

Thirty Years of Legal Research: An Empirical Analysis of Outputs Submitted to RAE and REF (1990–2021)

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The external assessment of the research activities of universities in the United Kingdom began in 1986. In 1992, for the first time, the Research Assessment Exercise (RAE) required institutions to submit books, articles and other ‘outputs’ for peer assessment and ultimately ranking. This exercise was followed by others in 1996, 2001 and 2008, and then by a revised approach, the Research Evaluation Framework (REF), in 2014 and 2021. We have conducted a long-term longitudinal study of the ‘outputs’ submitted across these exercises for review by the law panels. By analysing these 30,028 outputs, and by using various methods of ranking journals and publishers, we are able to provide insights into the beliefs and prejudices of institutions and individual researchers regarding the publication of legal research over a 30-year period.

INTRODUCTION

The external assessment of the research activities of universities in the United Kingdom began in 1986. Until the third exercise in 1992, the measurements were opaque and quantitative.¹ In 1992, for the first time, institutions were required to submit books, articles and other ‘outputs’ for peer assessment and ultimately ranking. This Research Assessment Exercise (RAE) was followed by others in 1996, 2001 and 2008, and then by a revised approach, the Research Evaluation Framework (REF), in 2014 and 2021. There are significant differences between these exercises, but in the discipline of law, each required the peer assessment of outputs and in this respect they can be compared and evaluated.

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1 For the history and development of the research evaluations see Valerie Bence and Charles Oppenheim, ‘The Evolution of the UK’s Research Assessment Exercise: Publications, Performance and Perceptions’ (2005) 37 *Journal of Educational Administration and History* 137; and Stephen Sharp, ‘The Research Assessment Exercises 1992–2001: Patterns Across Time and Subjects’ (2004) 29 *Studies in Higher Education* 201. For a literature review of research evaluation generally see Duncan Thomas and others, ‘Changing Research on Research Evaluation: A critical literature review to revisit the agenda’ (2020) 29 *Research Evaluation* 275. Indeed, there are journals dedicated to how research is assessed, for instance *Research Evaluation* published by Oxford University Press.

We have conducted a long-term longitudinal quantitative study of the ‘outputs’ submitted to the six exercises for review by the law panels.² This involves our studying the type of the 30,028 outputs submitted, and for the last four exercises a much more detailed analysis of the 22,959 individually identified outputs submitted.³ Our results have enabled us to provide detailed and significant insights into the publishing behaviour of law academics over the last 30 years and, in particular, the sorts of outputs valued by their institutions as being something which should be submitted to an assessment exercise. We believe it is the first such study in any discipline. Although there have been some excellent studies,⁴ these have been less ambitious in scope; for example, focusing on multiple disciplines in one particular exercise, or looking at the outputs for only one assessment in a particular discipline.⁵ There has been longitudinal research showing how wider research behaviour has adapted to particular assessment methods, but again limiting the investigation temporally.⁶ The adverse effects of evaluations on academic wellbeing are also increasingly well documented⁷ and it is clear that an academic’s ability to provide sufficient quality outputs has an effect on hiring and promotions.⁸ Indeed, even the media coverage of research exercises seems to be generally negative, expressing concerns regarding academic freedom as well as the requirement to produce work with impact.⁹

Importantly, we are neither conducting this study to suggest a ‘perfect’ output submission strategy for any future exercise,¹⁰ nor are we seeking merely to

2 In recent years, there has been significant research, including empirical research, looking at REF impact case studies (see for instance Ohid Yaqub, Dmitry Malkov and Josh Siepel, ‘How Unpredictable is Research Impact? Evidence from the UK’s Research Excellence Framework’ (2023) 32 *Research Evaluation* 273) and environmental submissions (see for instance Mehmet Pinar and Emre Unlu, ‘Determinants of Quality of Research Environment: An Assessment of the Environment Submissions in the UK’s Research Excellence Framework in 2014’ (2020) 29 *Research Evaluation* 231).

3 The number of identified individual outputs for each exercise were: 2001: 5,328; 2008: 6,254; 2014: 5,522; 2021: 5,855.

4 See for instance Jim Taylor, ‘A Statistical Analysis of the 1992 Research Assessment Exercise’ (1995) 158 *Journal of the Royal Statistical Society Series A* 241 (he also conducted discipline specific studies).

5 Including one in law, Kevin Campbell, Alan Goodacre and Gavin Little, ‘Ranking of United Kingdom Law Journals: An Analysis of the Research Assessment Exercise 2001 Submissions and Results’ (2006) 33 *J Law & Soc* 335.

6 See for instance Henk Moed, ‘UK Research Assessment Exercises: Informed Judgments on Research Quality or Quantity?’ (2008) 74 *Scientometrics* 153 (looking at publication behaviour in sciences).

7 Richard Watermeyer, Gemma Derrick and Mar Borrás Batalla, ‘Affective Auditing: The Emotional Weight of the Research Excellence Framework’ (2022) 31 *Research Evaluation* 498, 504 (‘REF preparations [are seen] as largely unfavourable experiences ... dominated by feelings of anxiety, fear shame, (self)disgust, and hypocrisy’).

8 This has long been the case and was reported in relation to law by Douglas Vick and others, ‘The Perceptions of Academic Lawyers Concerning the Effects of the United Kingdom’s Research Assessment Exercise’ (1998) 25 *J Law & Soc* 536, 547–550.

9 Tony Murphy and Daniel Sage, ‘Perceptions of the UK’s Research Excellence Framework 2014: A Media Analysis’ (2014) 36 *Journal of Higher Education Policy and Management* 603, 614.

10 It appears that REF2029 will give less weight to outputs (50 per cent of the weighting and this 50 includes the disciplinary level evidence statement): see *Research Excellence Framework 2028*:

provide journal and publisher rankings. We acknowledge the significant problems,¹¹ and the long tail from bad rankings,¹² but even without any formal rankings being provided it is clear that law academics have perceptions about particular journals or publishers being more ‘prestigious’ and, possibly, higher quality.¹³ The rankings here, therefore, are better seen as an indicator of academic and institutional behaviour rather than absolute assessments of where a journal or publisher actually fits on any quality index. They reflect beliefs of the academics submitting the work, but equally importantly, also those of the peer reviewers¹⁴ undertaking the assessment. After all, the former group includes all of the latter and so the perceptions and prejudices of the academic submitting work will likely reflect those of the person assessing it.¹⁵ As we are considering only ‘outputs’, the debates about impact and environmental assessments are outside the scope of our study.¹⁶

THE RESEARCH EXERCISES: 1992 TO 2021

Overall, 89 institutions have had their research assessed during at least one of the six exercises.¹⁷ But only 43 have made a submission to each and every exercise.

Initial Decisions and Issues for Further Consultation (REF2028/23/1) at <https://repository.jisc.ac.uk/9148/1/research-excellence-framework-2028-initial-decisions-report.pdf> [<https://perma.cc/QSX5-2AM9>] (*Initial Decisions*) at [36] and [66].

- 11 See in particular Jerker Svatešson, ‘International Ranking of Law Journals – Can it be Done and at What Cost?’ (2009) 29 *LS* 678; also see Kathy Bowrey, ‘Audit Culture: Why Law Journals are Ranked and What Impact this has on the Discipline of Law Today’ (2013) 23 *Legal Education Review* 291; and Rob van Gestel, ‘Sense and Non-Sense of a European Ranking of Law Schools and Law Journals’ (2015) 35 *LS* 165.
- 12 See Jerker Svatešson, Jim Corkery and Bernard McCabe, ‘The Ghost of Rankings Past – The Lasting Harmful Impact of Journal Rankings and What We Should Do Instead?’ (2014) 26 *Bond LR* 71.
- 13 Showing results which would probably not be that different today, see the survey carried out in 1998 by Kevin Campbell and others, ‘Journal Publishing, Journal Reputation, and the United Kingdom’s Research Assessment Exercise’ (1999) 26 *J Law & Soc* 470, 485, Table 3.
- 14 The legal academy has strongly objected to citation-based assessment. The Panels have also agreed with this approach (most recently, *Overview Report by Main Panel C and Sub-Panels 13 to 24* (REF2021, May 2022) at <https://2021.ref.ac.uk/media/1912/mp-c-overview-report-final-updated-september-2022.pdf> [<https://perma.cc/Z6ZT-ZJRW>] (*Overview Report*) 106), a recent exploration of the issues with citation-based assessment was conducted by Oren Perez and others, ‘The Network of Law Reviews: Citations Cartels, Scientific Communities, and Journal Rankings’ (2019) 82 *MLR* 240. However, the contrary position has been advocated (albeit usually from those in a different discipline): see in particular Jim Taylor, ‘The Assessment of Research Quality in UK Universities: Peer Review or Metrics?’ (2010) 22 *British Journal of Management* 202.
- 15 As to the impact of panel membership on ratings, see Stephen Sharp and Simon Coleman, ‘Ratings in the Research Assessment Exercise 2001 – the Patterns of University Status and Panel Membership’ (2005) 59 *Higher Education Quarterly* 153 (finding that panel membership did not directly benefit ranking, but there was a potential bias against newer universities).
- 16 But see Mehmet Pinar and Timothy Horne, ‘Assessing Research Excellence: Evaluating the Research Excellence Framework’ (2022) 31 *Research Evaluation* 173, showing that there is strong and significant correlation between the GPA for outputs, environment and impact and arguing that one or more of them could be dropped.
- 17 The number of institutions being assessed in each year were: 1992: 57; 1996: 64; 2001: 60; 2008: 66; 2014: 66; 2021: 68.

Between 1992 and 2014 it was for the institutions to identify those researchers they considered to be research active (so it was possible for a researcher not to be 'included' in an exercise) and each researcher had to submit four outputs for assessment.¹⁸ In 2021, everyone with a research element to their contract had to submit between one and five outputs (the total number for an institution being equal to 2.5 times the number of full-time equivalent submitted staff).

The approach to ranking in the first three exercises was different from those approaches taken for the last three (and the 1992 exercise was different again). From 2008, each individual output was assessed in terms of its 'originality', 'significance' and 'rigour'. But somewhat surprisingly, what was meant by these terms was initially left to the Panels.¹⁹ Nevertheless, in REF2021 the terms were explained so that 'originality' means the extent to which the output introduces a new way of thinking about a subject, or is distinctive or transformative compared with previous work in an academic field; 'significance' means the extent to which the work has exerted, or is likely to exert, an influence on an academic field or practical applications; and 'rigour' means the extent to which the purpose of the work is clearly articulated, an appropriate methodology for the research area has been adopted, and compelling evidence presented to show that the purpose has been achieved.²⁰ While these more detailed explanations were not used for earlier exercises, they provide an indication of the sorts of things panels could be expected to have used to assess the quality of an output.

In the exercises where individual outputs were assessed, each was given a rating of between 1* and 4* (or unclassified): the 4* rating was for work that was 'world-leading' in terms of originality, significance and rigour; the next two rankings were for work which was 'internationally excellent' (3*) and 'recognised internationally' (2*); and, finally work that was 'recognised nationally' (1*). This enabled a grade point average (GPA) to be calculated based on the percentage of outputs at each ranking. For instance in 2008 the London School of Economics had 45 per cent of its research rated as 4*, 30 per cent as 3*, 15 per cent as 2*, 10 per cent as 1* and nothing unclassified, resulting in a GPA of 3.100. We use these GPAs throughout, and as they have been widely reported,²¹ we will not set them out here.

The earlier exercises recognised universities for a unit of assessment. Therefore, what was important was whether a majority of submissions from an institution reached a particular standard.²² The top ranking was also different as

18 In 1992, each researcher needed to submit two publications and/or two other forms of public output: *Research Assessment Exercise 1992* (UFC Circular 5/92) 25 (National Archive: UGC 15/4).

19 As to the divergence in the meanings of these terms in REF2008 see Ron Johnstone, 'On Structuring Subjective Judgements: Originality, Significance and Rigour in RAE2008' (2008) 62 *Higher Education Quarterly* 120.

20 *Index of revisions to the 'Panel criteria and working methods'* (2019/02) (REF2021, October 2020) at https://2021.ref.ac.uk/media/1450/ref-2019_02-panel-criteria-and-working-methods.pdf [<https://perma.cc/9FWA-VXTB>] 34–35.

21 We calculated them from the original data and not the reports, however.

22 This meant that where it was clear that a sufficient number of outputs reached the highest standard, the panel might stop considering any more: see *Law Panel Report* (RAE 2001, Overview reports from the panels) at <https://webarchive.nationalarchives.gov.uk/ukgwa/20140616025715/http://www.rae.ac.uk/2001/overview> [<https://perma.cc/92YL-CMXQ>] 2.

it was achieved when research was ‘internationally excellent’ (what would later be a 3*). Thus, in the 1996 and 2001 exercises the highest rating (5*) was given to an institution if a majority of the submissions were of international excellence (and the rest were nationally excellent) while the lower ratings (5, 4, 3a, 3b, 2, 1, 0) related to the proportion of internationally and nationally excellent research produced by the institution. The 1992 exercise used the same basic approach, but it was a 1 to 5 scale and the proportions were different; but more significantly, it also included a quantitative element. Thus, in addition to the peer review of selected outputs, the total number of outputs from submitted staff had to be reported.

While these differing scales might inhibit comparison of the relative performance between different exercises, we are considering the relative standing within and then comparing these relative standings across exercises. This means the different approach to rankings does not affect the analysis. Nevertheless, it is acknowledged that the rating of outputs is not as precise in the earlier exercises. In the second and third parts of this analysis (journals and publishers), the different approach to ranking meant that we needed to scale the seven point ranking used in 2001²³ to fall between 1 and 4 to enable comparisons to be made with the later three exercises.²⁴ This does mean that the 5* institutions get a perfect 4 in some calculations, something which never happened in the later exercises, and as a result the numbers are somewhat higher. We now turn to the data upon which we relied.

THE DATA

This analysis is based on data published following the RAE and REF research exercises in 1992,²⁵ 1996,²⁶ 2001,²⁷ 2008,²⁸ 2014,²⁹ and

23 As individual output information is not available for 1992 and 1996, this was not necessary.

24 We took the view that 5* was only slightly better than 5, and 3a only slightly better than 3b accordingly we used a scale where 3b was 3.5 and 5* was 5.5. This was then scaled by 1.375 so that 5* becomes 4; 5 becomes 3.636; 4 becomes 2.909; 3b becomes 2.545; 3a becomes 2.182; and 2 becomes 1.455. No institution was given 1.

