accomplished through a randomized field experiment, students would benefit from knowing the potential strengths and limitations of different methodologies

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<sup>3</sup> *Does International Law Matter?*, *supra* note 1, at 750; *Funding Terror*, *supra* note 2, at 8.

<sup>4</sup> *Funding Terror*, *supra* note 2, at 5.

<sup>5</sup> *Id.* at 6.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.* at 6–8.

<sup>8</sup> *Does International Law Matter?*, *supra* note 1, at 748–50.

<sup>9</sup> *Id.* at 750.

<sup>10</sup> *Funding Terror*, *supra* note 2, at 7.

<sup>11</sup> *See Does International Law Matter?*, *supra* note 1, at 816–19.

that could have been used—e.g., through administration of a survey; through study of the official reports on compliance with international financial transparency measures distributed by each country; or through Financial Action Task Force (an international quasi-governmental body) audits to which participating countries have agreed to be subject. Audits, for example, give a good overview of the laws and regulatory structures in place and provide an assessment of a country's general compliance with those laws and structures. They also serve to identify strengths and weaknesses in regulatory systems and can lead to discussions to provide corrective action and prevent further violations. One drawback to audits is that, because of limited resources, auditors must rely on statistical sampling to draw conclusions, which may not be an accurate reflection of reality. Similarly, survey methodology can provide robust results in that they can allow participants to formulate their own answers and researchers to draw inferences based on those answers. Some of the weaknesses inherent in surveys are that some participants may be hesitant to respond at all or, especially in the business crime realm, to admit to unlawful activity.

This knowledge is what led my coauthors and I to choose a unique research methodology—the field experiment—that helped us largely overcome these limitations to obtain robust results that provided information about when and under what conditions people are willing to engage in business crimes.<sup>12</sup> For example, when firms were told about penalties for violating international law, they responded in lower numbers, yet responders were more likely to break the law, showing that people were willing to “co-conspire” when researchers first expressed willingness and when they did not fear reprisal.<sup>13</sup> It may be useful to share the pros and cons of different research methods with students. This knowledge can help students understand the means by which information is gathered and expressed.

Second, an understanding of research methods allows students to question the results they see in scientific work. Presume, for example, that instead of a field experiment, the shell corporation study had relied on an analysis of various countries' compliance reports. An informed student would be able to ask any number of questions about the results of such a study, including how many firms were included in the reports; how countries determined “compliant” behavior; and how honest the countries were in formulating their reports. Or, had the study primarily relied on a survey, an informed student could likewise reasonably critique the survey's results. Students might question the survey's sample size and response rate; the potential for self-selection bias in the results; the confidence level and error rate of the results; whether the results from the sample can fairly be extrapolated to other populations; and how forthright participants were in providing answers. Such skills are valuable in legal education, which of course seeks to teach students to think critically about the world around them. These

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<sup>12</sup> *Id.* at 810–13.

<sup>13</sup> *Id.*

skills are also valuable in critically evaluating how business crime occurs in a real world setting as a prosecutor or judge.

Third, teaching students about various research methods has the potential to give them a “leg up” after they leave law school. The vast majority of law school graduates will never teach or conduct independent research over the course of their careers. However, many will work in private practice or in the public sphere as government lawyers. Others will serve as legislators or judges. Still others will serve in leadership positions with their state bars or work for think tanks and other organizations that advocate for legislative and social reforms. Individuals in such positions need the ability to synthesize and critique scientific research to perform their jobs and effect the changes they seek. As described in the context of the study above, teaching our students these skills now will benefit them in the future as they seek solutions to problems in the area of business crime and a better understanding of the criminal mind.

In conclusion, students can draw immediate and future benefits when professors highlight different approaches to answering research questions. Teaching and comparing research methodologies in the classroom can help students think critically about information they receive and allow them to better analyze data and studies they encounter in their future careers.