

Measuring the Scholarly and Judicial Impact of Accredited Legal Journals in South Africa

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Abstract

Legal scholarly journals are primarily written to influence those who read their content. Their influence is usually measured by counting the number of citations made of them in the subsequent articles and judicial publications. This study measured the impact of South African legal journals' content, by counting the number of times these journals have been cited and mentioned in subsequent legal journal articles and judicial decisions (judgements) through the use of Google Scholar (GS) citations and Butterworth Lexis Nexis database respectively. The results of the study revealed variations in terms of the citation patterns of legal journals in legal scholarship and judicial rulings. The most heavily cited journals in South Africa are relatively new and disseminated through the open access mode, while journals which are highly cited by judges in judicial decisions or law reports appear to be those that have been in existence for a long time. Further research on the most influential legal journal articles and authors could perhaps improve the chances of South African legal journals being internationally recognised.

Keywords: Scholarly impact, Judicial influence, Citation counting, South Africa.

Introduction

Usually, when lawyers present their legal arguments, and judges write their legal opinions or rulings, they repeatedly cite authority from legislation and cases, and refer to influential secondary works such as textbooks, treaties, commentaries and legal journal articles (Martin, 2015). Similarly, legal academics, students and researchers refer to primary and secondary literature to publish articles and reviews in legal scholarly journals, which contain articles, notes, commentaries, as well as discussions on legislation and case law. Legal journals also provide a vehicle through which legal arguments, opinions, ideas and research findings are disseminated. Shapiro (2000) states that 'legal scholarly journals are considered primary mechanism for the dissemination of legal scholarship.' Mann (1986) notes that 'there are a number of legitimate purposes for publishing articles or reviews in legal scholarly journals; the most significant one being to influence their users such as academics, legal practitioners, legal researchers, students, judges and policy makers. One method of evaluating if the articles obtained in legal journals succeed in achieving this significant purpose is to ascertain the number of users who have read their content and have been influenced by it. This is done by counting the number of times the influential articles have been cited or referenced by those who read them (Lowe and Wallace, 2011). Therefore, the influence, impact, value and quality of any legal journal content can be measured most significantly by counting the use made of it. A citation frequency is a measure of the quality or influence of legal journals' content. Journal articles that are frequently cited by legal researchers and practitioners are presumed to have a good reputation, prestige and greater influence or impact on the development of law in every

jurisdiction. They are assumed ‘to be more trusted and are sought-after as vehicles for new publications’ (Gilmore, 2010). Maru (1976) also points out that “the journal that is never used is without value; one that is often used is valuable.”

According to Dendy (2000) and Schulze (2013), there has been a proliferation in the number of legal scholarly journals published in South Africa. The conspectus of South African legal journals (Schulze, 2013) also shows a massive proliferation of legal journal titles during the last forty years in South Africa, of which content has played a significant role in the development of law and judicial science in the country. The increase in the number of legal scholarly journals in South Africa is attributed to a dramatic increase in the number of law students and academics after the democratic dispensation of 1994, and the implementation of the Revised Policy and Procedure for Measurement of Research Output of Higher Education Institutions (2003) in 2005 (Mouton and Boshoff, 2008; Schulze, 2013). Most of these law journals are published by legal commercial publishers in South Africa, for example, Juta law and Butterworths law under the auspices of law schools attached to various South African universities. Some are also being published by non-governmental organisations. With the large and increasing number of legal scholarly journals available both in print and electronic formats, most authors and readers, including judges, may find it difficult to determine which journals to focus on in their conceptualisation of legal arguments and opinions. Ranking legal journals in terms of their impact, therefore, could be a means of helping legal scholars to choose journals in which they could publish their articles, and on which judges could rely in their presentation of legal opinions and judgements.

This study ranks the South African accredited legal journals and evaluates the influence or impact in the development of legal scholarly content and judicial publication in South Africa. The study aimed to:

- count and establish the number of times that legal journals’ content have been cited by legal scholars and court judges in both scholarly legal journals and judicial decisions or rulings, respectively;
- establish the differences in citation patterns of South African legal journals’ content in

scholarly communication and judicial publications;

- establish the citation frequency of articles in all accredited legal journals by legal scholars and judges in South Africa; and
- identify the determinants of citations frequencies for legal journals in South Africa.