25 This data is available at https://webarchive.nationalarchives.gov.uk/ukgwa/20091118123656/http://www.rae.ac.uk/1992/rae92_intro.html [<https://perma.cc/8YD2-H4HD>]. As the data is in a different form and has different codes, see the Research Assessment Exercise 1992 (UFC Circular 5/92) n 18 above.

26 This data is available at <https://webarchive.nationalarchives.gov.uk/ukgwa/20170914112500/http://www.rae.ac.uk/1996/database/index.html> [<https://perma.cc/7PJ7-5PP8>].

27 The data, which for the first time includes the lists of actual submissions, was provided to submitting institutions on a CD-ROM (Research England provided the content of this CD-ROM to the authors). There is also an online search facility for submissions at <https://webarchive.nationalarchives.gov.uk/ukgwa/20140616025621/http://www.rae.ac.uk/2001/submissions/> [<https://perma.cc/AW3F-XTNU>]. In addition, we were kindly supplied, by the authors, the spreadsheets behind the research published as Campbell, Goodacre and Little, n 5 above. Our reclassification of works and the data we collected was slightly different in some respects from theirs (particularly that for Table 5).

28 This data is available at <https://webarchive.nationalarchives.gov.uk/ukgwa/20091118101548/http://www.rae.ac.uk/submissions/download.aspx?option=all> [<https://perma.cc/U77F-CMN2>].

29 This data is available at <https://webarchive.nationalarchives.gov.uk/ukgwa/20170302140530/http://results.ref.ac.uk/DownloadSubmissions/ByUoa/20> [<https://perma.cc/2XL4-KHMP>].

2021.³⁰ This data was published by the relevant bodies as a spreadsheet, or series of spreadsheets, usually some months after the results were announced. The data for 1992 and 1996 is different as it provides only the number of each type of output per year but does not include any information about the individual outputs. In respect of 2001 and subsequent exercises, the spreadsheets provide information as to the institution submitting the work, the type of output, the title of the output, the name of the journal or edited collection (where appropriate),³¹ the name of the publisher,³² as well as indicators as to whether the output is interdisciplinary, double weighted, or multi-authored.³³ In addition, in 2001 and 2008, the number assigned to individual academics was linked to outputs and so it was possible to determine the diversity in types of output and places of publication in the submission profile of individual academics. We have used all this data to a greater or lesser extent in our analysis.³⁴ But the data regarding identifiable outputs was, particularly in earlier exercises, very messy due to the different naming conventions and styles adopted by individual institutions. This meant we had to ‘clean’ the data,³⁵ and in some cases it was necessary to ‘correct’ it (as we explain in the relevant sections below).

GENERAL ISSUES WITH METHODOLOGY

The data set we are relying on is entirely closed and represents every output submitted. This has enabled us to avoid the need to sample, but the data remains far from ideal. The first issue, as outlined below, is that institutions each submitted a different number of outputs. We have tried to mitigate the effect of this by working on the proportion of types of output and places of publication in order to enable the comparison of like with like.

A side effect of this mitigation is that certain forms of statistical analysis, such as regression analysis, become more contentious and very complicated in their application to compositional data where, as in our case, the results include zeros.³⁶ We therefore did not attempt to consider simultaneously the interrelationship between all different types of output and GPA; but rather,

30 This data is available at: <https://results2021.ref.ac.uk/profiles/units-of-assessment/18> [<https://perma.cc/G6MS-BTJZ>]. The University of Winchester was not given a GPA and so it has been excluded from any calculations which involve GPAs.

31 The name of the editor was included for edited collections for some assessments.

32 There was also a lot of bibliographic data collected, which varied between exercises. It usually included ISSN or ISBN, volume numbers, and page extent and, when they became relevant, DOI, URL and whether it complied with open access requirements. In later exercises it was recorded when an output was not in English: 2014 (61 outputs) and 2021 (25 outputs).

33 It was also possible to indicate whether it was a reserve output, and in REF2021 whether it related to criminology or forensic science.

34 Not including data points mentioned in footnotes.

35 This was to ensure journals and publisher names were consistent across all years and within an assessment. It involved, for instance, removing full stops, ‘&’ becoming ‘and’, removing ‘The’, expanding abbreviations and correcting spelling. We also wrote Excel macros to check and make the data consistent and to provide a first sweep for duplicates. All the cleaning of data was done by the authors personally.

36 There is much dispute in the statistical literature as to the appropriate approach to performing any form of linear, multiple or multivariate regression of compositional data. For a recent discussion,

we confined our analysis to working out relationships between two independent variables at a time, using a more straightforward Pearson correlation. In summary, the Pearson correlation coefficient (r) measures the linear relationship between two sets of parametric data. The closer the relationship between these two things, the closer the correlation coefficient gets to 1 (for a positive relationship) or -1 (for a negative relationship). We also provide the standard error (SE) for each correlation giving a confidence interval.³⁷

Clearly, a strong correlation does not mean causation and so, for example, a higher proportion of authored books correlating with an institution getting a higher GPA does not necessarily mean that submitting more books always leads to better scores in the exercise, but it is evidence supporting that this is *usually* the case. There is no consensus in the statistical literature as to the point at which a coefficient demonstrates a ‘strong’ correlation.³⁸ As the rating of outputs involves a subjective human assessment (peer review), we have adopted Cohen’s suggestion for psychological analysis: 0.100 to 0.300 is a weak correlation; 0.300 to 0.500 is moderate; and greater than 0.500 is a strong correlation.³⁹

The second issue arises from our analysis of the relationships between an institution’s GPA and various output submission patterns. In the absence of any indication of the actual ranking given to individual outputs, or even more generalised data about average rankings for types or classes of submission, there is inevitably a limitation when we correlate one type of submission, journal, or publisher, against an institution’s overall GPA for outputs. Accordingly, any positive trend reported in relation to, for example, ‘top’ journal articles could be entirely related to the quality of another part of the submission (such as books). Without making contentious assumptions, this can be only partially mitigated by our analysis being confined to trends across the sector and by looking at the totality of the analyses we have undertaken.

The third issue arises when we look at the number of outputs submitted to an exercise from individual journals and publishers, or when we look at the percentages of articles submitted from particular journals. The number of outputs each institution submits to an exercise is entirely dependent on its number of active researchers.⁴⁰ This means there has always been a significant variation in the number of submissions made by each institution. For instance, between

see Abdulaziz Alenazi, ‘A Review of Compositional Data Analysis and Recent Advances’ (2023) 52 *Communications in Statistics – Theory and Methods* 5535. There are also issues with spurious correlations if the numbers were converted into ratios: see for instance Michael Lynn and Charles Bond, ‘Conceptual Meaning and Spuriousness in Ratio Correlations: The Case of Restaurant Tipping’ (1992) 22 *Journal of Applied Social Psychology* 327.

³⁷ Where we report the SE numerically the top of the confidence interval is calculated by adding the SE and likewise the bottom by subtracting it.

³⁸ This is affected by the number of outliers and these were prevalent in the assessments as many institutions submitted only a small number of certain types of output.

³⁹ Jacob Cohen, *Statistical Power Analysis for the Behavioral Sciences* (London: Routledge, 2nd ed, 1988) 113–116; recently, there have been numerous proposals for lower thresholds: see for instance Andrey Lovakov and Elena Agadullina, ‘Empirically Derived Guidelines for Effect Size Interpretation in Social Psychology’ (2021) 51 *European Journal of Social Psychology* 485 (small, 0.120; moderate, 0.240; and strong 0.410).

⁴⁰ Until REF2021, it was determined by the university whether an academic was research active or not. In REF2021, it was based on the number of academics with research contracts.

2001 and 2021, the median number of outputs submitted by the top submitting institution was 348.5 per exercise, but the median of the lowest submitting institution was just nine, and the median of medians was 68.25 outputs per institution per exercise. Indeed, across these exercises, an average of 36 per cent of outputs came from 15 per cent of submitting institutions. This concentration of data can be measured further by the Gini coefficient.⁴¹ A coefficient of zero suggests all the outputs were evenly spread amongst the submitting institutions, whereas a coefficient of one suggests all outputs were submitted by a single institution. Across all exercises, the coefficient ranged from 0.417 to 0.450,⁴² suggesting that in each exercise a high concentration of submissions came from a relatively small number of institutions.

This over-representation of higher submitting institutions means any analysis of submission numbers may suggest sectorial preferences, when in fact such a preference is that of a more limited number of institutions. On the other hand, when individual academics are considered, as distinct from their institutions, then our data can be seen as representing the preference of the academy as a whole, even if that academy is not evenly spread.

The fourth issue relates to our review of the submitting patterns for individual academics. We were able to analyse researcher level data in respect of the diversity of outputs as well as journal and publisher selection. Not all academics submitted four relevant outputs and this will have affected these averages. Fewer submissions may have been because they have submitted another type of output not being counted, or because they were early career academics, or otherwise had interruptions in their research.⁴³ Furthermore, this level of data was not made available for REF 2014 and 2021 and so when reporting on these trends the analysis is limited to 12 years of outputs.⁴⁴

Finally, we consider where works were published, by looking at which journals and which publishers were represented by better performing institutions; that is, the place of works submitted to an exercise by the institutions which managed to achieve the highest GPAs. This final analysis provides a different viewpoint and one that is less affected by the size of the submitting institution. In respect of each set of results, our calculations consider every single submission, but space dictates that the presentation of our results here is limited to top performing institutions, and to the more popular journals and publishers.⁴⁵ We begin our analysis by looking at the overall submission profile.

41 The Gini coefficient is usually used to measure income inequality in a population, but it can be used to indicate data distribution more generally.

42 In 2001, the Gini coefficient was 0.434; in 2008, 0.450; in 2014, 0.406; and in 2021, 0.417.

43 In 2001, two academics submitted no A-D, 35 submitted one, 196 submitted two, and 143 submitted three; in 2008, 11 submitted none, 158 submitted one, 170 submitted two, and 178 submitted three.

44 We elected not to reverse engineer the submissions from their titles to identify each of the authors for REF2014 and REF2021. In addition to the vast number of entries, there would also have been difficulties associated with outputs with multiple authors. In relation to REF2021 there would have been additional issues raised by the varying sizes of individual submissions.

45 The authors are happy to be contacted to provide any further data collected about any journal, publisher or institution which is not reported here. The only data which is exhaustively published is that behind Table 5. We did not work out the percentage of submissions from any other journal.

PROPORTION OF BOOKS, JOURNALS AND CHAPTERS SUBMITTED

The first part of our analysis looks at which form of work is most highly valued by the academy. In this part, and below, we make a basic assumption about the quality of work. Academics based in UK universities submit their best work to each assessment exercise; or more precisely, institutions submit those works which at the institutional level are considered the best work generated by its faculty.⁴⁶ This may or may not be the same thing.

In every exercise each output needed to be categorised. The categories have changed over the last 30 years,⁴⁷ as has the guidance for deciding how to classify a work.⁴⁸ We are concentrating our analysis on the four main types of output. The first is an authored book (A) where the author is solely responsible or shares responsibility for the whole book.⁴⁹ The second is an edited book (B) where chapters or contributions are written by different people and the person submitting the output (the editor) made a substantial contribution to the editing and selection of the work⁵⁰ (this category did not exist for the 1996 exercise). The third category is book chapters (C) which includes chapters in edited books or textbook entries incorporating significant research content⁵¹ (this category did not exist for the 1992 exercise).⁵² The fourth category is journal articles (D) and can include research articles, review articles, conference papers, and short papers provided they are included in a journal which has an ISSN.⁵³

These categories, however, conceal some complexity. In the 2001 and 2008 exercise, internet publications were part of a separate category,⁵⁴ but in 2014 and 2021, acknowledging the increasing prevalence of online journals, they were submitted as journal articles (D). We have treated online journals equally with other journals in our analysis of journals but not ‘moved’ them to the journal category for the assessment of outputs. There has also been an ‘other’ scholarly output category in 2001 and beyond,⁵⁵ and a working paper category

46 We accept that institutional judgements are often wrong, and the decision-making processes are likely to be flawed.

47 The 1992 assessment numbered output types, and divided journals into three types; academic, professional and popular (so in modern categories it would be A = 1, B = 2 and D = 7, 8 and 9; there was no C).

48 We were somewhat perplexed by ‘copyrights’ being an output (12b) in 1992 as almost every output would be a copyright work. Nevertheless, there were 22 ‘copyrights’ submitted across all units of assessment.

49 *Index of revisions to the ‘Guidance on submissions’ (2019/01)* (REF2021, October 2020) at https://2021.ref.ac.uk/media/1447/ref-2019_01-guidance-on-submissions.pdf [<https://perma.cc/9Z7X-TEGJ>] 103 and 104. The guidance on each categorisation expanded as assessments passed, but the basics were the same throughout.

50 *ibid.*, 103.

51 *ibid.*, 104. In 1996, these were classified as B but to avoid confusion we use C.

52 It might have been included in ‘short works’ (3), but the submission guidance was much broader than chapters and so we have treated them as different.

53 *Guidance on Submissions* n 49 above, 105. The ISSN requirement presents an issue for Yearbooks, which sometimes have an ISBN. We discuss our approach to Yearbooks below.

54 In fact, in 2001 there were two categories: those available generally (J) and those available only with a subscription (K); in 2008 there was just one category for all internet publications (H).

55 These were in 2001 (R) and 2008, 2014 and 2021 (T).

in 2014 and 2021.⁵⁶ We have examined outputs and wherever they are mis-categorised we have reclassified that output for the evaluation of journals and book publishers sections, but not for assessing outputs. In simple terms, the output analysis is done 'as is' whereas the journal and publisher evaluation is (as far as possible) based on the final journal or publisher.

The total number of outputs submitted over the six exercises was 30,028.⁵⁷ We look at this output data in three ways. First, we see if there is any correlation between an institution submitting a larger proportion of a particular type of output and getting a higher GPA/ranking. For instance, do institutions that submit proportionally more authored books get a better GPA than those which submit more articles? We also investigate whether institutions which double weighted authored books tended to have higher scores. And finally, we look at whether submitting work marked as interdisciplinary work tends towards having a higher or lower GPA.

Critically, marking a work as interdisciplinary is merely a flag to indicate that it might be considered by a more appropriate panel (than the law panel), and to ensure that if it is submitted to two panels by co-authors then the results are the same. This means not all interdisciplinary work needed to be or was flagged.⁵⁸ Therefore, any results from the data regarding interdisciplinarity should be read in the limited context in which the term is used in evaluation exercises (that is, to be reviewed by multiple panels) and should not be read for any comment on interdisciplinary work more generally. Secondly, we look at the proportion of submissions in each classification by the top performing institutions. As these institutions are included in the correlation data this analysis is in some ways confirmatory. Finally, we look at the submission profiles for individual academics submitted to RAE2001 and 2008.

