

Discussion paper – the quality of legal research

Background

In the academic world today, especially in the alpha and gamma sciences, there is broad consensus that we need to improve the ways in which researchers and the outputs of scholarly research are evaluated. In this light, the [DORA Declaration](#) was drafted in San Francisco in 2013. DORA's vision is to advance practical and robust approaches to research assessment globally and across all scholarly disciplines. This calls for new tools and processes in research assessment and the responsible use of metrics that align with core academic values and promote consistency and transparency in decision-making. It also implies the development of new policies and practices for hiring, promotion, and funding decisions.

The initiative has since been embraced by many institutions and funding agencies. UM signed the declaration in 2019. NWO and other funding bodies are for instance experimenting with narrative CVs, in which quantitative criteria hardly play a role anymore.

A discussion is currently taking place in the Netherlands and at UM within the framework of the [Recognition and Rewards](#) initiative, which aims to create an assessment framework for academics that takes into account the broad range of tasks and activities of academics. In November 2019, the VSNU, NFU, KNAW, NWO and ZonMw published the position paper "Room for everyone's talent: towards a new balance in the recognition and rewards for academics". The main goals of the initiative are to achieve diversification and vitalisation of career paths (enable more diversity in career paths and profiles for academics), to balance between individuals and the collective (assess academics based on both their individual performance and their team performance), to focus on quality (provide a better balance between quantitative and qualitative assessment tools), to stimulate Open Science (disclose research designs, make data publicly available and encourage academics to put additional effort into making their research outcomes more accessible to society) and to encourage academic leadership (invest in good leadership at all levels, from young academics to established professors).

The aim is thus to adapt and improve overall assessment of the academic in each of the four areas (education, research, impact and leadership) and in the connections between these, while also taking account the international context in which different academics operate. Less emphasis on the number of publications, and a greater emphasis on the other domains in which the academic is active, such as education, impact and leadership. The idea is that this broader form of recognition and appreciation is better suited to the current core tasks of knowledge and educational institutions and what society requires of these establishments.

The [discussion](#) on how to implement these new principles is currently taking place at UM and in our faculty.

Looking at our Faculty, both the *Visitatiecommissie Besselink* (2016) and the *mid-term assessment committee Van Genugten* (2020) have appreciated the fact that we stress quality over quantity when assessing research. Indeed, we have abandoned quantitative requirements (number of publications and the amount of research funding obtained) in the revision of the appointment and assessment criteria in 2018, and we value originality, creativity, and innovativeness, and encourage researchers to tap into new themes that foster and initiate academic debate.

Both review committees have supported this change from quantitative to more substantive qualitative criteria, but they have also pointed at the absence of clear qualitative criteria for measuring research quality. They have advised the Faculty to make these more explicit and to further reflect on the relation between quantitative and substantive qualitative criteria. This begs the question how this should be done.

There is thus a broad consensus today that we need to find new ways to assess researchers and their output and that alternatives need to be found to quantitative criteria (metrics) as a proxy for assessing the quality of research. These developments call for a reconsideration of the assessment framework for academic research and academic researchers, also within our faculty. This discussion paper aims to initiate a renewed discussion on that framework, and formulates questions to structure the discussion. The paper concentrates on the component 'research' within the broader job description of an academic.

Why agreement on the 'quality' of research matters

The quality of the research achievements of individual staff members and of research groups is assessed continuously: in the recruitment of new staff members, in annual appraisal and assessment interviews, in the context of career development and promotion, in research assessments (*'onderzoeksvisitatie'*), in the framework of grant applications, and of course in our daily work as researchers: when conducting and publishing research and when assessing the work of others in peer reviews.

The quality of the research we are conducting is thus evaluated constantly by many people and instances and for several purposes. The question as to what 'good research' is, is accordingly not a simple one and has many dimensions. There is the more general question of 'what is excellent research', which should inform what we spend our research time on. Indeed, as academics we strive for the best possible research, increasing the existing body of knowledge. This is the type of research that universities are looking for when hiring and promoting academics, that journals and publishers are looking for when reviewing manuscripts, that funding agencies want to see when selecting proposals for funding and that reviewers want to see when assessing the quality of research of a research group or faculty in research assessments and reviews. This raises the general question: **what is 'good' and 'excellent' research and how do we recognise it?**

In parallel and as a consequence of declining research funding and the limited success in national and European funding agencies such as NWO, ERC and Horizon Europe, a discussion is ongoing as to what the **specific place is of legal research**, how legal research should distinguish itself from other types of research dealing with the law, and how legal research should develop (see e.g. [here](#) and [here](#)).