Quality in legal scholarship and judicial opinions has long persisted as intangible and elusive but an important element of legal education and research (Chen, 2006). Legal researchers, judges, lawyers, law professors and students were used to discuss and argue about cases and legislation through legal journals’ content but without any means to measure the impact or influence of those discussions and arguments. Maru (1976) advises that collected data such as library circulation statistics and opinions of users are in some ways indicative of the extent of usage of journals. But such data are vague and full of ambiguities. Scarcity of quantitative scholarship has therefore been a serious shortcoming in legal research (Posner, 2000).

However, with the introduction of citation resources and improvements on legal databases’ features, citation counting and analysis has today become a well-established method of empirical research, not only in law but also in other disciplines. Shapiro and Pearse (2012) observe that ‘commercial databases and publisher platforms for journals have also begun to serve as additional sources for citations, such as adding “cited by” or “times cited” features, and sometimes “most cited” feature within the confines of database content.’ With the introduction of these resources, the journal impact factor has become the bread and butter of measuring the quality of scholarly content across fields and disciplines (Jennings, Higgins and Khey, 2009). Citation counting can today be done through the use of citation resources or databases such as ISI Web of Science, Scopus and Google Scholar (GS) citations for scholarly citations and legal databases such as Butterworth Lexis Nexis. There are a number of purposes for which citation data could be used.

Legal Authors and Researchers

According to the National Research Foundation (2014), possible ways by which researchers could

claim to have international recognition is by publishing research in peer reviewed journals that are regularly cited by international peers. Shapiro (1991) notes that “authors have been evaluated through tabulation of citations to their writings and further that citation counts have been used in assessing scholars” works for purposes of grant awards, tenure or promotion decisions. ‘This exercise is therefore a thoughtful business in legal scholarship in that it may provide an indication of where legal academics and writers obtain their ideas’ (Ramsay and Stapledon, 1997). It is increasingly important for researchers to know whether or not their research reaches the intended audience, and whether their peers engage with their research findings (Pretoria University Law Press, 2013). In this context, it could be useful to be able to compare the so-called impact factors of different journals that a researcher considers when deciding where to submit his or her article for publication.

Citation studies enable rigorous quantitative analysis of reputation, prestige, quality and influence of scholarly output and productivity of scholars and law schools (Posner, 2000). George (2006) expresses the view that evaluating and ranking law schools and departments based on research output and scholarly production is a well-established, appealing and familiar practice. Since most legal journals are published by law schools, ranking them in terms of their quality serves as a basis for allocating research funding for these schools (Svantesson, 2009; Mouton and Boshoff, 2008; Einsenberg and Wells, 2014). Law school faculty members are rated by how many articles they have published in “most-cited” law reviews (Scott 2003). The quality of law schools from which these legal journals are produced is reflected in the citation data of those law reviews (Brophy, 2007).

Law Libraries

Libraries may also use journal ranking to make collection development decisions because librarians want to acquire relevant materials that are frequently used by library patrons (Obuh and Babatope, 2011). ‘Many law libraries would have a comprehensive collection of all law journals, and may, therefore, seek to build a core collection of what might be regarded as influential law journals’ (Ramsay and Stapledon, 1997). Through citation analysis, law

libraries are able to add in their collection, only journals that are highly rated and regarded as core legal resource, for example, the University of Michigan Law Library utilised information obtained from published citation studies to design a policy for limiting the number of duplicate copies of law review titles held in their collection (Brown, 2002).