Correlation between type of output and GPA

In our first analysis we calculated the Pearson correlation (r) between an institution submitting a higher proportion of each type of submission and achieving a higher GPA. The correlation coefficient and confidence interval are mapped in Chart 1.

It can be seen, therefore, that across all exercises there has been a moderate correlation between an institution submitting more books and achievement of a better GPA.⁵⁹ Indeed, the correlation has become even stronger over the last

⁵⁶ These are categorised as (U).

⁵⁷ By this it is meant that we did not take account of double weighting when counting outputs.

⁵⁸ Without an individual analysis of each of the submissions, it is not possible to know what proportion of submissions were interdisciplinary but unflagged.

⁵⁹ We correlated the institutional GPA with the standard deviation of the proportion of books (A), book chapters (C) and journal articles (D) (edited books (B) were excluded to avoid skewing results due to the very low proportions). There was a strong negative correlation between a high GPA and a very unbalanced submission in 2001 (-0.630; SE 0.102), 2008 (-0.497; SE 0.107), 2014 (-0.406; SE 0.113) and 2021 (-0.432; SE 0.111). In 1996 there was no clear correlation (-0.069; SE 0.127); only two figures exist for 1992 so it is not possible to report for that year. As the sector average for the proportion of books was always much lower than that for book

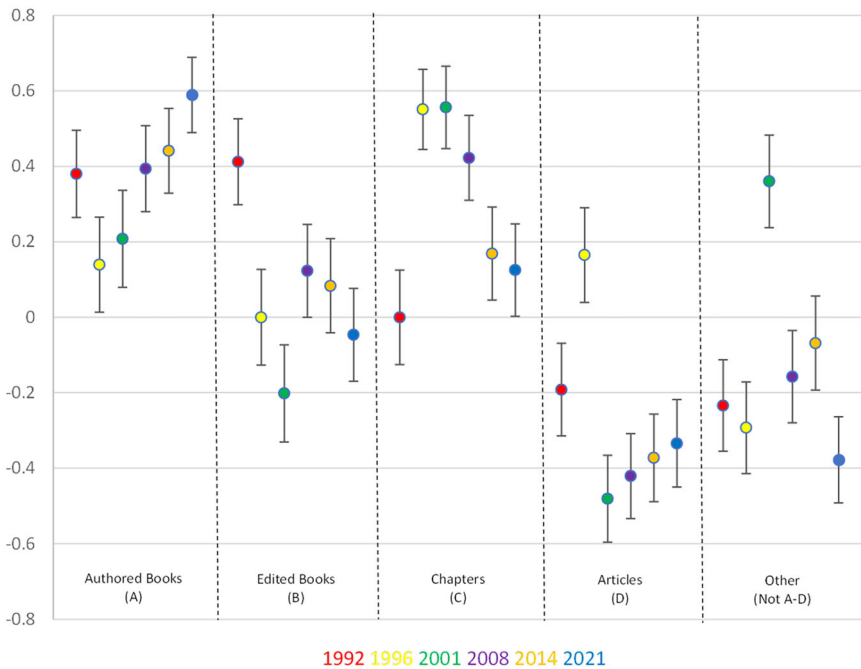


Chart 1: Pearson Correlation between percentage of submission of each type and GPA with confidence intervals [Colour figure can be viewed at [wileyonlinelibrary.com](https://onlinelibrary.wiley.com/doi/10.1111/1468-2230.12913)]

three exercises. This may be down to the type of book submitted. In 2001, there was a significant number of outputs submitted as authored books (A) which were in fact new editions of textbooks (14 per cent – 130 submissions – were second or subsequent editions)⁶⁰ and this tempered slightly in the 2008 exercise (eight per cent – or 79 submissions – were subsequent editions), by which time there was a moderate correlation between a higher number of authored books being submitted and a higher GPA. In the two most recent exercises, where very few subsequent editions were submitted (in 2014 there were 17, and in 2021 only four), there is a much higher correlation between more authored books and a higher GPA.

On the other hand, there has been a clear trend across all the exercises (except 1996) for institutions that submit proportionally more articles to have a lower GPA. As we will see in the second part of this discussion this may depend somewhat on the journal in which the article is published. On the other hand, submitting more book chapters in the 1996, 2001 and 2008 exercises had a moderate or strong correlation with a higher GPA (and in each case a stronger correlation than authored books). Yet this ceased to be the case in the two most recent exercises.

chapters and articles this is really reporting that a decrease in the proportion of books is related to a lower GPA. The same thing as noted above.

⁶⁰ This is based on either the title of the book making this clear or similar. It also includes *Halsbury's Laws* and *Stairs Encyclopaedia* and like publications.

Returning to books, in the most recent exercise it appears that institutions submitting more double weighted books (as opposed to single weighted) presents an even stronger correlation with a higher GPA (0.567; SE 0.101) whereas there is no correlation (-0.019; SE 0.123) from having more single weighted books. But this result is the absolute opposite to that from 2014 where there was a strong correlation between submitting more single weighted books and a higher GPA (0.530; SE 0.106); and there was even a negative correlation associated with asking for double weighting (-0.282; SE 0.124).⁶¹ The correlation between submitting more works marked as interdisciplinary and a lower ranking is the reverse of that for double weighting.

In 2021, there was a very strong negative correlation (-0.556; SE 0.102) between an institution submitting more interdisciplinary work and getting a good ranking.⁶² Seven years earlier there was a strong *positive* correlation (0.431; SE 0.113) between submitting more such works and getting a higher ranking. And when interdisciplinarity was first recorded in 2008 there was effectively no correlation at all (0.045; SE 0.122). The swing between 2014 and 2021⁶³ appears to be because in 2014 nearly three quarters of institutions submitted at least some outputs marked interdisciplinary,⁶⁴ but in every case it was a small part of the submission (no institution submitted more than 10 per cent of such work and the average for those submitting any was 3.94 per cent (σ 2.09 per cent) outputs so marked). In 2021, over half of institutions submitted no interdisciplinary outputs at all,⁶⁵ but at 15 institutions between 10 per cent and 45 per cent of outputs were so marked (the average proportion for those submitting interdisciplinary work was 16.35 per cent (σ 12.4 per cent)).⁶⁶ But even when those institutions which did not submit any interdisciplinary work are excluded there was still a moderate negative correlation between the GPA and the proportion of interdisciplinary work an institution submitted (-0.367; SE 0.172).⁶⁷

Submission profiles of institutions with the best GPA in each exercise

Moving away from correlations across the whole sector, in Table 1 we set out the proportions of the four main types of outputs submitted by the top performing

61 The approach to double weighting was very different in 2014. There were 34 authored books, 27 book chapters and 102 articles where double weighting was claimed. We only report on the authored books. In 2021, the double weighting was almost solely for authored books (506) with 10 claims across the other classifications.

62 There were 136 outputs marks as such in 2008; 179 in 2014; and 294 in 2021.

63 In 2008, 70 per cent submitted no interdisciplinary work and further analysis is difficult. However, of the 20 which submitted such work the most submitted was just under 27 per cent (by Sheffield University) and the average across the 20 was 7.72 per cent (σ 7.99).

64 In 2014, 28 per cent of institutions submitted no work marked as interdisciplinary.

65 There is a further attempt to boost interdisciplinarity in REF 2029: *Initial Decisions* n 10 above at [36].

66 In 2001, 56 per cent submitted no interdisciplinary work (and only five of the top 20 submitted any such outputs). The University of Winchester (which submitted 87.5 per cent interdisciplinary work) has been excluded as it was given no GPA.

67 Indeed, the correlation becomes more negative once more if those institutions ($n = 23$) submitting less than five per cent of interdisciplinary work are excluded (-0.413; SE 0.199).

institutions, and the overall number of outputs submitted. For 1992, these are those institutions awarded 5; for 1996 and 2001, those awarded 5*; and, for the later exercises they are the 10 institutions with the highest GPA for outputs.⁶⁸ Where there is more than one institution on the same rating, the institution with the highest number of submissions is listed first.

Table 1. Top 10 performing institutions submission profiles of outputs from 1992–2021 with heat-map showing up to three standard deviations from the mean from the average profile for the sector (double weighted books in square brackets) [Colour figure can be viewed at wileyonlinelibrary.com]

	1992				1996				2001				2008				2014				2021			
	A	B	C	D	A	B	C	D	A	B	C	D	A	B	C	D	A	B	C	D	A	B	C	D
1	28	3	-	51	20	0	24	49	20	2	33	44	22	1	28	47	14	2	26	58	18	2	27	53
	Cambridge: 116				Cambridge: 264				Cambridge: 340				LSE: 198				King's: 133 ^[1]				SOAS: 49 ^[7]			
2	24	12	0	17	19	0	33	48	24	2	37	36	27	1	29	42	13	0	20	64	20	0	10	70
	King's: 108				Oxford: 261				Oxford: 304				UCL: 182				LSE: 222 ^[2]				Sheffield: 80 ^[9]			
3	22	7	0	58					23	4	23	48	23	0	29	45	18	0	18	63	23	1	23	50
	UCL: 59								LSE: 190				Oxford: 396				Sheffield: 83 ^[1]				Glasgow: 109 ^[23]			
4	30	9	0	29					20	1	36	38	17	1	20	59	3	3	16	78	19	2	18	62
	LSE: 56								QMUL: 164				Nottingham: 161				York: 32				UCL: 123 ^[19]			
5	63	11	0	20					25	0	40	29	17	1	9	73	14	1	16	69	18	1	13	67
	Oxford: 56								UCL: 142				Durham: 118				Durham: 93				LSE: 143 ^[23]			
6	44	15	0	31					22	0	29	48	12	0	23	60	15	1	24	59	16	0	16	67
	Edinburgh: 39								Southampton: 109				Kent: 124				Cambridge: 266 ^[1]				Surrey: 43 ^[6]			
7									13	1	18	66	17	0	27	55	18	1	25	54	25	0	22	52
									Keele: 71				Cambridge: 319				Warwick: 118 ^[1]				QMUL: 166 ^[30]			
8									14	0	25	54	13	0	15	72	11	1	18	70	20	2	15	62
									Durham: 65				Queen's: 135				Leeds: 105				Warwick: 99 ^[19]			
9													19	0	19	54	11	3	21	66	20	0	14	64
													Cardiff: 97				Ulster: 73 ^[1]				Birmingham: 94 ^[17]			
10													14	1	30	51	9	0	23	68	23	0	22	55
													Edinburgh: 197				Exeter: 56				King's: 148 ^[31]			
Av	27	4	0	39	18	0	22	51	16	1	23	58	14	0	18	64	12	1	19	67	15	1	18	65
σ	22	4	0	22	9	0	13	15	10	4	13	17	7	0	9	14	6	1	8	11	6	1	7	8
Tot	2,494				5,143				5,328				6,253				5,455 ^[34]				5,355 ^[506]			

68 These are often different from the top 10 institutions overall.

It can be seen that across the 46 institutional submission profiles there were only nine instances where the percentage of authored books was lower than the average across the whole sector (that is the average percentage of authored books submitted by all the institutions to an exercise). And only 11 profiles had higher than average proportions of journal submissions, albeit three of those which did were in the top three places in the respective exercise. This table largely supports the trends we found from the correlations. Institutions tended to do better with a higher proportion of books and a lower one of articles. But these are trends and not absolute rules.

Submission profile of individual academics: RAE2001 and 2008

In addition to looking at the institutional diversity in outputs, we investigated the submissions by individual academics. Initially we calculated that in 2001 each academic submitted on average 0.63 books, 0.04 edited books, 0.98 book chapters and 1.90 articles, whereas in 2008 it was 0.56 books, 0.01 edited books, 0.75 book chapters and 2.09 articles.⁶⁹ We went on to work out the blend of individual submissions by calculating the percentage of academics who submitted exactly one type of submission and comparing that against the total number of academics submitting to the exercise (in 2001, 1456 and in 2008, 1669). As an academic may have one book and three articles they would be counted twice in our calculations (as submitting exactly one book and three articles). We took the view that calculating all the 28 combinations of submission pattern would be more confusing and provide fewer insights. The results are in Table 2 with the 2001 figure before the colon and the 2008 figure after it.

It can be seen that a little over a third of academics submitted a single book but only a tiny fraction submitted four books. While articles were the most voluminous type of output, less than 15 per cent of academics submitted four articles to either exercise. Indeed, in both exercises only around 30 per cent submitted three of the same types of output, and a little under 60 per cent submitted two of the same. This suggests that submissions by individual academics were generally a mix of outputs, albeit weighted towards articles. It is at this point that we move from the type of submission to what was submitted.

Table 2. Percentage of the exact number of each type of submission submitted by each academic in 2001 and 2008

	1	2	3	4
A	34.0 : 36.1	9.7 : 9.2	2.4 : 1.4	0.5 : 0.2
B	2.8 : 1.3	0.4 : 0.1	0 : 0	0 : 0
C	30.8 : 30.6	17.9 : 15.5	8.8 : 4.4	1.4 : 1.2
D	25.8 : 25.8	29.6 : 30.2	20.0 : 26.0	11.5 : 14.2

⁶⁹ In relation to the 2014 and 2021 exercises, the averages per FTE were (2014:2021): books: 0.47: 0.33; edited books: 0.03: 0.01; book chapters: 0.76: 0.41; and journal articles: 2.25: 1.37.

JOURNALS

As we have explained, it is reasonable to assume that academics will submit to each exercise what they (or at least their institution) believe to be their best work over the assessment period. There are many factors affecting where an academic places an article ranging from the very subjective and personal, such as pre-existing relationships between authors and journals or editors, or an article being linked to a symposium and with it a special issue, to the more objective factors such as the time delay between acceptance and publication.⁷⁰ One of the most significant factors is 'fit'. A journal specialising in one area of legal study (for example criminal law) will not accept an article concerning another (such as land law); but it goes further than this, as generalist journals are perhaps unlikely to accept even brilliant articles on topics which are too niche for a generalist audience.⁷¹ Nevertheless, so far as 'fit' and these other factors allow, when selecting a publication outlet an academic will usually put their best work in journals they perceive to be highly regarded by their peers. It follows that the more submissions to an exercise that are made from a journal, the higher quality the journal is perceived to be by the academy as a whole (or by the relevant specialists).⁷² This, of course, is not the same as saying all the best articles are in the journals with the most submissions (what we call 'top journals'), or all articles in the top journals are of a high quality.