A second dimension relates to HR, promotion and career development. Here, the quality of the research performance is only one part of the overall performance of the researcher who is evaluated as a member of the research community of the institute/department/faculty, as a teacher, as a leader, and as a member of the university in its relations to society. It is sometimes felt today that researchers have in the past mainly been assessed and promoted on the basis of their research performance, while teaching, management, impact and leadership were not sufficiently taken into account. This is where the Recognition and Rewards initiative comes into play. **What is expected of the individual researcher, in light of their position in their institute/research group with research viewed as part of their broader task which also includes teaching, management, leadership and impact?**

There is also the dimension of the team, the research group or institute and the faculty that the researcher belongs to. Increasingly also in law, the importance of teamwork, collaboration both within the (sub-)discipline and with other disciplines is recognised. Collaboration, interdisciplinary and multi-disciplinary research is encouraged. Collaboration and interdisciplinarity often meet challenges when the quality of research is assessed. **How does the development to team research reflect on our appreciation of the qualities of researchers and research groups?**

Researchers are expected these days to come of the ivory towers of the universities and to create impact beyond academia (societal impact, impact in the public debate, impact on policy makers and stakeholders, on practice etc.). This may come with the risk that the impact of research is conflated with quality of research. This raises the question as to **what the relation between impact and academic quality is and should be?**

Researchers are also assessed as a collective in periodic research assessments (*onderzoeksvisite*). In these, the Faculty is expected to report on research output and the organisation of research, and has to explain how the quality of our research is monitored and guaranteed. In the mid-term review, we have chosen the research institutes and the research groups as the research units where the quality control takes place. This means that the directors of the institutes and the leaders of the research groups are responsible to do the quality control: have publications and other outputs been correctly qualified as 'academic' or 'professional' etc., have publications correctly been labelled as 'peer-reviewed' or 'non-peer reviewed', and have correctly been presented as important publications? This calls for clear agreements on what is considered 'peer-review' and what is considered a good publication outlet. We do not work with lists of A-, B- and C-journals, and do not award points to publications. Nevertheless, **clear agreements should be made on the qualifiers 'peer reviewed', 'excellent journal' etc.**

In the context of the Sectorplan, a discussion is being initiated on *'promotieculturen'* and on the requirements of PhD's. According to the UM PhD Regulations a doctoral thesis must offer proof of the competence of the candidate to carry out independent academic work (*'proeve van bekwaamheid'*).

The criteria mentioned in the Regulations to be taken into account in the assessment of the thesis are: a. the contribution to the body of academic knowledge and the impact of the research; b. the importance of and a clear definition of the problem statement; c. the originality of the approach; d. the academic level of the structuring, analysis and processing of the material; e. the soundness of the methodology used in the analysis of the material; f. the drawing of new insights and new views from the analysis of the material; g. a critical confrontation between the conclusions of the doctoral candidate and existing theories or views; h. a creative approach to the academic field covered in the thesis; i. balance in the structure of the thesis and clarity of the style; j. self-imposed restriction in the volume of the text.

What do we expect of a PhD thesis? Should a PhD be a life's work, or 'only' the entry into academia, a *'proeve van bekwaamheid'*? What are the implications of that choice? Should a word limit be applied? And what are the standards that apply to PhDs consisting of a number of separate academic papers / articles? Should a minimum number of articles be imposed? Should articles have been submitted or accepted for publication? When answering the question, account must be had of the approaches at other Dutch law faculties.

The state of play at UM

The UM working group on **R&R in research** has formulated 4 general principles for the assessment of research of the individual researcher:

1. Quality over quantity

The working group has suggested that the assessment of researchers should always be based on a **combination of qualitative and quantitative criteria**. Quantitative information such as metrics, citation analysis, rankings, etc. are embedded within a broader framework of assessing quality.

Examples of quantitative criteria:

- Output indicators: e.g., number of publications, journal impact factor, the h-index, Google Scholar, Web of Science
- Amount of external funding: e.g., number of applications, number of projects allocated, amounts obtained
- Number of PhD candidates and/or postdocs

As examples of qualitative criteria, the group mentioned:

- Recognition of research: e.g., prizes won, organisation memberships, participation in committees, ability to obtain funding
- Research activities: e.g., design and/or control over a visible research line, actively participating in national and international research communities and/or partnerships, membership of a national research school, degree of influence within the institutional community and within national and international research communities
- Supervising PhD students and/or postdocs
- Scientific integrity
- National and international embedding: e.g., professional network, involvement in collaborative funding, sitting in editorial boards of journals

2. Quality of research and researchers is multi-faceted; it can relate to academic excellence, but also to other aspects of quality.

