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Who Studies International Law? Explaining Cross-national Variation in Compulsory International Legal Education

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Abstract

The compulsory study of international law is a universal component of legal education in some states but extremely uncommon or non-existent in others. This article uses global data and statistical methods to test a number of conceivable explanations for this puzzling feature of international society. In contrast to much of the empirical literature on state behaviour in relation to international law, we find that functionalist and socio-political variables carry little explanatory power and that historical variables – specifically, legal tradition and regional geography – instead account for the overwhelming majority of the global pattern. We explore potential explanations for these findings and discuss implications for scholars, legal educators and policy-makers.

Since the mid-20th century, international law has exhibited an overtly self-promotional quality; in addition to articulating primary and secondary rules of conduct, the law has called upon states to cultivate public knowledge about those rules. Numerous resolutions from the United Nations (UN) General Assembly have prodded states to foster the study of international law in higher education.[1] A resolution from 1992, for example, invited national governments to 'encourage their educational institutions to introduce courses in international law for students studying law, political

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1 See, e.g., GA Res. 54/102, 9 December 1999, para. 12; GA Res. 44/28, 4 December 1989, para. 9; GA Res. 1816 (XVII), 18 December 1962, para. 1; GA Res. 176 (II), 21 November 1947, para. 1.

science, social sciences and other relevant disciplines'.[2] Similarly, a handful of major multilateral treaties require parties to propagate treaty norms.[3] Parties to the Geneva Conventions of 1949, for instance, 'undertake … to disseminate the text of [the conventions] as widely as possible in their programmes of military and, if possible, civil instruction, so that the principles thereof may become known to the entire population'.[4] These efforts reflect a standard assumption that education can be a powerful mechanism of norm socialization and maintenance.

Yet the commonality of international legal education varies immensely across states. Data on the curricula of over 2,000 law schools from around the world show acute disparities in the extent to which law students must complete a course on public international law en route to obtaining a law degree.[5] Compulsory international legal education (CILE) is extremely uncommon or non-existent in places such as South Korea and the USA but more or less universal in places such as China, Iran and Russia.[6]

This variation is puzzling. International law, after all, applies to every state and is, in that sense, equally relevant to every law student. Support for the various UN General Assembly resolutions and multilateral treaties that promote the study of international law has been widespread.[7] And an influential line of research in sociology has documented a multifaceted shift towards global standardization in the structural features and substantive content of mass education.[8] There is evidence that human rights education, for example, has spread to primary and secondary schools throughout the world[9] and that universities tend to follow common curricular models and trends.[10] There is also evidence of increasing isomorphism in legal education. Courses in alternative dispute resolution and programmes of public

2 GA Res. 47/32, 25 November 1992, annex para. IV(2).

3 See, e.g., African Charter on Human and Peoples' Rights 1998, 1520 UNTS 217, Art. 25; International Convention for the Protection of All Persons from Enforced Disappearance 2006, 2716 UNTS 3, Art. 23(1); Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment 1984, 1465 UNTS 85, Art. 10(1); Protocol Additional to the Geneva Conventions of 12 August 1949, and Relating to the Protection of Victims of International Armed Conflicts 1977, 1125 UNTS 3, Art. 83(1).

4 Geneva Convention I for the Amelioration of the Condition of the Wounded and Sick in Armed Forces in the Field 1949, 75 UNTS 31, Art. 47; Geneva Convention II for the Amelioration of the Condition of Wounded, Sick and Shipwrecked Members of Armed Forces at Sea 1949, 75 UNTS 85; Geneva Convention III relative to the Treatment of Prisoners of War 1949, 75 UNTS 135; Geneva Convention IV Relative to the Protection of Civilian Persons in Time of War 1949, 75 UNTS 287.

5 See generally R. Scoville, *Who Studies International Law? A Global Survey* (2014), available at http://pilmap.org/.

6 *Ibid.*

7 See, e.g., GA Res. 217 (III)A, 10 December 1949 (48 votes in favor, 0 votes against, 8 abstentions).

8 See, e.g., Meyer, Ramirez and Soysal, 'World Expansion of Mass Education, 1870–1980', 65 *Sociology of Education* (1992) 128.