Before undertaking our analysis, we cleaned and 'corrected' the data. This arose because, for example, there were instances where a journal article was recorded as a book chapter or a book, but the details are perfectly clear it is a journal (or something was a working paper but was subsequently published). The difficulties arise particularly with Yearbooks, as some institutions classified outputs in these Yearbooks as a journal article and others as a book chapter, and so we have treated them all as journal articles.⁷³

We then considered the submission numbers for each exercise from journals. One important thing to note is that some articles are submitted to an exercise more than once, either because there were multiple authors, or an author moved institution and it was submitted by both.⁷⁴ Our calculations take account of both submissions and articles. In accordance with our basic presumption, where an article is submitted multiple times it is thought to be the best work of an author (or co-author) by more than one institution.⁷⁵ In any event, it is therefore important not to treat each submission as if it were a different article.

70 An unusual case is *Current Legal Problems* which is an invitation only journal.

71 As to the next exercise, and the attempt to encourage more research in specialist journals: see *Initial Decisions* n 10 above at [36].

72 See Campbell and others, n 13 above.

73 Some are particularly tricky, such as *Current Legal Issues*, which again we treated as a journal.

74 Each post assessment Panel Report notes that steps were taken to assure consistent rating of the same article.

75 Where co-authors are from the same institution it is not normally permitted to submit the same article twice.

Number of submissions and articles submitted from each journal

The largest number of submissions for each exercise in law has always come from journal articles. The number of different journals from which an article has been submitted between 2001 and 2021 is a staggering 1,998 titles,⁷⁶ but of these, 952 had only one submission. Indeed, only 123 journals had an average of five or more submissions across the four exercises, 63 an average of 10 or more, 41 an average of 15 or more, and 31 journals an average of 20 or more submissions.⁷⁷ There were only eight journals that had an average of 50 or more submissions and only the *Modern Law Review* had an average of over 100. Indeed, in each of the exercises between 2001 and 2021 over 50 per cent of the journal outputs submitted came from less than seven per cent of the journal titles submitted.⁷⁸ There are many law journals in the marketplace from which no articles were submitted and so the actual figure, if every published journal were to be counted, would be far below seven per cent. This high concentration is further demonstrated by the Gini coefficient, which decreased in each exercise between 2001 and 2021 starting at 0.677 and falling to 0.628, quite clearly showing that there was a high degree of concentration of submissions from a small number of the journal titles.

The concentration of publication outlets means that we have been able to provide a clear picture of the data by reporting only that data relating to the journals which have an average of 20 or more submissions across the four exercises. Table 3 sets out the number of submissions from each journal and after the colon the number of articles submitted from that journal (the ranking for that exercise is then in square brackets).⁷⁹ These 31 journals have more or less remained consistent in attracting the most submissions, and there are 13 journals which made the top 30 for submission numbers in in one or more exercises which do not make this list.⁸⁰

Six of the seven top ranked journals in the 2021 exercise have been in the top 10 through all four exercises, and only two journals which were placed at least once in the top 10 ever ranked outside the top 20. Yet there is very

76 While this includes some non-English language journals and some which would not normally be considered law journals, it also omits a number of English language journals of which the authors are aware. This would suggest that Perez's suggestion of their being 1,629 English language law journals is an underestimate: Perez, n 14 above, 244.

77 The number of journals with 20+ submissions is relatively consistent: 2001: 36 had 20 or more; 2008: 42; 2014: 30; 2021: 34.

78 In 2001, 5.7 per cent of journals submitted contained 50 per cent of journal outputs submitted; in 2008, 5.4 per cent; in 2014, 7.5 per cent and in 2021, 6.7 per cent.

79 Where the submission numbers are the same for two or more journals then the ranking takes account of the number of article submissions.

80 These are: 2001 (ranking, name, submissions and the articles): 17: *Scottish Law and Practice Quarterly* (36:34); 21: *Web Journal of Current Legal Issues* (30:29); 27: *Feminist Legal Studies* (25:24); 28: *Common Law World Review* (formerly, *Anglo-American Law Review*) (25:23). 2008: 22: *European Human Rights Law Review* (36:35); 30: *Feminist Legal Studies* (28:27). 2014: 22: *International Journal of Law in Context* (27:27); 26: *Criminology and Criminal Justice* (25:21); 29: *Journal of Private International Law* (20:20); 30: *King's Law Journal* (20:19). 2021: 17: *Journal of Corporate Law* (35:34); 20: *International Journal of Law in Context* (33:31); 25: *Leiden Journal of International Law* (25:24); 26: *Journal of International Criminal Justice* (25:23); 29: *Criminology and Criminal Justice* (22: 22); *International Journal of Human Rights* (22:22).

Table 3. Number of submissions and articles from journals with an average of 20 or more submissions in 2001–2021 exercises (rank within exercise in square brackets)

	2001	2008	2014	2021	Avg
<i>Modern Law Review</i>	132:125 ^[1]	146:139 ^[1]	109:101 ^[1]	132:109 ^[1]	130:119
<i>Legal Studies</i>	69:65 ^[4]	102:94 ^[2]	93:89 ^[2]	118:102 ^[2]	96:88
<i>Oxford Journal Legal Studies</i>	56:53 ^[8]	81:79 ^[4]	82:79 ^[3]	101:95 ^[3]	80:77
<i>Journal of Law & Society</i>	57:55 ^[7]	80:77 ^[6]	72:70 ^[4]	79:71 ^[4]	72:68
<i>Int & Comp Law Quarterly</i>	71:65 ^[3]	72:71 ^[7]	62:61 ^[5]	62:55 ^[6]	67:63
<i>Criminal Law Review</i>	87:83 ^[2]	97:91 ^[3]	42:42 ^[13]	33:32 ^[19]	65:62
<i>Public Law</i>	63:56 ^[5]	80:79 ^[5]	58:58 ^[6]	59:53 ^[8]	65:62
<i>Cambridge Law Journal</i>	45:43 ^[14]	69:66 ^[8]	58:55 ^[7]	45:41 ^[11]	54:51
<i>Current Legal Problems</i>	47:44 ^[11]	63:63 ^[9]	37:37 ^[16]	44:41 ^[12]	51:49
<i>Law Quarterly Review</i>	59:54 ^[6]	54:53 ^[12]	49:48 ^[9]	53:48 ^[10]	51:48
<i>European Law Review</i>	46:42 ^[13]	61:58 ^[19]	47:45 ^[10]	36:36 ^[16]	48:45
<i>Northern Ireland Law Quarterly</i>	44:41 ^[16]	48:47 ^[13]	56:53 ^[8]	32:31 ^[23]	45:43
<i>Medical Law Review</i>	28:25 ^[25]	46:42 ^[15]	42:42 ^[13]	59:54 ^[7]	45:41
<i>Child & Family Law Quarterly</i>	48:47 ^[10]	47:47 ^[14]	47:42 ^[11]	40:37 ^[13]	44:43
<i>British Journal of Criminology</i>	23:22 ^[29]	44:43 ^[16]	45:43 ^[12]	65:59 ^[5]	44:42
<i>Journal of Business Law</i>	52:49 ^[9]	57:53 ^[11]	40:40 ^[15]	21:21 ^[31]	43:41
<i>Social and Legal Studies</i>	35:33 ^[18]	40:39 ^[18]	33:31 ^[18]	57:50 ^[9]	41:38
<i>Common Market Law Review</i>	29:28 ^[24]	40:39 ^[18]	35:35 ^[17]	39:38 ^[14]	36:35
<i>J of Social Welfare & Family Law</i>	31:30 ^[19]	33:31 ^[25]	21:21 ^[27]	37:35 ^[15]	31:29
<i>Industrial Law Journal</i>	29:29 ^[23]	29:29 ^[28]	29:28 ^[21]	33:31 ^[19]	30:28
<i>European J of International Law</i>	14:12 ^[44]	43:41 ^[17]	36:25 ^[25]	33:31 ^[22]	29:29
<i>Human Rights Law Review</i>	N/A	18:17 ^[46]	31:30 ^[20]	34:32 ^[18]	28:26
<i>Juridical Review</i>	45:43 ^[14]	39:39 ^[20]	13:13 ^[48]	10:10 ^[65]	27:26
<i>Conveyancer & Property Lawyer</i>	46:44 ^[12]	37:36 ^[21]	11:11 ^[59]	13:13 ^[53]	27:26
<i>Journal of Environmental Law</i>	30:27 ^[22]	30:27 ^[27]	18:18 ^[32]	24:23 ^[27]	26:24
<i>Edinburgh Law Review</i>	31:30 ^[19]	34:33 ^[23]	17:17 ^[36]	16:16 ^[41]	25:24
<i>European Law Journal</i>	19:16 ^[37]	28:28 ^[29]	32:31 ^[19]	36:36 ^[16]	25:24
<i>Lloyd's Maritime & Com L Qrtly</i>	26:24 ^[26]	31:31 ^[26]	27:26 ^[23]	16:16 ^[41]	25:24
<i>Intellectual Property Quarterly</i>	21:19 ^[32]	33:32 ^[24]	19:19 ^[31]	23:23 ^[28]	24:23
<i>J of Criminal Law</i>	12:12 ^[49]	26:25 ^[31]	26:26 ^[24]	31:29 ^[24]	24:23
<i>Yearbook of European Law</i>	23:22 ^[29]	21:19 ^[39]	21:19 ^[28]	21:21 ^[31]	22:20
Total 'corrected' journal submissions (D) ⁸¹	2897:2780	3916:3812	3495:3419	3780:3588	3523:3400

significant movement slightly further down the table, with the popularity of journals fluctuating over time. For example, *The Conveyancer & Property Lawyer* sat only just outside the top 10 in 2001 but fell out of the top 50 in 2014 and has not returned. A somewhat similar fate has befallen the *Juridical Review*. Conversely, the more recently established *Human Rights Law Review*, launched in 2001,⁸² had a significant increase in the number of outputs from the journal submitted to exercises across the relevant period, as did the *European Journal of International Law*. It is interesting to note, however, that across the three most recent exercises there were only six submissions from the top 10 US journals (according to the *Washington & Lee* ranking of US journals).⁸³ With all this in

81 This includes electronic journal submissions in 2001 and 2008.

82 There is one submission said to be from the *Human Rights Law Review* in RAE2001 despite the journal not existing (and the article was not found to be published there or anywhere else).

83 The *Washington & Lee* ranking is that in the relevant assessment year (ie 2008, 2014 and 2021). In brackets is the assessment year and the number of articles submitted from the journal: *Harvard Law Review* (2021:1); *Michigan Law Review* (2021:1); *Notre Dame Law Review* (2021:1); *Yale Law Journal*

mind, merely considering the number of submissions, or articles, can be a little misleading as some journals publish more articles each year than others. Another way of examining how the academy perceives the quality of a journal is the percentage of articles published in a journal which are subsequently submitted to an exercise, which we will now consider.

Percentage of articles submitted from each journal

Assessing (or ranking) the percentage of articles from a journal going into an exercise is fraught with caveats and difficulties. The first problem is that the calculation cannot take into account the number of 'eligible' articles for assessment. Articles considered 'ineligible' include where an article has been submitted by: an academic based overseas; an academic who was not on a research contract; an academic whom the institution elects not to 'include';⁸⁴ a full time practitioner or salaried judge;⁸⁵ or a doctoral or masters student who at the census date had not yet obtained (or did not want) an academic job. In addition, some academics will have published more things of high quality than can be submitted (for example a book being submitted over an article in a top journal). In simple terms, a journal which is reported as having 60 per cent of its articles submitted to an exercise might have a much higher proportion of its *eligible* content submitted (even, potentially, 100 per cent).

The second problem is the matter of those parts of the journals that should be considered as outlets for assessable work. In most (but not all) of the journals it is possible to divide up content into six types of work:⁸⁶ 'research' articles, which are longer pieces of the sort most commonly included in an exercise (these will sometimes be papers based on symposia); 'analysis' or shorter articles (or 'opinion' pieces) which usually deal with an issue more briefly; 'case comments' (and 'legislation' or 'report' comments) which are articles discussing the significance and finding in relation to a particular court decision or similar; 'review articles' which are medium length pieces of work that critically engage with a book, or series of books, and the issues raised; 'editorials' and 'introductions', most of which are quite short and which range from a topical discussion to some which are close to an analysis piece or even a research article; and, finally, 'book reviews' which are short pieces which review a book but without the same level of critical engagement as a review article.

There are numerous difficulties with this categorisation of articles. The main one is that in many cases the author does not choose the section where the article is published. As academics tend to see the long research article as the

(2008:1); *Stanford Law Review* (2008:2). See <https://managementtools4.wlu.edu/LawJournals/> [<https://perma.cc/NN7A-WVRS>]. The rankings (based on Westlaw Boolean searches) began in 2003.

84 In other words, an article might have been published in a journal which was thought by its author as likely to be submitted to an assessment in due course, but eventually, for whatever reason, the academic in question was not included.

85 There are some fee-paid judges in the academy, and some who continue to practice part-time.

86 The *European Journal of International Law* has a very diverse, and somewhat changeable, categorisation of articles. We based our assessment on the usual size of articles in each section.

necessary output for the exercise, it is sometimes difficult for journals to fill other sections. The journal editor will have significant discretion in deciding how something is categorised – short research articles may be included as analysis or comment pieces, whereas longer case comments may be seen as research articles, and a long book review may become a review article or vice versa. Notwithstanding these issues, the calculation can still provide useful information.

To calculate the percentage of journal articles included in the research exercises we took the view that in general⁸⁷ it will be research articles⁸⁸ that are submitted for assessment, whereas the shorter articles (analysis, opinion, case comments and review articles) will not usually be submitted and book reviews (in contrast to review articles) will never be submitted.⁸⁹ The final categories – editorials and introductions (as identified by journals) – varied in length. However, we took the view that the number was too small to be worth considering separately. This is because it would have required our evaluation of each editorial to determine whether it was of a length that might warrant its submission.

We therefore counted the number of publication slots of each type in the 31 journals which had an average of 20 or more submissions across the four exercises, and then divided them into research articles, shorter articles, and book reviews (we excluded editorials). The number of slots was calculated by looking at the printed contents pages of journals (where they existed), looking at journal websites or similar, manual counting,⁹⁰ and, where manual counting was so extensive it would be likely to lead to error, using the abstract indexes on Westlaw.⁹¹ In this process, it can be seen how the exercises, among other things, have led journals to change the sort of material published. In Table 4, for each of the three types of publication slots, we set out the average number available each year during an assessment period across the 31 journals.