Judicial Citations

Law review articles are often cited by judges in their judgements or decisions, and by regulatory authorities in the making of law, regulations and policy (Trautman, 2014). Journal articles cited in judicial opinions or law reports have an influence on a judge’s decision making. Dolores (2002, in Pierce and Reuben, 2010) notes that:-

To practitioners and judges, law reviews can provide an expeditious vehicle by which to receive a comprehensive introduction to an unfamiliar field of law written by scholars who have studied and taught in the field or by experienced practitioners who are personally involved with that subject. They may offer useful insights on unresolved issues, particularly when there is more than one point of view.

Therefore, prevalence of journal articles in court opinions or law reports becomes one of the most standard and esteemed measurements of journal impact. Shapiro and Pearse (2012) point out that “because legal scholarship relates to law and thus, to the making and interpreting of law, another metric for measuring legal scholarship is whether it has influence on the bar, judges, legislators, and other policy makers.”

Limitations

Shapiro (1985) states that citation counts have limitations. Some citations may result in favouritism wherein scholars give credit only to the people that they know for the purpose of that favour in return. Other authors resort to self-citations, which may inflate their citation total. Some works may be cited for wrong reasons, for instance, the work of a particular author may be criticised, resulting in higher citation rate because of its widespread criticism

(Shapiro, 1985; Ramsay and Stapledon, 1998). Another possible problem of citation counts may be the phenomenon of “obliteration”, wherein the work of some writers is so influential to the point that scholars no longer feel it necessary to cite it explicitly’, resulting in a loss of points for the inventive author (Shapiro, 1985). Tintle (2007) cautions that measuring the impact of legal journals based on citation counts may also result in “anxiety of authority”, prompting excessive and extensive citations by authors. This implies that authors become insecure about the capacity of their written products without citations thus they resort to unnecessary citations. The other negative impact of journal ranking is that authors may target highly ranked journals which will automatically become more prestigious than lowly ranked ones (Svantesson, 2009). However, these limitations should not be viewed as undermining the value of citation analysis or counting (Ramsay and Stapledon, 1998). Mann (1986) writes that:-

The use of citation counts to measure scholarly and judicial impact using citation resources remain a respectable methodology which has been used in other disciplines as well. Out of all data used to evaluate legal journals, only citation counts provide a measuring tool for the evaluation of legal scholarly literature.

Therefore, despite its limitations, ‘citation counting remains a convenient quantitative measure of quality of legal journal titles’ (Maru, 1976; Scott, 1989; Posner, 2000). Chen (2006) argues that the truth routinely manifests itself through mathematical means, and most things can be measured through numbers, of which quality of legal scholarship is among those things.

Literature Review

A legal citation is the practice of crediting and referring to authoritative documents and sources such as court decisions (cases), statutes, regulations, government documents, treaties, and scholarly writings by authors (Martin, 2015; Posner, 2000). It is the scholarly practice of supplying references for

ideas and quotations in the form of footnotes and citations (Shapiro, 1985). Tintle (2007) notes that academic legal writing is known for extensive citation and the use of citation as a means of managing impression. Legal journals are therefore very well suited for citation analysis or study, because developments in law, legal research and writing rely heavily on citations and footnotes. Citations are the cornerstone upon which judicial opinions and law reviews stand (Liebler and Liebert, 2013).

According to Shapiro (1992), there is a long history of citation studies in law. Although Information Science literature asserts that the earliest occurrence of citation analysis was done in science literature, Shapiro (1992) proclaims that legal citation analysis was practised in the legal field long before it was introduced in scientific literature. This assertion is constructed on the fact that Eugene Garfield’s development of the Science Citation Index (ISI) was directly inspired by Shepard’s Legal Citation Index (Shapiro, 1991), as Eugene Garfield has later acknowledged (Ogden, 1993). There are a considerable number of studies that ascertain the most heavily cited legal journals and journal articles in legal scholarly communication and judicial practice. The earliest studies on the most heavily cited law reviews are well documented in Scott (1989). Among these studies, Fred R Shapiro relishes a lion’s share of studies on heavily cited legal journal titles and articles; thus he is well known across the world for having published a series of articles on the subject. In South Africa, Mouton and Boshoff (2008) conducted a bibliometric study of law journals devoted to investigating the publication productivity, that is, the total number of articles published per journal, and the total number of authors contributing to the journal, without looking into the total number of citations per article in each journal, and in judicial opinions for the period under review.