9 Ramirez, Suárez and Meyer, 'The Worldwide Rise of Human Rights Education', in A. Benavot and C. Braslavsky (eds), *School Knowledge in Comparative Historical Perspective: Changing Curricula in Primary and Secondary Education* (2007) 35.

10 D.J. Frank and J. Gabler, *Reconstructing the University: Worldwide Shifts in Academia in the 20th Century* (2006).

interest law, among other offerings, have reportedly proliferated among national jurisdictions in recent decades.[11] This research suggests the existence of a world society that socializes actors to implement common programmes of instruction, irrespective of local conditions and needs. In such a context, it is intriguing that universities would adopt wildly different approaches to the one area of law that has traditionally claimed universality.

Cross-national variation in CILE is also likely to be important. It could very well indicate an asymmetrical diffusion of knowledge. It may reflect differences in elite attitudes on the value of international law. And it conceivably generates disparate levels of norm internalization and support among national publics.[12] Indeed, recent experimental research has found that individuals are more likely to favour action that conforms to international obligations if they are aware that it conforms.[13] This suggests that legal professionals in states with high rates of CILE may embrace international law-compliant behaviour to a greater extent than their counterparts in states with low rates of CILE. Insofar as those same professionals occupy influential positions in government, industry and civil society, their CILE-based views could very well shape state behaviour and the efficacy of international norms.[14]

But what accounts for the variation? We seek to provide answers. Using a new dataset on CILE, we test a range of hypotheses drawn from empirical research on state behaviour towards international law. In brief, we find that legal tradition is not only the most important determinant of CILE rates but almost independently dispositive; whereas civil law and Islamic law jurisdictions tend to have extremely high rates of CILE, the rates in common law jurisdictions tend to be quite low. To the extent that CILE rates vary among common law states, the variation is almost entirely explained by geographic region.

The study makes a number of contributions. Most generally, it advances the study of comparative international law. Considerable research has identified cross-national differences of approach to international law,[15] and scholars have proffered a variety of explanations for these differences. Some point to functionalist

[11] See, e.g., Cummings and Trubek, 'Globalizing Public Interest Law', 13 *University of California Los Angeles Journal of International Law and Foreign Affairs* (2008) 1, at 37–40; Saegusa and Dierkes, 'Integrating Alternative Dispute Resolution into Japanese Legal Education', 10 *Journal of Japanese Law* (2005) 101, at 105–107.

[12] See generally Scoville, 'International Law in National Schools', 92 *Indiana Law Journal* (2017) 1449 (discussing the potential significance of national study patterns).

[13] Chilton, 'The Laws of War and Public Opinion: An Experimental Study', 171 *Journal of Institutional and Theoretical Economics* (2015) 181; Wallace, 'International Law and Public Attitudes toward Torture: An Experimental Study', 67 *International Organization* (*IO*) (2013) 105.

[14] Scoville, *supra* note 12, at 1484–1497.

[15] E.g., Anghie and Chimni, 'Third World Approaches to International Law and Individual Responsibility in Internal Conflicts', 2 *Chinese Journal of International Law* (2003) 77; Roeder, 'Traditional Islamic Approaches to Public International Law: Historic Concepts, Modern Implications', 72 *Zeitschrift für ausländisches öffentliches Recht und Völkerrecht* (2012) 521. The leading edited volume is A. Roberts *et al.* (eds), *Comparative International Law* (2018).

explanations by emphasizing the role of state interests.[16] On these accounts, states adopt divergent approaches to international law because they encounter strategic incentives to do so. Others highlight socio-political explanations by focusing on variables such as democracy, which is said to condition affinities for international law independent of strategic interests.[17] Still others emphasize historical explanations by suggesting that actors instinctively approach international law in disparate ways after acquiring unique values, understandings and techniques from their respective national legal traditions.[18] All of these explanations appear sensible, but they are essentially untested hypotheses that leave substantial uncertainty about the relative causal significance of variables such as national interest and legal tradition. In testing for the determinants of CILE, we offer fresh empirical insights on the etiology of comparative international law.