Table 4. Average number of publication slots in the journals with an average of 20 or more submissions in the 2001–21 exercise

	Research Articles	Shorter Articles	Book Reviews
2001 (5 years)	593	923	513
2008 (7 years)	656	654	409
2014 (6 years)	718	575	575
2021 (7 years)	739	500	500

87 There would have been instances where the personal circumstances of an academic meant a 'sub-optimal' submission was made, that is a shorter piece is submitted rather than a research article.

88 It appears that there is an attempt to broaden the type of outputs submitted in the next REF: *Initial Decisions* n 10 above at [36] and [37].

89 There were 25 book reviews submitted for peer assessment in the 1992 exercise (all book reviews would also have to have been listed for the quantitative assessment). We did not see any that were obviously book reviews in 2001 to 2021.

90 This was mainly for book reviews, which are cited in the previous table and excluded here.

91 For some journals the research articles were identified from the contents page, and these were deducted (along with book reviews) from the numbers generated on Westlaw.

It can be seen over the last 25 years that these journals have provided around 90–120 research articles slots a year whereas the number of shorter article slots has declined by 62 per cent. Book review slots have also declined by around 30 per cent. In Table 5 we have set out before the colon the percentage of research articles – not submissions⁹² – included from each journal in each exercise. The number after the colon is the percentage of articles taking into account all publication slots (save editorials and book reviews). Finally, the number in square brackets is the rank (within the 31 journals, rather than overall as it is the case for Table 3) for that particular exercise for each journal. The percentages were calculated by using the number of articles from the earlier table and dividing that by publication slots in each journal (rather than matching article to journal).

It can be seen that some journals have a very significant proportion of their published research articles being assessed. In earlier exercises, the *Modern Law*

Table 5. Percentage of journal contents assessed in the 2001–21 exercises from journals with 20 or more submissions (rank within exercise in square brackets)

Journal	2001	2008	2014	2021	Avg
<i>Modern Law Review</i>	116:52 _[1]	101:43 _[1]	81:69 _[1]	73:63 _[1]	93:57
<i>Legal Studies</i>	60:- _[5]	53:- _[3]	58:57 _[2]	47:46 _[3]	54:54
<i>Current Legal Problems</i>	51:- _[10]	53:- _[3]	55:- _[3]	53:- _[2]	53:-
<i>Int & Comp Law Quarterly</i>	83:29 _[2]	39:19 _[12]	51:22 _[4]	32:23 _[12]	51:23
<i>Cambridge Law Journal</i>	59:13 _[6]	52:13 _[5]	50:14 _[5]	35:17 _[8]	49:14
<i>Medical Law Review</i>	51:17 _[9]	57:29 _[2]	44:30 _[8]	35:24 _[7]	47:25
<i>Oxford Journal Legal Studies</i>	50:30 _[12]	44:33 _[8]	49:40 _[6]	43:40 _[4]	46:36
<i>Public Law</i>	54:17 _[7]	51:21 _[6]	41:20 _[9]	33:17 _[11]	45:19
<i>Law Quarterly Review</i>	68:17 _[4]	42:13 _[10]	33:10 _[14]	35:12 _[9]	44:13
<i>Edinburgh Law Review</i>	73:32 _[3]	45:17 _[7]	28:7 _[16]	25:6 _[14]	43:15
<i>Journal of Law & Society</i>	45:42 _[16]	42:41 _[9]	46:45 _[7]	34:34 _[10]	42:40
<i>Industrial Law Journal</i>	48:14 _[13]	41:16 _[12]	39:15 _[10]	37:18 _[5]	41:16
<i>Child & Family Law Quarterly</i>	48:31 _[15]	32:22 _[17]	38:28 _[11]	28:26 _[13]	36:27
<i>European Law Review</i>	43:29 _[17]	33:18 _[14]	33:17 _[12]	37:17 _[6]	36:21
<i>Journal of Environmental Law</i>	53:30 _[8]	35:18 _[13]	23:13 _[20]	21:12 _[19]	33:19
<i>Northern Ireland Law Quarterly</i>	39:28 _[18]	27:25 _[22]	32:- _[15]	20:16 _[21]	30:25
<i>Yearbook of European Law</i>	50:32 _[11]	25:21 _[24]	23:23 _[18]	19:18 _[22]	29:23
<i>Social and Legal Studies</i>	31:27 _[22]	27:23 _[23]	23:19 _[19]	23:21 _[15]	26:22
<i>J of Social Welfare & Family Law</i>	36:17 _[21]	31:15 _[19]	18:12 _[24]	21:13 _[18]	26:14
<i>Human Rights Law Review</i>	N/A	23:12 _[26]	33:17 _[12]	19:16 _[23]	25:15
<i>Conveyancer & Property Lawyer</i>	48:12 _[14]	29:10 _[20]	10:4 _[30]	11:4 _[28]	25:7
<i>Criminal Law Review</i>	37:6 _[20]	31:6 _[18]	18:4 _[26]	12:3 _[27]	25:5
<i>Intellectual Property Quarterly</i>	29:18 _[24]	28:26 _[21]	18:- _[23]	21:20 _[17]	24:21
<i>J of Criminal Law</i>	20:1 _[27]	25:4 _[25]	27:7 _[17]	22:8 _[16]	23:5
<i>Juridical Review</i>	39:26 _[19]	32:29 _[15]	5:5 _[31]	7:6 _[31]	21:16
<i>Journal of Business Law</i>	29:21 _[23]	22:17 _[27]	19:16 _[22]	9:9 _[29]	20:16
<i>Common Market Law Review</i>	23:11 _[25]	19:10 _[29]	18:9 _[25]	21:10 _[20]	20:10
<i>Lloyd's Maritime & Com L Qrtly</i>	22:10 _[26]	22:12 _[28]	20:10 _[21]	12:5 _[26]	19:9
<i>European J of International Law</i>	8:6 _[30]	32:23 _[16]	16:10 _[27]	15:7 _[24]	18:12
<i>British Journal of Criminology</i>	13:- _[29]	14:- _[30]	15:- _[28]	13:- _[25]	14:13
<i>European Law Journal</i>	19:17 _[28]	13:12 _[31]	14:- _[29]	8:8 _[30]	13:13

92 A co-authored article submitted twice to an assessment is counted only once. This is why we differ from the calculations performed by others: cf Campbell, Goodacre and Little, n 5 above, 352–354.

Review appears to have more submissions than it has research article slots. Further, for the four top journals, over 50 per cent of research article slots corresponds to work subsequently submitted to an exercise and for the top 12 it is 40 per cent or more. Indeed, as most journals have four or five research publication slots in each issue, it is likely that for almost all the top 31 journals at least one article per issue will be included in the next exercise.

Journal preference by institutional GPA

We wanted to explore whether the journals with the most submissions to an exercise (see Table 3) were also the journal outputs which tended to be submitted by institutions who achieved higher GPAs. This was calculated by multiplying the number of outputs assessed from a particular journal with the GPA of the institution making the submission and then dividing it by the overall number of outputs from that journal; in other words, working out the average GPA of all the institutions which submitted articles to a particular journal. Accordingly, the higher the average GPA given to a journal the higher the proportion of articles submitted from that journal by institutions with better GPAs. In contrast to the earlier analysis the number of submissions to the journal (and the preferences of high submission institutions) is only marginally material to the analysis.

By looking at this average it is possible to obtain a good indicator as to whether academics at the best performing institutions prefer one particular journal over its competitors; in other words, which journals are more diverse in their selection of contributors. This can be done by comparing the average GPA for a journal with the average GPA for all journals. It is important to note that this is not the same as suggesting that the average 'rating' of outputs from a particular journal is reflected in the table below or that higher scoring journals necessarily contain better quality outputs.⁹³ The relationship between the institutional GPA and an individual output is too remote to attempt to go beyond using it to mark preference. The averages are set out in Table 6,⁹⁴ (the rankings of the 31 journals between themselves is in square brackets) and the average GPA for all submitted journals is at the bottom of the table.

It is clear that a significant number of the most popular journals have a GPA which is below average. There were 11 journals which were below the average in 2001, five in 2008, three in 2014, and eight in 2021. Critically, it must be remembered that due to the method of calculation there were very many journals not listed in Table 6 which had higher average GPAs (and so were more exclusive than those tabulated). But some very popular journals take more

93 Ultimately, we did not adopt the view of Campbell, Goodacre and Little, who when devising a similar metric suggested that 'the premise that journals which have a high number of contributors from departments rated 5 or 5* are likely, on average, to be of a higher academic standard is a reasonable basis on which to produce journal rankings' (*ibid*, 347).

94 There were journals with higher averages than those listed here; for instance, where only one article is submitted from a journal by a top-ranking institution, but we took the view that taking an average where there were usually 20 or more submissions provided reasonable data.

Table 6. The institutional GPA attributed to each submission and averaged to each journal with 20 or more submissions (rank within exercise in square brackets)

Journal	2001	2008	2014	2021	Avg
<i>Law Quarterly Review</i>	3.876 _[1]	2.727 _[1]	3.004 _[1]	3.236 _[1]	3.211
<i>Current Legal Problems</i>	3.735 _[4]	2.721 _[2]	3.003 _[2]	3.157 _[13]	3.154
<i>Cambridge Law Journal</i>	3.814 _[2]	2.664 _[5]	2.949 _[5]	3.165 _[12]	3.148
<i>Yearbook of European Law</i>	3.715 _[5]	2.660 _[6]	2.946 _[6]	3.199 _[7]	3.130
<i>Oxford Journal Legal Studies</i>	3.662 _[9]	2.683 _[3]	2.960 _[3]	3.209 _[6]	3.129
<i>Common Market Law Review</i>	3.737 _[3]	2.666 _[4]	2.939 _[7]	3.166 _[11]	3.127
<i>Industrial Law Journal</i>	3.688 _[7]	2.655 _[7]	2.895 _[11]	3.216 _[3]	3.114
<i>Modern Law Review</i>	3.634 _[11]	2.593 _[10]	2.955 _[4]	3.212 _[4]	3.098
<i>European Law Journal</i>	3.694 _[6]	2.638 _[9]	2.760 _[28]	3.231 _[2]	3.081
<i>Lloyd's Maritime & Com L Qrtly</i>	3.608 _[12]	2.569 _[13]	2.891 _[12]	3.210 _[5]	3.070
<i>Journal of Law & Society</i>	3.668 _[8]	2.508 _[18]	2.876 _[18]	3.185 _[10]	3.059
<i>Int & Comp Law Quarterly</i>	3.647 _[10]	2.528 _[16]	2.900 _[9]	3.113 _[17]	3.047
<i>British Journal of Criminology</i>	3.589 _[13]	2.574 _[11]	2.880 _[17]	3.121 _[15]	3.041
<i>European J of International Law</i>	3.586 _[15]	2.510 _[17]	2.869 _[19]	3.194 _[9]	3.040
<i>Intellectual Property Quarterly</i>	3.481 _[22]	2.573 _[12]	2.889 _[14]	3.194 _[8]	3.034
<i>Criminal Law Review</i>	3.561 _[18]	2.553 _[15]	2.899 _[10]	3.101 _[19]	3.029
<i>Social and Legal Studies</i>	3.512 _[19]	2.555 _[14]	2.890 _[13]	3.092 _[20]	3.012
<i>Northern Ireland Law Quarterly</i>	3.571 _[16]	2.449 _[23]	2.917 _[8]	3.059 _[23]	2.999
<i>Legal Studies</i>	3.505 _[20]	2.496 _[19]	2.863 _[20]	3.118 _[16]	2.995
<i>Edinburgh Law Review</i>	3.589 _[13]	2.421 _[25]	2.813 _[24]	3.124 _[14]	2.987
<i>Journal of Environmental Law</i>	3.455 _[24]	2.458 _[22]	2.852 _[23]	3.066 _[22]	2.958
<i>European Law Review</i>	3.423 _[25]	2.427 _[24]	2.861 _[21]	3.108 _[18]	2.955
<i>Medical Law Review</i>	3.477 _[23]	2.477 _[20]	2.886 _[16]	2.977 _[26]	2.954
<i>Public Law</i>	3.565 _[17]	2.460 _[21]	2.763 _[26]	2.960 _[27]	2.937
<i>Child & Family Law Quarterly</i>	3.405 _[26]	2.403 _[26]	2.856 _[22]	2.996 _[25]	2.915
<i>Journal of Business Law</i>	3.371 _[27]	2.347 _[27]	2.763 _[27]	2.952 _[28]	2.858
<i>Human Rights Law Review</i>	N/A	2.650 _[8]	2.888 _[15]	2.998 _[24]	2.845
<i>Conveyancer & Property Lawyer</i>	3.257 _[29]	2.333 _[28]	2.609 _[29]	3.069 _[21]	2.817
<i>J of Social Welfare & Family Law</i>	3.308 _[28]	2.245 _[29]	2.776 _[25]	2.891 _[29]	2.805
<i>Juridical Review</i>	3.502 _[21]	2.043 _[30]	2.562 _[30]	2.709 _[31]	2.704
<i>J of Criminal Law</i>	2.909 _[30]	1.787 _[31]	2.257 _[31]	2.812 _[30]	2.441
Average (all outputs)	3.508	2.401	2.758	2.999	2.867

submissions from lower performing institutions than others. In the next section we will try and see if there is any link between the number of articles in top journals and the rating given to a particular institution.