The group proposed that each academic creates a **long-term development plan**, one that is applicable throughout their career and that changes depending on their career stage.

They see this as a living document based on the following indicators:

- The assessment of quality starts with a well-defined **research line or lines**, by which a person can be known in their particular field. The academic is asked to develop a vision on their research lines and to give a rationale for their choice. More junior staff should answer the question, 'How will I distinguish my line from that of my (current or former) supervisor?' or 'How does my research line complement the work of my colleagues (within the environment of a department, school, etc.)?'
- Following on this content-based vision on research, the researcher's **playing field** should be defined; what is the field, how fast or slowly does it develop, in which networks should the academic operate, etc.
- Related to this is the researcher's own narrative; what is, according to them, the most important **research output** and why? Why can be answered by referring to the different quality indicators mentioned above. How does this relate to the researcher's own ambitions? In what lies their development over time?

- Furthermore, what is the researcher's **academic impact**: how did or does their work change the state of the art in their field? Is this impact purely academic or also societal? What is their contribution to collective team-based impact? How do they (possibly as a leader) influence others and whom? Are they a role model? What is the one (or more) things they are trying to change for the greater good?
- The academic should describe their **academic profile**, including the main activities which define it: e.g., research grants applied for and obtained, nominations, scholarships and prizes, membership in councils and committees, supervision of others, but also the other aspects mentioned above.
- Based on this analysis, a **quantitative ambition** should be defined; what is ambitious and reasonable in terms of numbers of publication, expected impact in terms of citations and other means of quantitative output?

In addition, the group recommended that a broad evaluation committee should be set up which can assess the staff member as a whole, not only look at their CV, and which advises and helps the researcher in achieving their goals. The academic being evaluated should have a say in who is in the committee.

3. Set clear, fair and transparent appointment and assessment criteria and competencies and communicate these.

There is a need for employees to know what is expected from them, both in terms of research output and beyond. An often-heard complaint is that this is not always clear, making decisions about tenure or promotion insufficiently transparent. This calls not only for clear appointment criteria, but also for performance agreements based on the elements mentioned above.

4. Define and describe different career perspectives and make sure that diversity in this context is valued

The group proposed that it is necessary to develop different realistic options and define custom-made career paths, present them and discuss from the very early stages of an academic's career. It should be made clear that a career towards a full professor position is not the only option or the holy grail. There is no single path towards excellence. Increasingly, academia is a team endeavour and different career profiles are part of this. This requires a huge culture change. The Recognition & Rewards programme should therefore promote diverse profiles, whereby a manager can encourage staff to explore these in both informal and formal ways. Key is having minimum requirements in place that balance qualitative and quantitative indicators, while also taking into account the academic discipline and international context in which academics operate. Then setting and communicating clear, fair and transparent criteria must take place. The basic competencies do not change depending on the career stage, only the expectations for the evidence supporting them and the balance between them.

A research community - who does what in monitoring of quality of research?

Monitoring the quality of research is a shared responsibility. It begins with **the individual researcher**, who develops her line of research, draws up and regularly updates her own research

agenda, and designs her publication strategy. The academic debate takes place informally and formally in the fora of the respective institutes and research groups, where researchers are given the opportunity to present their work and receive feedback from their **peers**. The **line manager** acts as mentor and sounding board, and evaluates the performance during the annual appraisal interviews, offering suggestions for further development and improvement. The **head of department** assesses the research plan and the performance in assessment interviews, and decides when a proposal to promote a researcher can be tabled and the procedure with the BAC can be started. In these decisions, of course, research performance is only part of the overall performance of the researcher, in addition to teaching, impact and leadership, as well as sense of community and academic citizenship.

The **directors of the institutes** and the **leaders of the research groups** are responsible for the research programme of the institute and for its implementation. They monitor the research quality when reviewing the PURE output of the members of the institutes and research groups and draw up annual reports and the reports for the self-evaluations for assessment exercises (*'visitatie'*). They advise the head of department in the appraisal and assessment of researchers.

The **Faculty Board**, the **Director of the Graduate School** and the **vice dean for research** carry the overall responsibility for the research policy of the faculty and the research assessment.

Questions for discussion

What is good legal research?

How do we recognise it?

What quality indicators should we use?

What place is left for quantitative criteria?

What should our quality control system look like?

What do we expect of a PhD thesis?