We do so, moreover, on the basis of atypical evidence. The most common approach in the literature has been to explore a single state's or region's treatment of a discrete legal question.[19] This work has been valuable but heavily reliant on qualitative methods and focused on the practices of a small number of states, of which a majority are major powers. The CILE data, in contrast, are not only sufficiently voluminous to permit quantitative analysis but also globally inclusive, covering states from Afghanistan to Zimbabwe. The data thus stand as a particularly promising source of discovery.

The study also offers a range of specific lessons for scholars and policy-makers. In demonstrating the influence of legal tradition and regional geography, the findings highlight the resilience of legal families in an era of extensive globalization. In establishing that CILE is much more pervasive in civil law and Islamic law states, the findings raise new questions about the efficacy of international norms in relation to common law jurisdictions, including those that tend to identify themselves as essential advocates for the international rule of law. And in demonstrating that CILE rates do not reflect variations in other conditions, such as national functional need for international legal knowledge, the findings suggest opportunities for educational reform.

The study proceeds as follows. We describe our dataset and methodology, test a succession of facially plausible explanations for cross-national variation with respect to CILE and then reveal the results. After doing so, we explore potential mechanisms driving the results, including path dependency, diffusion and tradition-specific philosophies of legal education, and then conclude by discussing implications.

[16] E.g., Bradford and Posner, 'Universal Exceptionalism in International Law', 52 *Harvard International Law Journal* (2011) 1; Delahunty, 'The Battle of Mars and Venus: Why Do American and European Attitudes toward International Law Differ?', 4 *Loyola University Chicago International Law Review* (2006) 11.

[17] E.g., Slaughter, 'International Law in a World of Liberal States', 6 *European Journal of International Law* (1995) 503, at 532–534.

[18] E.g., Renteln, 'Cultural Bias in International Law', 92 *Proceedings of the American Society of International Law* (1998) 232; Picker, 'Comparative Legal Cultural Analyses of International Economic Law: A New Methodological Approach', 1 *Chinese Journal of Comparative Law* (2013) 21.

[19] E.g., D. Shelton (ed.), *International Law and Domestic Legal Systems* (2011); D. Sloss (ed.), *The Role of Domestic Courts in Treaty Enforcement: A Comparative Study* (2009); D.B. Hollis *et al.* (eds), *National Treaty Law and Practice* (2005).

1 The CILE Dataset

The starting point for the study is the CILE dataset, which comprises information on the curricula of over 2,000 law schools from a majority of states.[20] In 2014, one of us collected these data from foreign governments, the websites of university law faculties and, in some cases, email correspondence with faculty members. Where the available sources indicated that the core curriculum for a law degree includes a compulsory course on 'public international law', 'international law', 'international human rights law' or any other topic that plainly implicates public international law, the associated law school was coded as having CILE. Inversely, where courses on public international law were elective, unavailable or mandatory only within elective course streams, the associated school was coded as not having CILE. From these data, we generated national CILE rates, which indicate the percentage of law schools in each state that require students to complete at least one course in public international law. In all, the dataset contains rates for 161 states.[21]

Figure 1 geographically depicts these rates, which range from a minimum of 0 per cent to a maximum of 100 per cent and an average of 79.6 per cent. The data show significant fluctuations in the commonality of CILE; in many parts of the world, all law students must study public international law to obtain their degree, but, in others, such compulsory training is rare or non-existent. Figure 2 shows the distribution of CILE rates across all states in the dataset. Two features are immediately striking about this distribution. First, it is almost entirely bimodal; the great majority of states have either a very high rate or a very low rate, with 82.6 per cent of states falling within 10 per cent of either 0 per cent or 100 per cent. This indicates a high degree of intra-state uniformity with respect to CILE. Second, most states have high rates of CILE. In total, 68.9 per cent have rates of 90 per cent or higher, and 83.2 per cent have rates of 50 per cent or higher, indicating that, in general, compulsory international legal education is the norm around the world.