Journal ranking by proportion and GPA

If the 'top' journals generally attracted the best content then it would be expected that the better performing institutions would have submitted more articles to these journals.⁹⁵ We therefore calculated the correlation between the proportion of journal outputs submitted from the top five, 10, 30,⁹⁶ and 100

95 For 2001 and 2008, this includes electronic journal outputs which were category (J) and (K) in 2001 and (H) in 2008.

96 The journals in the top five, 10 and 30 are detailed in Table 3 and n 80 above.

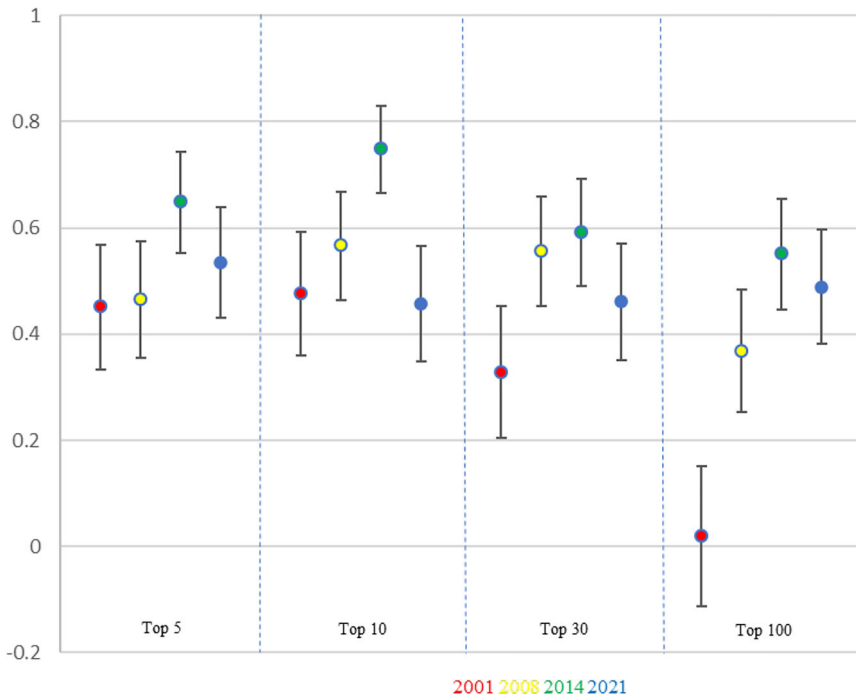


Chart 2: Pearson Correlation of 'top' journals by percentage of submissions to GPA with confidence interval [Colour figure can be viewed at [wileyonlinelibrary.com](https://onlinelibrary.wiley.com)]

journals,⁹⁷ in terms of submission numbers and an institution receiving a higher GPA/ranking.⁹⁸ While it is a gross simplification as it ignores many other factors (including the quality of non-journal outputs), it would be expected that if the top five journals (in terms of submission numbers) had the best content there would be a strong correlation (and a stronger correlation than for top 10, top 30, and top 100) between the proportion of articles submitted to these journals by an institution and its GPA. Chart 2 sets out the findings.

As can be seen, there is a strong correlation between an institution submitting more outputs from the 'top' journals and getting a higher GPA. The data shows that for three of the exercises there is a stronger correlation between a higher GPA and submissions to the top 10 journals, than there was between a higher GPA and submissions to the top five. The most recent 2021 exercise presents a slightly different picture from those held before because it appears that in 2021 having more articles in the very best journals was very important (but otherwise being in the top 100 was not that different from being in the top 10). The importance of submissions in the top journals can also be seen from Table 7. This table sets out the proportion of journals in the top five, top 10, top

97 As the number of articles submitted from a particular journal may be the same as those submitted for another journal, the exact number of journals in each of these 'top' categories was slightly different: in 2001, it was the top 104; in 2008, the top six and 103; in 2014, the top 11 and 113; and in 2021, the top 101.

98 The ranking of journals in terms of outputs submitted means that if there are strong preferences of academics at higher submitting institutions this might affect the outcome.

30, and top 100 submitted by the best performing institutions. These institutions in 2001 were those awarded 5*, and in the later exercises the top 10 institutions are ranked by output GPA. The number next to the institution's name is the total number of journal (and electronic journal) outputs it submitted to the relevant exercise.

Table 7. Journals submitted by high performing Universities with heatmap showing three standard deviations from mean from the sector average [Colour figure can be viewed at wileyonlinelibrary.com]

	2001				2008				2014				2021			
	5	10	30	100	5	10	30	100	5	10	30	100	5	10	30	100
1	9	16	40	74	21	35	48	66	9	22	42	70	3	7	23	50
	Cambridge: 151				LSE: 94				King's: 77				SOAS: 30			
2	17	40	64	77	22	23	65	80	27	37	50	75	28	34	49	79
	Oxford: 116				UCL: 60				LSE: 142				Sheffield: 61			
3	21	35	48	66	17	40	64	77	10	23	38	62	15	23	38	68
	LSE: 94				Oxford: 116				Sheffield: 52				Glasgow: 65			
4	15	21	22	49	28	37	63	84	20	48	56	68	24	34	61	75
	QMUL: 68				Nottingham: 96				York: 25				UCL: 80			
5	22	23	65	80	21	29	50	74	27	39	50	75	35	44	65	86
	UCL: 60				Durham: 38				Durham: 64				LSE: 98			
6	21	37	62	77	19	31	54	79	4	19	34	60	11	14	20	34
	Southampton: 52				Kent: 52				Cambridge: 158				Surrey: 35			
7	15	31	54	67	9	16	40	74	16	22	36	66	18	26	42	64
	Keele: 48				Cambridge: 151				Warwick: 64				QMUL: 98			
8	21	29	50	74	9	21	47	73	19	34	52	77	14	22	35	54
	Durham: 38				Queen's: 75				Leeds: 73				Warwick: 69			
9					31	51	73	89	10	15	21	42	25	31	45	61
					Cardiff: 55				Ulster: 48				Birmingham: 64			
10					12	18	51	76	11	21	39	66	20	26	39	54
					Edinburgh: 91				Exeter: 38				King's: 96			
Av	13	22	44	72	11	18	33	63	10	18	31	59	11	17	32	56
σ	8	12	16	12	8	10	13	15	8	12	15	13	8	11	16	15
Total	2,897				3,937				3,494				3,759			

It is hardly surprising, given the strong correlations in Chart 2, that across the 38 institutional submission profiles, 32 had a higher proportion of submissions in the top five journals than the average across the sector and, of those, 19 were one or more standard deviations above the mean. On the other hand, what is perhaps surprising is that the top performing institutions in three out of the four exercises were below average in terms of the top five journals. The general pattern is likewise represented in terms of the institutions submitting from the top 10 journals, albeit there is a slightly lower number (16) with submissions more than one standard deviation above the mean. Yet again, two of the top performing institutions break this trend, both having a below average percentage of submissions in the top 10 and top 30 journals (and the star performer in REF2021 had a below average percentage in even the top 100 journals). Thus, while there are moderate to strong correlations between more articles in better journals leading to higher GPAs, it is far from a consistent rule. And it is very possible to achieve great success with a very different submission profile.

Journal preference of individual academics: RAE2001 and 2008

We wanted to investigate whether or not individual academics tended to submit articles from a diversity of journals. We did this by looking at individual researchers in 2001 and 2008 and seeing whether their journal submissions were in the same or different journals. In Table 8 we set out the number of articles an individual academic submits against the number of different journals in which those articles were published. We worked out the proportion of academics in each profile. In the final column we set out the total number of academics who had the particular journal submission profile. The 2001 figure is before the colon and the 2008 figure afterwards.

It can be seen that where an academic submitted two journal articles, around 90 per cent chose to submit from two different journals. And where they submitted three articles, around three quarters submitted each from a different journal. Indeed, even among those academics who submitted four journal articles, around 60 per cent did so from different journals. At the other end of the range, no more than two per cent of academics who submitted three or four journal articles submitted them all from the same journal. It also appears that multiple submissions are not necessarily more common in the journals with more submissions overall. The number of times an individual academic submit-

Table 8. The number of different journals in which articles submitted by academics were placed in 2001 and 2008

Articles/Journals	1	2	3	4	Total (No)
1					357: 375
2	13:8	87:92			428: 512
3	3:1	24:23	73:76		316: 480
4	1:2	12:6	30:34	57:58	184: 273

ted multiple articles from one journal was similar, whether that journal attracted more than 50 submissions overall, between 20–49 submissions, or fewer than 20.⁹⁹ This suggests quite strongly that, at an individual level, academics tend to submit articles to a variety of journals.

PUBLISHER

This final part of the analysis looks at the publishers of books submitted to the four exercises, including where the book is submitted as an authored book (A), an edited book (B), or is a book containing a book chapter (C). We undertook largely the same calculations for publishers as we did for journals. There are, however, some differences. We have usually consolidated imprints to the main publisher name, or more accurately its common name,¹⁰⁰ on the census date. This means that, where a publisher was acquired by another between exercises, all its publications are included in the figures for the acquiring publisher (so, for instance, Cavendish was acquired by Routledge in 2006 and so its publications are listed as Routledge in 2008); however, where the acquisition was very close to the census date we have kept them separate (for example, Hart was acquired by Bloomsbury in late 2013). We have not followed this rule where an imprint changed hands over the assessment periods (for example Martinus Nijhoff was acquired from Kluwer by Brill in 2003 and renamed Brill–Nijhoff in 2013). Furthermore, where a book was co-published, the local publisher is named. Finally, government and intergovernmental publications, and working papers have been excluded from the rankings.¹⁰¹

As with journal submissions, a lot of publishers had outputs submitted across the four exercises amounting to 505 different publishers in total. Of these, only 106 publishers had an average of at least one output across the four exercises, 58 an average of at least two, 34 an average of at least five, 23 an average of at least 10, and only 19 had 15 or more. As with journals, the first number for each publisher is the number of outputs of, or from, books in an exercise; the number after the colon is the number of individual books (or parts of a book) which have been submitted; and the number in square brackets is, as before, its overall rank in the exercise Table 9.

99 In 2008, journals with 50+ submissions overall had 90 submissions from academics who had submitted at least one other article from the journal (nine per cent of all submissions in 50+ journals), in journals with between 20 and 49 submissions in total there were 92 multiple submissions (10 per cent of all submissions in those journals) and journals with fewer than 20 submissions in total had 99 multiple submission (five per cent of all submissions); in 2001 the balance was very similar: 50+, 65 multiple submissions (10 per cent), 20–49, 75 multiple submissions (nine per cent); <20, 89 multiple submissions (six per cent).

100 We use ‘Routledge’ when this is in fact an imprint of Taylor & Francis, and in turn of Informa; likewise Sweet & Maxwell is Thomson Reuters.

101 These are often categorised as authored books (A), but in other cases as a report (Categories (N) and (O) in the 2021 exercise).

Table 9. Publishers of books with an average of 15 or more submissions (rank within exercise in square brackets)

	2001	2008	2014	2021	Avg
Oxford University Press	400:251 _[1]	434:344 _[1]	388:296 _[1]	313:258 _[3]	384:287
Hart	223:114 _[2]	331:223 _[2]	324:224 _[2]	Bloomsbury	220:140
Routledge	30:27 _[14]	158:126 _[3]	224:186 _[4]	356:317 _[2]	192:164
Cambridge University Press	39:34 _[11]	149:123 _[4]	237:182 _[3]	242:212 _[4]	167:138
Bloomsbury Press	-	-	8:8 _[20]	406:302 _[1]	104:78
Ashgate	177:115 _[5]	128:108 _[5]	107:75 _[5]	Routledge	103:75
Sweet and Maxwell	216:174 _[3]	114:103 _[6]	45:40 _[7]	11:11 _[12]	97:82
Edward Elgar	4:4 _[42]	34:23 _[11]	89:73 _[6]	164:134 _[5]	73:59
Kluwer	168:112 _[6]	80:68 _[7]	20:19 _[13]	18:18 _[11]	72:54
Butterworths/LexisNexis	177:153 _[4]	78:62 _[8]	12:9 _[18]	2:2 _[36]	67:57
Palgrave MacMillan	34:30 _[12]	26:24 _[12]	44:44 _[8]	74:70 _[6]	45:42
Springer	4:4 _[42]	15:14 _[16]	33:32 _[10]	74:69 _[7]	32:30
Martinus Nijoff	23:18 _[17]	46:40 _[10]	43:35 _[9]	Brill	28:23
Edinburgh University Press	34:23 _[13]	21:11 _[13]	17:11 _[15]	27:23 _[9]	25:17
Brill	1:1 _[87]	6:5 _[35]	30:25 _[11]	46:44 _[8]	21:19
Willan Publishing	-	64:49 _[9]	17:17 _[14]	-	20:17
Cavendish Publishing	76:44 _[7]	Routledge	-	-	19:11
Intersentia	1:1 _[87]	18:16 _[14]	28:24 _[12]	24:23 _[10]	18:16
Blackstone	58:43 _[8]	OUP	-	-	15:11
Submissions & books(A, B and C)	2310:1666	2201:1805	1948:1556	1994:1696	2113:1681

The increasing consolidation of legal publishers over the last 20 or so years has meant many books published under one name would, if still in print, be obtained from a different named publisher. Accordingly, we set out in Table 10 the publishers listed above (but only those which have consolidated) to show the total number of submissions over the four exercises under the current owner.

It is therefore apparent overall that 62 per cent of all submissions have come from the five largest publishing groups (Oxford University Press, Routledge, Bloomsbury, Cambridge University Press, and Sweet and Maxwell) and 75 per cent from the top 10 publishers. Indeed, between 2001 and 2021 the concentration was such that over 50 per cent came from no more than 2.5 per cent of publishers submitted.¹⁰² This concentration is further evidenced by the

Table 10. Outputs numbers by publishers following consolidations over 2001–2021

	Subs	Books
Oxford University Press (acquired Blackstone, 2001)	1593	1192
Routledge (Taylor Francis merged Informa 2008; acquired Ashgate, 2015, Earthscan 2011, Cavendish, 2006, Frank Cass, 2003)	1324	1040
Bloomsbury (acquired Tottel (and T&T), 2009; Hart, 2013)	1324	896
Butterworths/LexisNexis (acquired Jordans, 2016)	312	260
Brill (acquired Nijoff, 2003).	195	168
Wiley (merged with Blackwell, 2007)	50	39
Total outputs (all publishers)	8,453	6,723

102 In 2001, 50 per cent of submissions were from 2.2 per cent of submitted publishers; in 2008, from 2.1 per cent; 2014, from 2.3 per cent; 2021, from 2.3 per cent.

incredibly high Gini coefficient which progressed from 0.83 to 0.87 over the twenty years of the four exercises.

It is also clear that the number of submissions is very different from the number of individual books submitted. This is because there are many book chapters which are submitted from the same book. In the 2001 exercise one two-volume book (*A History of Private Law in Scotland*)¹⁰³ had 16 submissions based on it. And over the four exercises, seven books had either eight or nine submissions from within them, and 90 books had between four and seven individual chapters submitted.

Publisher preference by institutional GPA

We calculated the average GPA of the institutions submitting outputs published by each of the major publishers. Once more, the higher the average GPA given to a publisher the higher proportion of books submitted from that publisher by institutions with better GPAs. Due to the consolidation of the publishing houses, the average is based only on the exercises for which their publications were submitted. This also means that those publishers which were submitted only in 2001 (where the GPA was higher due to the approach we have taken) ranked highest in Table 11.