Despite the increasing number of legal journals in South Africa, very few are recognised internationally, as most of them are not registered with ISI Web of Science, Scopus and International Bibliographic Serials Standards (IBSS). Several studies have also been conducted elsewhere to measure the relative impact of legal journals by examining the citations of scholarly articles in judicial decisions or judgements (Mann, 1986; McCormick 1996; Kopf, 1997; Ramsay and Stapledon, 1997;

McMahon 2001; Crespi 2003). Unfortunately, this is one of the aspects that has not received any attention by legal researchers in South Africa, despite having tools in Butterworth Lexis Nexis and Juta databases that could be used to quantify the number of articles cited in our law reports.

Furthermore, international law journals are persistently condemned for mediocrity by judges and other legal practitioners. Merritt and Putnam (1996) noted that the reputation of legal scholarship is denounced to becoming increasingly irrelevant to and out-of-touch with the attorneys and judges. Crespi (2003) also reckons that 'prominent jurists and practitioners have claimed that legal scholarship has become more dissociated from practical concerns and that it is of little relevance to attorneys and judges.' Peters (1981) also asserts that 'there is an increasing divergence between the theoretical interests of the aspiring academic lawyer and the pragmatic interests of the successful practitioner.' Pierce and Reuben (2010: 1185 - 1186) make mention of the studies that show the decline in citations to law reviews or journals from 1970 to 1990.

Whilst legal scholars interpret and cite court judgements and legislation to write and publish legal articles in legal journals, it might not be known if court judges and other legal practitioners also depend on legal journals to make court decisions. This is due to lack of studies on "most cited legal journals" in South Africa. Therefore, establishing a difference in citation patterns of South African legal journals' content between the scholarly communication and judicial practices would provide a picture of how well the legal scholarly journals play a role, not only in the legal scholarly communication, but also in decision making circumstances of the South African court judges. Through this study, the significance of the South African legal journals in the development of law and judicial science in the country will be established. Therefore, the current study focuses on the number of papers per journal, the number of citations received, the average citation frequencies for those articles, and the age of the journal.

Methodology

The principal sources of citation data in all the disciplines are the indexes published by the Institute

for Scientific Information (ISI), which is a company founded by Eugene Garfield. ISI publishes Science Citation Index (SCI), Social Science Citation Index (SSCI), and the Arts and Humanities Citation Index (AHCI). These products are made available online through the Web of Science (WOS) service for a fee or on subscription. These database products provide information to identify the articles cited most frequently, and by what publisher and author (Thompson Reuters Inc, 2014). Unfortunately, not all legal journals in South Africa are registered with these resources, and evaluating the impact of only three journals that are currently registered would not be valuable as sought after. Therefore, in order to stimulate future research on the impact of South African legal journals, the only platform where one can access the impact of every journal published in South Africa is Google Scholar (GS) citations, through the use of Harzing's Publish or Perish tool. This is a software program used to retrieve and analyse academic citations from GS.

Although GS has been condemned for its lack of transparency concerning content (Golderman and Connolly, 2007), it is, esteemed for creating avenues and opportunities for academics to search, track and analyse citations in their disciplines (Adriaanse and Rensleigh, 2011). The most valued advantage of GS over other citation resources such as Scopus and WOS is its free availability on the internet. Shapiro and Pearse (2010) praise GS for its ability to source data from other databases such as SSCI, and for 'offering citation counts for its citations, indicating how many times a particular item has been cited in other sources covered by GS'. The other feature that makes GS dependable is that one can make use of the International Standard Serial Number (ISSN) when in doubt about the name or title of the journal.