In common with journals there were three exercises where a significant number of publishers had average GPAs below the overall average. In 2001 there

Table 11. The institutional GPA attributed to each submission and averaged to each publisher with 15 or more submissions

	2001	2008	2014	2021	Avg
Blackstone	3.611 ^[13]	Oxford			3.611
Cavendish Publishing	3.397 ^[17]	Routledge			3.397
Oxford University Press	3.787 ^[3]	2.693 ^[1]	2.938 ^[1]	3.183 ^[2]	3.150
Cambridge University Press	3.776 ^[4]	2.662 ^[2]	2.930 ^[3]	3.176 ^[3]	3.136
Intersentia	4.000 ^[1]	2.533 ^[9]	2.840 ^[5]	3.003 ^[9]	3.094
Edward Elgar	3.818 ^[2]	2.619 ^[4]	2.851 ^[4]	3.070 ^[5]	3.090
Hart	3.680 ^[5]	2.648 ^[3]	2.938 ^[1]	Bloomsbury	3.089
Sweet and Maxwell	3.616 ^[12]	2.536 ^[8]	2.812 ^[8]	3.068 ^[6]	3.008
Brill	3.636 ^[11]	2.617 ^[5]	2.747 ^[13]	3.017 ^[7]	3.004
Edinburgh University Press	3.497 ^[16]	2.476 ^[12]	2.782 ^[10]	3.207 ^[1]	2.991
Kluwer	3.660 ^[7]	2.411 ^[16]	2.826 ^[6]	3.017 ^[7]	2.978
Martinus Nijoff	3.652 ^[8]	2.492 ^[11]	2.785 ^[9]	Brill	2.976
Springer	3.636 ^[10]	2.570 ^[6]	2.762 ^[12]	2.916 ^[12]	2.971
Palgrave MacMillan	3.636 ^[9]	2.556 ^[7]	2.689 ^[15]	3.000 ^[10]	2.970
Butterworths/LexisNexis	3.671 ^[6]	2.510 ^[10]	2.814 ^[7]	2.738 ^[13]	2.933
Routledge	3.515 ^[15]	2.439 ^[15]	2.773 ^[11]	2.977 ^[11]	2.926
Ashgate	3.519 ^[14]	2.460 ^[13]	2.740 ^[14]	Routledge	2.906
Bloomsbury Press	-	-	2.583 ^[17]	3.125 ^[4]	2.854
Willan Publishing	2.909 ^[18]	2.447 ^[14]	2.659 ^[16]	-	2.670
Average all outputs	3.627	2.459	2.759	3.034	2.972

103 Kenneth Reid and Reinhard Zimmermann (eds), *A History of Private Law in Scotland* (Oxford: OUP, 2000).

were seven such publishers, in 2008 three, in 2014 five, and in 2021 it was seven again.

Correlation between publisher and GPA

We undertook an analysis, similar to that undertaken above for journals, in order to correlate publisher to GPA. We calculated the correlation between the top three, top five, top 10, and top 15 publishers by submission numbers (due to the concentration of publishers it was felt this was more appropriate than the wider range considered for journals). The results are set out in Chart 3.

In 2001 it is apparent that an institution's submission comprising more outputs from a top three publisher correlated to a lower rating, albeit there was a small (but not significant) correlation when the longer list was considered. On the other hand, there were correlations demonstrated in all the other exercises with a higher GPA being related to more books submitted from the top five publishers (and only 2014 shows a markedly stronger correlation for submissions from the top three). In Table 12 we compare the percentage of each publisher (by rank) across the best performing institutions in each exercise, similarly to the analysis undertaken for journals.

Once more, as would be expected considering the correlation figures, in 2001 only one of the best institutions submitted more than the average number of books from top publishers. In the middle two exercises all the top institutions (but one) submitted more books from the top three publishers than the average

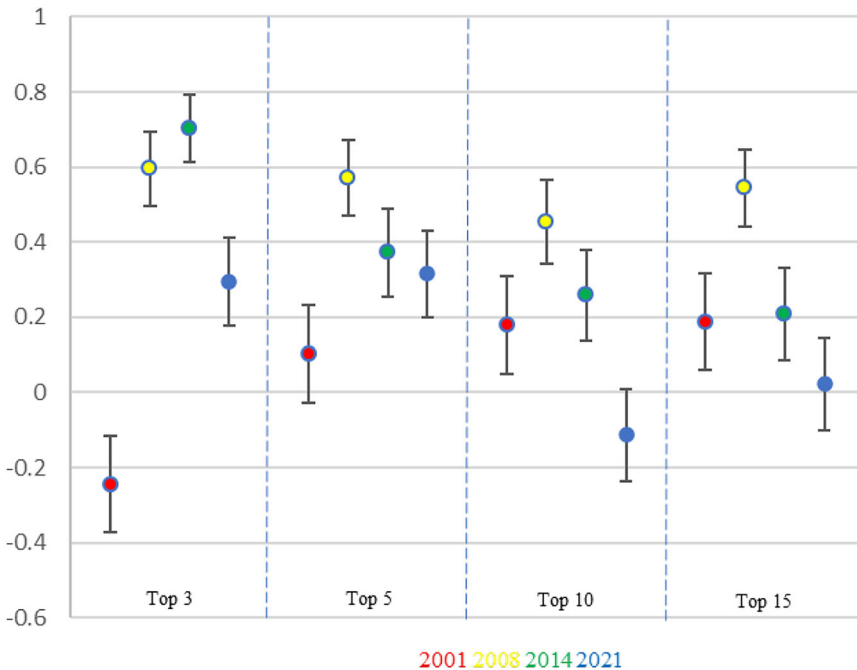


Chart 3: Correlation of top publishers by percentage of submissions to GPA with confidence interval [Colour figure can be viewed at [wileyonlinelibrary.com](https://onlinelibrary.com)]

Table 12. Book publishers submitted by top performing institutions with heat map showing three standard deviations from mean from the sector average [Colour figure can be viewed at wileyonlinelibrary.com]

	2001				2008				2014				2021			
	3	5	10	15	3	5	10	15	3	5	10	15	3	5	10	15
1	22	57	69	75	53	68	79	84	71	75	79	84	46	67	75	75
	Cambridge: 186				LSE: 95				King's: 56				SOAS: 24			
2	24	67	77	80	48	58	71	71	84	88	91	92	63	88	92	92
	Oxford: 183				UCL: 83				LSE: 75				Sheffield: 24			
3	20	62	73	81	55	64	82	88	47	73	77	90	38	60	84	87
	LSE: 93				Oxford: 194				Sheffield: 30				Glasgow: 55			
4	32	57	77	88	50	58	85	89	86	100	100	100	74	98	98	98
	QMUL: 88				Nottingham: 62				York: 7				UCL: 47			
5	22	58	71	77	59	69	84	84	76	83	90	93	60	94	96	98
	UCL: 73				Durham: 32				Durham: 29				LSE: 47			
6	27	57	80	82	51	62	67	72	65	69	81	86	60	80	80	80
	Southampton: 56				Kent: 39				Cambridge: 104				Surrey: 15			
7	23	50	64	64	43	54	72	75	44	69	83	88	49	78	89	94
	Keele: 22				Cambridge: 134				Warwick: 52				QMUL: 82			
8	26	48	91	100	47	61	71	76	41	66	91	94	62	84	95	97
	Durham: 23				Queen's: 38				Leeds: 32				War: 37			
9					43	51	60	80	40	56	76	80	56	94	97	97
					Cardiff: 35				Ulster: 25				Birmingham: 32			
10					34	49	67	87	56	67	72	78	63	84	89	90
					Edinburgh: 85				Exeter: 18				King's: 70			
Av	31	50	67	73	34	46	67	73	38	59	75	82	52	71	87	90
σ	16	19	20	19	17	21	15	15	23	21	18	19	14	17	10	9
Total	2,312				2,200				1,946				1,996			

for the sector, and about half the best performing institutions submitted more than one standard deviation above the average. In the 2021 exercise the picture was not as clear. SOAS and Glasgow (despite both being in the top three institutions in terms of GPA) had a below average proportion of books with

the top publishers, but three other institutions had over 90 per cent of their publications with top five publishers. Like journals, it is clear that while there is a correlation between submitting more books from top publishers, it is far from an absolute rule.

Publisher preference of individual academics: RAE2001 and 2008

We wanted to investigate whether academics were generally loyal to a particular publisher; in other words, where an author published multiple books we investigated whether they published them with the same publisher or multiple publishers. As this was an individual comparison at the academic level, we could consider only RAE2001 and 2008. Further, as has been explained above, in these earlier exercises there were a lot of subsequent editions of books and these usually, but not always, provide no flexibility to change the publisher from the previous edition. There will also be books where an author is invited to write for a publisher. Furthermore, where an author has an existing relationship with a publisher it may be easier to get a subsequent book published with them rather than approaching someone new. Nevertheless, we thought it would be useful to look at the preferences. We considered only books (as a contributor to an edited collection rarely has input into the selection of the publisher) and worked out the percentage of books which an author submitted to different publishers. The results are in Table 13 with the 2001 figure before the colon and the 2008 figure afterwards and the total number of authors submitting the particular number of books in the right hand column.

It can be seen that when an author has submitted two books to an exercise, around 77 per cent submitted from different publishers and between the two exercises only one person who submitted four books submitted all of them from the same publisher. Indeed, publishing with a single publisher declined significantly between 2001 and 2008 and this was probably in part due to the much lower number of textbooks being submitted (as a substantial number of practitioner and student textbooks were (and are) published by a small subset of publishers). It seems, overall, that most academics share widely between publishers.

Table 13. The number of different book publishers submitted by academics in 2001 and 2008

Bks/Pubs	1	2	3	4	Total
1					495:604
2	22:23	78:77			140:156
3	20:9	34:48	36:43		35:23
4	0:25	43:0	57:50	0:25	7:4

GENERAL THEMES

The importance of the ‘right’ sort of books

One of our key findings was that institutions that submitted more books tended to have higher GPAs. This was an evolving trend, however. In the early exercises it was only a moderate correlation between more books and a better ranking, but in later exercises it became pronounced. This was, it appears, because the wrong sorts of books were originally being submitted. This is something that might be closely linked to the perceived prestige of a certain type of publication, namely, textbooks. In the 1990s, writing leading textbooks was clearly perceived by academics and their institutions to be of the highest value. New editions of textbooks were submitted in RAE2001 along with Cases and Materials books. There was a similar prestige associated with practitioner texts. The editorship of books like *Benjamin’s Sale of Goods*¹⁰⁴ and *Chitty on Contract*¹⁰⁵ was thought to be an ultimate accolade. The nature of the publication meant these practitioner texts could not usually be submitted as authored books, but chapters were submitted (as C) and the book itself as an edited work (B). However, this strategy may have contributed to the negative correlation associated with submitting books from the top three publishers in 2001 given that the number three publisher for that exercise, Sweet & Maxwell, mainly published textbooks.

The prestige associated with creating the authoritative voice on a subject disappeared, it seemed, when the Panel highlighted that subsequent editions of textbooks often struggled to show the necessary originality.¹⁰⁶ Indeed, the movement away from textbooks is evident from the number of submissions of books published by Sweet & Maxwell and LexisNexis/Butterworths in subsequent exercises. In 2001 they shared 393 submissions but by 2021 the number of their submissions had fallen by 97 per cent, yet they remain key and very active legal publishers. It would seem that the academy does not see textbook writing as research anymore; rather, it is seen as scholarship. And scholarship is not returnable.

Yet if we move away from the type of book, what is more surprising is that as the correlation between more authored books and a higher GPA became stronger, the average number of books submitted by academics actually fell. Indeed, the average number of books submitted per academic fell by a quarter between 2001 and 2014 and nearly the same again by 2021 (albeit the different individual submission requirement in 2021 may have accounted for some of this). It appears, therefore, that while books are clearly important both to individuals and institutions, academics are actually writing (or at least submitting) fewer of them. Is this a lack of support from their institutions? Or does it indicate the wrong institutional emphasis towards articles? Or are there just not enough academics writing the ‘right’ sort of book?

104 The current edition being the 12th edition (2023). It is still edited by a (retired) academic, Professor Michael Bridge.

105 Now in its 35th edition (2023) again edited by a retired academic, Professor Hugh Beale.

106 RAE 2001: *Law Panel Report* n 22 above, 1 and 2.

Concentration in the market of legal publishers and quality control

The increasing concentration in legal publishing is evident without looking at submissions to evaluation exercises. But it is quite shocking that, while individual legal academics have managed to find a range of different publishers interested in their work, over 50 per cent of submissions still come from no more than 2.5 per cent of publishers.¹⁰⁷ The preference for a few publishers is not just a matter of perceived prestige. Many publishers have a small or even no specialist law list, making acceptance of a law book somewhat challenging, thus further enhancing concentration. Nevertheless, while legal publishing is concentrated within the marketplace, it is clear that the selection of a publisher by academics (while varied) comes from a very small pool. Further, it seems that being in the smaller pond is also moderately correlated with success, as the more books an institution submits from the top publishers, the better its GPA.

One final thing to mention is how book contracts are awarded compared to articles accepted. In many cases, a contract is awarded without reviewers or the publishers seeing an entire book. Indeed, it is very common (at least for more senior academics) to have a contract based on a proposal alone. Even those without an established publishing record will often get a contract with a sample of a few chapters. This means, in contrast to journals, quality control in book publishing is generally on potential.¹⁰⁸ This would suggest that publication with a top publisher is probably a less reliable proxy for quality than it might be for leading journals, where articles are invariably peer reviewed in their final form. Yet it remains the case that, even without this quality control, having more books from top publishers tends towards a better GPA for institutions, and institutions are doubling their reliance upon them. Critically, these preferences appear to be reflected in the outcomes of exercises.

The perception of journals

The submissions to research exercises have tended to be made from a relatively small number of journals. These journals have been largely domestic and preferences have remained broadly consistent since the beginning of the millennium. A clear and common theme is that the journals with the largest number of submissions (both absolutely and in terms of the proportion of articles submitted) come from a small number of generalist or quasi-generalist journals,¹⁰⁹ with only a couple of specialist journals making the top 10. It even appears that some academics have viewed submitting a shorter article from the *Modern Law*

107 Meaning all publishers submitted to exercises not all publishers in the market.

108 See more generally Eleonora Dagiene, 'Prestige of scholarly book publishers – An investigation into criteria, processes, and practices across countries' (2023) 32 *Research Evaluation* 356.

109 ie those journals that accept a wide range of topics around a common theme, such as the *Journal of Law & Society*, the *International and Comparative Law Quarterly* and, maybe, *Public Law* (considering the breadth of what constitutes public law).