With regard to judicial citation of legal journals, data was obtained by conducting a so-called "focus search" on Butterworth Lexis Nexis database. The exact name or title of each journal evaluated was entered into the "exact phrase" search box, under the "law reports library". The results automatically display the number of incidences in which the exact journal name is mentioned in all the law reports. Twenty-one (21) journals accredited by the Department of Higher Education and Training (DHET) obtained from Southern African Bibliographic Network (SABINET) Online website

Ltd. (2016) were evaluated. On this website there is a link to the South African online journals in different subject fields, including the link to the South African electronic law journals. Only journals that show accreditation by the DHET and registration on IBSS and ISI were selected. This amounted to twenty-one journals that were finally used in this study.

Results and Discussion

Scholarly Citations

The number of papers published in each journal, the number of citations accomplished, the average number of citations each journal received, and the age of the journal is presented in Table 1. The table is arranged according to the average citation generated by Google Scholar, for each journal in descending order, that is, from the highest to the lowest. Ranking journals by average citation is the common method used in citation studies. Mann (1986) and Maru (1976) used a similar method in their evaluation of the use of periodicals by courts and journals, as well the evaluation of the impact of legal journals in the U.S.A respectively.

One of the notable findings of this ranking is that new journals with lesser number of papers or articles are cited more frequently than the older journals containing a large number of articles or papers. The *African Journal of Conflict Resolution* (AJCR) has the highest average number of citations with 4.91 average citations, followed by the *SA Crime Quarterly* (SACQ) with 3.36 average citations. This is despite the fact that these two journals have the lesser number of papers as compared to the other journals ranked, which have more papers or articles than the two. The two journals are also the second newest journals on the list, after the South African Journal of Bioethics and Law, whereas, the oldest journal (*South African Law Journal* / SALJ) in the list is ninth ranked. Schulze (2013) remarks that ‘because of the proliferation of new legal journals in South Africa, older legal periodicals no longer dominate the South African legal periodicals scene in the way they did for six decades ago.’ Lowe and Wallace (2011) acknowledge that ‘law journal article authors or scholars are more much likely to cite recent articles, than old ones and further that in the first five years after publication, the article is likely to receive twice

as many citations as it would do than in the next five-year period’.

This is similar to the ranking of legal journals by Maru (1976) who reports that out of 149 American law school journals that were evaluated, 33% of the citations were to materials not over two years old, 24% to materials 3 – 5 years old, 19% to 6 – 10 year old legal journal, 15% and 9% respectively to materials that were 11 – 20 years and over 20 years old. Ayres and Vars (2000) also hypothesise that recent scholarship will be cited more than older work.

The results in Table 1 also show that the two top ranked journals, published by non-governmental bodies are used more than the ones that are published under the auspices of law schools or universities. AJCR is published by the African Centre for the Constructive Resolution of Disputes (ACCORD), and SACQ by the Institute for Security Studies (ISS). The publishers of journals that were evaluated. Therefore, it is not surprising for Lowe and Wallace (2011) to identify the publisher as one of the variables that affect the likelihood of citation impact. In the ranking of legal journals conducted by Mann (1986), it was also discovered that non-law school journals perform better than law school affiliated law journals in terms of citation frequency. The other noteworthy factor about AJCR and SACQ is that they specialise in African conflict resolution and management as well as criminal law and justice, respectively. Therefore, the impact of subject matter on citation frequency can also be a determinant as Scott (2003) and Lowe and Wallace (2011) have also discovered.

The last and important notable discovery of this ranking relates to the mode of access to these law journals. Almost all the journals that are top of the list are accessible through open access platforms. The sixth placed *Potchefstroom Electronic Law Journal* (PELJ) is reputed to be the first legal journal to adopt open access in South Africa (Schulze 2013), and is freely accessible through the Southern African Legal Information Institute (SAFLII), with *Law, Democracy and Development Journal*. Other journals such as *African Human Rights Law Journal* (AHRLJ) and the *South African Human Rights Law Journal* (SAHRLJ) are accessible from the website of Faculty of Law, University of Pretoria. By implication, the ease of access to law journals increases the chances of citations to law reviews and articles. Research has also shown that articles available on open access platforms are cited more often than those not on open access (Donovan and Watson 2011).

Table 1: Scholarly Citation of SA Law Journals

Rank	Name of Journal	Publisher	Papers	Citations	Average Citations per paper	Age in Years
1	<i>African Journal of Conflict Resolution</i>	African Centre for the Constructive Resolution of Disputes (ACCORD)	268	1268	4.91	12
2	<i>SA Crime Quarterly</i>	Institute for Security Studies (ISS)	98	329	3.36	12
3	<i>TydskrifvirHedendaagse Romeins-HollandseReg</i>	University of Pretoria Faculty of Law	122	323	2.65	73
4	<i>African Human Rights Law Journal</i>	University of Pretoria Centre for Human Rights	323	726	2.25	20
5	<i>Law, Democracy and Development</i>	University of Western Cape Faculty of Law	71	172	2.24	19
6	<i>Potchefstroom Electronic Law Journal</i>	University of North-West Faculty of Law	193	395	2.05	18
7	<i>South African Journal on Human Rights</i>	Wits University Centre of Applied Legal Studies	408	759	1.86	31
8	<i>South African Journal of Bioethics and Law</i>	South African Medical Association	205	375	1.83	8
9	<i>South African Law Journal</i>	Juta publishers	486	847	1.74	109
10	<i>Annual Survey of South African Law</i>	University of South African Centre for Business Law	23	33	1.43	56
11	<i>SA Public Law</i>	Butterworths Publishers	248	331	1.33	30
12	<i>Journal of Judicial Science</i>	University of the Free State Faculty of Law	183	239	1.31	34
13	<i>De Jure</i>	University of Pretoria Faculty of Law	198	213	1.08	24
14	<i>Obiter</i>	University of Port Elizabeth Faculty of Law	597	547	0.92	80
15	<i>Stellenbosch Law Review</i>	University of Stellenbosch Faculty of Law	228	201	0.88	24
16	<i>Comparative and International Law in SA</i>	UNISA Institute of Foreign and of Comparative	1000	640	0.64	48
17	<i>ActaCriminologica</i>	Criminological and Victimological Society of Southern Africa (CRIMSA)	54	13	0.62	21
18	<i>South African Journal of Criminal Justice</i>	Juta Law	149	93	0.62	27
19	<i>ActaJuridica</i>	University of Cape Town Faculty of Law	61	14	0.23	58
20	<i>Fundamina: Journal of Legal History</i>	UNISA Faculty of Law	294	61	0.21	13
21	<i>Tydskrifvir die SuidAfrikaanseReg</i>	University of Johannesburg Faculty of Law	555	50	0.01	24

Judicial Citations

All the journals that were evaluated for scholarly citations were also included in the list for judicial citation evaluation as shown in Table 2. These results are also arranged according to the average number of judicial citations accomplished by each journal title, from the highest to the lowest number. These were generated by dividing the number of citations by the number of articles or papers published in each journal evaluated (Eisenberg and Wells 2014).

The results show that the most heavily cited journal in the judicial opinions in South Africa was *Annual Survey of South African Law* (ASSAL) with 9.4 average citations. Schulze (2013) describes the ASSAL as the annual review of the South African law which provides an exhaustive overview by recognised judicial experts and commentators in their fields, and further as an all-encompassing encyclopaedia of legal developments in South Africa during any particular year. Perhaps that makes it to

be one of the sought after legal journal by judicial experts in South Africa. The *Tydskrifvir Hedendaagse Romeins-Hollandse Reg* (THRHR), which is the second oldest journal in South Africa, is ranked number two with 5.05 average citations, followed by *Acta Juridica* which was third ranked legal journal in judicial opinions with 3.88 average citations. The *South African Law Journal*, which is the oldest legal journal in South Africa, is ranked number four with the citation average of 0.68.

At the bottom of table is the 48-year-old *Comparative and International Law in Southern Africa* (CILSA) with no citations, but with more than a thousand papers or articles. Probably, the reason for lack of judicial citations for this journal, despite having the largest number of articles, is that it provides mainly reviews of legal developments in countries such as Lesotho, Namibia, Swaziland, Zambia, and Zimbabwe. The most cited journals in legal scholarship, that is, AJCR and SACQ, also have no citations in the judicial opinions.