Review as preferable to a longer article in another journal.¹¹⁰ Somewhat unexpectedly perhaps, the more popular generalist journals tended to be a little less elitist than those which are slightly less popular, as is demonstrated by the lower average GPA. Outside the top 10, there is a much wider range of specialist publications, yet it appears undeniable that many academics, and their institutions, see the pinnacle of success as a publication in one of the most popular generalist journals.

Indeed, it appears that there is a correlation between an institution submitting more articles from the top five and top 10 most popular journals and getting a better GPA. Therefore, the institutional position is understandable, and with it that of the individual researcher. It is worth mentioning at this point that, following each of the four exercises, the law panel has made it clear that not all entries in the top journals received the highest rankings, and that top ranked articles appeared in less well-known journals.¹¹¹ There is nothing in our findings which contradicts this statement, but it is important to appreciate what the panel is saying. In simple terms, not *every* submission from, for example, the *Modern Law Review* or the *Oxford Journal of Legal Studies*, gets the top rating. However, the law panel is not denying that – in general – better ratings are given to articles published by top journals. Indeed, considering the submission of well over half the articles published in many generalist and quasi-generalist journals, one might question the utility of the extensive internal peer reading that takes place to decide which outputs should be submitted. Publication in these journals appears to have been a proxy for being submittable.

Further, the over-emphasis on generalist journals, that is, writing articles which may be of interest to non-specialists, potentially stifles research into more intricate or technical areas of law. This is a problem recently reported as part of the consultations in the initial stages of REF2029.¹¹² Assuming this perception is true, it would also have adverse effects on researchers who work entirely within niche areas as they might feel their work is less worthwhile or less likely to lead to career progression. It is therefore vital that the academy strikes a balance between, on the one hand, the generalist journals where publication can lead to the development and cross-fertilisation of concepts and ideas, and, on the other, recognising that sophisticated specialist world class research can and should be published in specialist journals.

Within specialisms there is also a clear preference for submitting from a few ‘top’ journals. For instance, there were 57 journals submitted across all four exercises which relate to environmental law (including planning), but there is a clear preference amongst environmental scholars to submit articles from the *Journal of Environmental Law* (a top 31 journal) with two other journals having an average of five or more submissions.¹¹³ Likewise, there has been a total of

110 See Table 5 where 116 per cent and 101 per cent of research articles were submitted from the journal. A point also made by Campbell, Goodacre and Little, n 13 above, 352 (their figures were more extreme as they used submission, and not article numbers).

111 Most recently, *Overview Report* n 14 above, 106.

112 *Initial Decisions* n 10 above at [36].

113 This was based on the string ‘Environment’ being in the title.

23 intellectual property journals submitted,¹¹⁴ but there is a clear preference for the *Intellectual Property Quarterly* with two other journals averaging five or more submissions. Finally, in relation to tax law there were 16 tax journals submitted,¹¹⁵ but only the *British Tax Review* ever had more than three submissions in a single exercise.

At the level of the whole academy there is a clear tendency to target a small number of journals (or publishers) but the exact opposite is seen at the level of the individual academic. A small minority of academics were loyal to a single journal (or publisher), but the vast majority had a diverse submission. This we suppose is because an academic's work being accepted by different publishers and journal editors is seen as a greater marker of success than repeated publication in the same place. Yet this diversity is still largely national. A large number of international journals was submitted overall but few were chosen by multiple academics.¹¹⁶ What is particularly surprising is the absence of submissions to US journals. The reasons for this are likely multi-faceted: British academics do not submit to US journals very often; US journals have limited interest in articles which do not relate directly or indirectly to the US jurisdictions and so publish less material from Europe and the UK; and, of course, there is much more competition. Thus, while most UK academics generally rate US journals highly, and more highly than many domestic journals,¹¹⁷ the relative absence of these journals from evaluation exercises may suggest they infrequently publish UK academics. Many of these factors apply to other foreign jurisdictions as well.

Overall, it is clear that a journal's standing is important to academics when they decide where to publish. This can be ascertained in numerous ways: citation statistics,¹¹⁸ the journal's inclusion in one of the citation indexes; subscription data,¹¹⁹ and download statistics for its articles.¹²⁰ But in many ways the academy's own perceptions are best reflected by their submissions to evaluation exercises as this indicates where they have published their best work. These exercises show that perceptions have changed little over the last 25 years. The most prestigious journals at the turn of the millennium are seen in a similar light decades later.

114 This was based on the string 'Intellectual', 'Patent', 'Trademark', 'Trade Mark' or 'Copyright' being in the title.

115 This was based on the string 'Tax' being in the title.

116 The first journal which might be seen as non-domestic is the *Leiden Journal of International Law* (46th in terms of average submissions). But even this is published by Cambridge University Press.

117 See Campbell, Vick, Murray and Little, n 13 above.

118 See critique in Perez and others, n 14 above.

119 The difficulty is that most journal subscriptions are now digital and come as part of a package. It is therefore difficult to identify which journals were desired and which were bundled.

120 But this can be affected substantially by writing a piece which is relevant to a core undergraduate course where thousands might download the piece: Catherine Redgwell and others, '60 Years of Legal Scholarship in the *International and Comparative Law Quarterly*' (2012) 61 ICLQ 1, 1.

Changes in fashion

While many journals have retained a consistent standing, the prestige of others has waxed and waned over the last 20 years. The falling submissions from *The Conveyancer*,¹²¹ the *Judicial Review* and *Feminist Legal Studies* might suggest a development in the interests of the academy. It is clear that there are fashions within the legal academy for areas of study, methodological approaches and critical viewpoints, and indeed recent years have seen doctrinal research fall out of favour.¹²² Lord Burrows, in his 2021 Lionel Cohen lecture, lamented this decline: ‘The sad truth is that the sort of practical legal scholarship that I am describing – which can directly help a judge in deciding a case – is now regarded by many in academia as old-fashioned and dull.’¹²³

Nevertheless, fashions change and are often cyclical.¹²⁴ Yet these fashions do not seem to have affected the number of articles published by these journals, only the number of their articles submitted. This fall must, therefore, be for other reasons, and we suggest at least three possibilities. First, the authors submitting to these journals have changed and their work is not submittable (for example they are based outside the UK). Secondly, the number of submissions to a journal has fallen and so the quality of the articles published declines and inevitably, in turn, articles in these places are not thought to be strong enough by institutions (or their authors) to return in an exercise. Finally, and we think more likely, the fashions in the academy create a perceived hierarchy of specialist journals. Therefore, where there was a choice between outputs it was those appearing in the more fashionable place to publish which were submitted to the exercise.

Good is good enough!

When considering journals alone, it appears that despite the strong correlations between a higher GPA and more publications in the ‘top’ few journals, it was

121 The decline in property scholarship was commented upon in *Research Excellence Framework 2014: Overview Report of Main Panel C and Sub Panels 16 to 26* (REF 2014, Panel overview reports, January 2015) at <https://2014.ref.ac.uk/media/ref/content/expanel/member/Main%20Panel%20C%20overview%20report.pdf> [<https://perma.cc/MZ3V-AU34>]71.

122 The literature is often subject or approach specific. See for instance Shari Diamond and Pam Mueller, ‘Empirical Legal Scholarship in Law Reviews’ (2010) 6 *Annual Review of Law and Social Science* 581; Patrick Gould, ‘The Evolution of Normative Legal Scholarship: The Case of Copyright Discourse’ (2013) 5 *European JLS* 23; Ole Pedersen, ‘The Evolution and Emergence of Environmental Law Scholarship – A Perspective from Three Journals’ (2022) 34 *J Env L* 457; Alexander Somek, ‘Two Worlds of Legal Scholarship and the Philosophy of Law’ in Nicolette Bersier, Christoph Bezemek and Frederick Schafer, *Common Law-Civil Law: The Great Divide* (Cham: Springer, 2022); as to the relative importance of subjects (from the other side of the Atlantic) see Eric Martínez and Kevin Tobia, ‘What do Law Professors Believe about Law and the Legal Academy?’ (2023) 112 *Georgetown LR* 112; also see Redgwell and others, n 120 above.

123 Lord Burrows, ‘Judges and Academics, and the Endless Road to Unattainable Perfection’ (2022) 55 *Israel LR* 50, 55.

124 See Cass Sunstein, ‘On Academic Fads and Fashions’ (2001) 99 *Mich LR* 1251 (asking as part of a wider discussion on intellectual fashions whether critical legal studies will return, and now 20 years later it is clearly in the ascendancy again).

the case in all but one exercise that publication in these pinnacle journals is not quite so important as might be believed, as similar correlations were found with slightly less popular titles. The moderate to strong correlations between publishing in better journals and a higher GPA may arise for a host of reasons, but there are two which warrant mention. The first reason this correlation may exist is that it is down to the quality of the articles alone; in other words, editors were doing their job well, meaning that, *in general*, the most competitive journals published better articles. The second reason is that when assessors see an article from, for example, the *Modern Law Review*, they begin its assessment with a preconception that it is likely to be a good article and this congruence bias¹²⁵ positively affects the assessment. This potentially becomes quite important in circumstances where an output is perceived to be on the borderline between rankings with the assessor deferring, consciously or unconsciously, to the judgement of the editorial board.

The changes in journals themselves

The content of journals themselves has also changed and, in part, this is likely down to the evaluation exercises. There has been a decline in case comments and shorter articles, which were once a mainstay of academic writing. Much of this can be attributed to the rise in databases (both commercial and free) providing easy access to the judgments of the higher and appellate courts on the day or soon after the judgment is handed down. At the same time, many legal blogs have developed (and after waning seem to be waxing again), providing case comments within days of the judgment. More recently still, services like *Lexology* enable scholars (albeit more often practitioners) to share case comments widely and quickly. In other words, even with journals providing advance access, many of the significant cases are well documented long before a journal could publish a case comment. One editorial team even concluded that its case comments were getting longer and closer to research articles and so they merged the comments into the rest of the journal.¹²⁶ But case comments are only half the story. The shorter article has also become a casualty of research evaluation. It is not seen as submittable and so there is little incentive to write such pieces. But a few pages can expose a truth or argument which many pages may obfuscate. It may be, however, that the statement on outputs required by REF2029 will lead to value being attributed once more to the short punchy piece.

Balanced outputs

Overall, it is clear that submitting more authored books usually leads to better results, notwithstanding statements by the panel against preference to any type

125 See Jonathan Baron, *Thinking and Deciding* (Cambridge: CUP, 4th ed, 2008) 171–177.

126 Editorial Note, 'Case Commentary Section' (2016) 28 CFLQ 3.

of output.¹²⁷ Either books are more highly rated or, possibly, the ability to write books is a sign of better scholars overall. Indeed, in the most recent exercise it appeared that submitting more books, regardless of publisher, had a stronger correlation to a higher GPA than submitting outputs from even the top five journals. And when following new guidance,¹²⁸ more double weighting became a strong predictor of a better GPA, further enhancing the importance of books. This makes it even more surprising that many institutions tended to move away from supporting longer writing projects¹²⁹ in favour of journal authorship.

It is clear that editing books is not usually seen as a returnable output, and in conjunction with the very low number submitted, it is probably now better to see edited books as not a mainstay of submissions. But the editing of books does form a vital part of the exercise indirectly. Book chapters represent a large proportion of all submissions and these depend entirely on editors. The prestige attached to book chapters is difficult to gauge. It might be linked to publishers (in the same way as authored books), but there is also a link to the standing and reputation of the editor. Indeed, a book chapter is, at least usually, very similar in content and approach to journal articles. And with a well-regarded editor – implicitly endorsing the work – a book chapter may be comparable to publication in a top journal. This might be why in two exercises the correlation between GPA and more articles in good journals is actually very similar to that for more book chapters (2001 and 2008).

What we did not find (or seek to find) was a perfect submission profile. Not only would such a figure be a mirage of success, but also it would be based on too many unsupportable assumptions. And worse, it would lead to too many unintended consequences. It is also quite clear that, while submitting more authored books might be a sensible strategy, there are limits to the number of books an individual academic can write, and too much emphasis on books could be just as damaging as the converse. Indeed, where we could review individual submissions, most were relatively balanced with only a small minority submitting only articles and very few indeed submitting only authored books or book chapters. Overall, as in all things, it seems that balance and moderation in output profiles is best, both for the researcher in terms of their own development and well-being, and for the institution in terms of its submission profile.

CONCLUDING THOUGHTS

Our study has been entirely quantitative and one that avoided the complexity and controversy with applying certain forms of statistical analysis to the data.¹³⁰ In the absence of qualitative insights it has not been possible to obtain further

127 *Overview Report* n 14 above, 106.

128 *ibid.*, 105.

129 There are also likely to be issues in any future exercise with the open access mandate: see for example Martin Eve and others, 'Cost Estimates of an Open Access Mandate for Monographs in the UK's Third Research Excellence Framework' (2017) 30 *Insights* 89.

130 An article for a more specialist audience might include complex manipulation of the data to make it possible to undertake multivariate analysis. There would also need to be adjustments

clarity with respect to the complex decision-making processes made by institutions when they selected one output over another, or how the results of an exercise changed an institution's approach to the next exercise, or how this was influenced by the way the data is reported in the media.¹³¹ Some institutions aimed for 'research power'¹³² and others GPA. It has also not been possible to gain insight on how institutions selected their outputs or how internal readers came to their ratings. And similarly, the data cannot show how much each assessment was geared towards fighting the last war; in other words, fixing those issues perceived as going wrong in the last exercise.

But what have remained constant are institutional attempts to anticipate results, and the individually conceived or institutionally devised submission strategies that have continued to emphasise particular places to publish, to prioritise journal articles over books, and potentially to constrain disciplinary innovation, notwithstanding the contrary indications in the data. The influence of these exercises on areas of focus and support for individual academics can have material consequences for academic research practice, disciplinary freedom, and the intellectual lives of researchers. While the data cannot show us the objective quality of journals and books, it does show that the academy in 2021 largely considered the same things to be prestigious as it did in 2001, meaning that preferences and perceptions of prestige rarely change and indeed arguably become quite embedded. It is important to guard against prestige becoming a *de facto* or incomplete measure of quality.

made to take account of the hierarchies of data and for there being no direct link between GPA and individual submissions.

131 There would also be very real practical issues in identifying people who were involved in the early exercises, and avoiding difficulties associated with hindsight where a person has been involved in multiple exercises.

132 A metric combining GPA with the number of researchers submitted. A metric that clearly benefits larger institutions.