Table 2: Judicial Citations

Rank	Name of Journal	Papers	Judicial citations	Average citations per paper	Age in years
1	Annual Survey of South African Law	23	208	9.04	56
2	Tydskrifvir Hedendaagse Romeins-Hollandse Reg	122	617	5.05	73
3	Acta Juridica	61	237	3.88	58
4	South African Law Journal	486	332	0.68	109
5	Stellenbosch Law Review	228	71	0.31	24
6	De Jure	198	63	0.31	24
7	SA Public Law	248	37	0.14	30
8	South African Journal of Criminal Justice	149	15	0.1	27
9	South African Journal on Human Rights	408	37	0.09	31
10	Tydskrifvir die Suid Afrikaanse Reg	555	34	0.06	24
11	Journal of Juridical Science	183	12	0.06	34
12	Fundamina: Journal of Legal History	294	9	0.03	13
13	Acta Criminologica	54	2	0.03	21
14	Law, Democracy and Development	71	8	0.01	19
15	Obiter	597	8	0.01	80
16	African Human Rights Law Journal	323	6	0.01	20
17	African Journal of Conflict Resolution	268	0	0	12
18	SA Crime Quarterly	98	0	0	12
19	Potchefstroom Electronic Law Journal	193	0	0	18
20	South African Journal of Bioethics and Law	205	0	0	0
21	Comparative and International Law in Southern Africa	1000+	0	0	48

Out of twenty-one journals that were evaluated fifteen (71%) were in one way or another cited, whereas six (29%) journals were never cited in the judicial rulings. When looking at the ages of the journals that were never cited in judicial decisions, it was discovered that they had been in existence not for more than twelve years. These findings show that the oldest legal journal content was cited more frequently in the judicial publications, than the new ones. Pierce and Reuben (2010) argue that there is a decline in the use of modern legal scholarship by U.S.A courts. Crespi (2004) and Peters (1981) have also long predicted a decline in the number of judicial citations for law reviews from the top three international journals such as *Yale Law Review* (YLR), *Harvard Law Review* (HLR) and *Stanford Law Review* (SLR). This shows that that modern legal scholarship is becoming more disconnected from the practical legal concerns, and it is of less relevance to the legal practitioners and judges (Crespi (2004). Perhaps this is the same situation with the South African legal journals' content. The South African courts are gradually ignoring legal scholarship that appears in law journals. Pierce and Reuben (2010) write:

One of the reasons for apparent decline in judicial reliance on law journals is the emergence of the internet where most judges have easy and instant access to case law. Law reviews used to serve as easy research tools for judges, and now that the case easily accessible, it makes sense to for a judge to cut the middle man out of the research process.

Conclusion

This study has revealed variations in citation frequency with regard to scholarly and judicial impact of South African legal journals. Legal journals that are highly cited in legal scholarship are least cited in judicial opinions, and those that are cited highly in judicial opinions or law reports are least cited in legal scholarship. Scholarly citations are made up of journal articles that appear in relatively new journals, while judicial citations are made up of those that appear in journals that have been in existence for a long time. Furthermore, journals that are cited more

frequently in legal scholarship have specific focus in the field of law, and are affiliated to non-governmental organisations rather than to law schools, while those that are frequently cited in judicial decisions are legal in nature and are affiliated to law schools. It has also been shown that South African legal journals that are published through open access platforms are more cited by legal scholars and researchers than those that have not adopted these platforms. Open access legal journals are not cited most frequently in judicial opinions. Therefore, it is concluded that variables that serve as determinants of citation frequencies for South African legal journals have been identified as the age of the journal, mode access to the journal, its subject matter and its affiliation.

This study only looked at the citation frequency of legal journals, without paying attention to the specific articles and authors that have been cited more frequently. Consequently, in order to determine how articles and authors contribute to legal developments and judicial science in South Africa, further research can focus on the most heavily cited articles or authors.

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