To be clear, the data do not indicate the total volume of international legal education that occurs. They do not account for bar examinations, judicial training or any other non-university source of compulsory instruction; courses that are mandatory only for advanced law degrees, such as master of law and doctorate of law degrees; or electives or training that professors might incorporate into courses with titles that are unrelated to public international law. Nevertheless, the data reflect all or nearly all law school curricula in a majority of states. And while the countries for which there is no information tend to exhibit lower levels of economic development, we think it unlikely that they systematically differ from the geographically, culturally and politically diverse collection of other lesser-developed countries for which data were successfully

[20] See Scoville, *supra* note 5.

[21] The dataset identifies a total of 3,423 schools in 193 independent states but provides curricular data for only 2,053 schools in 161 states (60 per cent of identified schools), meaning that 40 per cent of schools are omitted from the analysis. We proceed on the assumption that, for each state, the schools whose curricula are observable are representative of those that are not. To the extent that any measurement error results from this assumption, it should be normally distributed and thus should not bias the results.

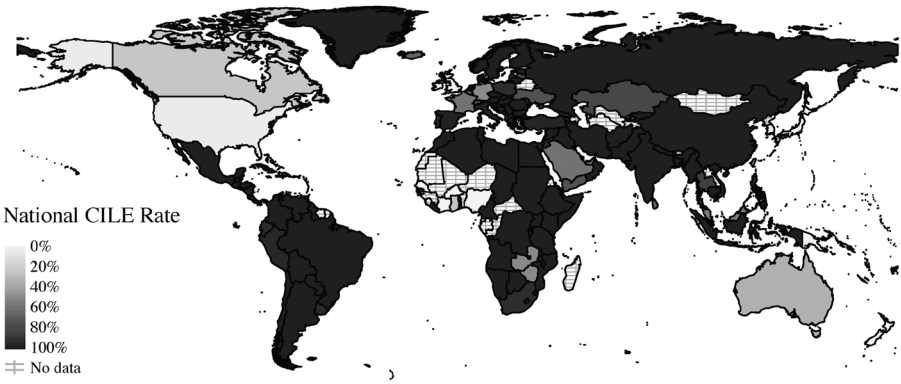

Figure 1: *Geographic Distribution of CILE Rates*

collected. In short, we believe that the schools on which we were able to collect data should be representative of those on which we were unable to do so.

2 Hypotheses and Tests

What explains the global patterns? Unaware of any existing research on this question,[22] we have no prior expectations regarding the factors that will or will not correlate with CILE. High rates often appear to correspond with national laws that compel or recommend the study of international law for all law students,[23] but it is unclear why some states would adopt such measures, while others would not. Thus, we derive a list of plausible hypotheses from research on state behaviour in relation to international law. We divide these hypotheses into three categories – functional, socio-political and historical – and test each in turn below.

To carry out these tests, we classify states into two categories: (i) 'high CILE' states in which at least half of the universities require their law students to complete a course on international law and (ii) 'low-CILE' states in which less than half of the universities mandate such a course. We adopt this approach rather than analyse variations in absolute values because we think it is more analytically useful. In other words, though two states may have rates of, say, 75 per cent and 85 per cent, we think it is more revealing to treat them both as high-CILE states and analyse what accounts for their difference from low-CILE states than it would be to try to account for the small gap between their high rates. Figure 3 depicts the categorization of each state.[24]

[22] Anthea Roberts has also collected and analysed extensive global data on international legal education, but her project focuses on issues other than compulsory international legal education (CILE) and leaves the task of causal testing and inference to others. See generally A. Roberts, *Is International Law International?* (2017).

[23] See generally Scoville, *supra* note 5 (reporting national laws of this kind in Brazil, China, Colombia, Ethiopia, India, Iran, Kenya, Pakistan and Russia, among other states).

[24] Table A1 and Table A2 in the Appendix list the states in each category.

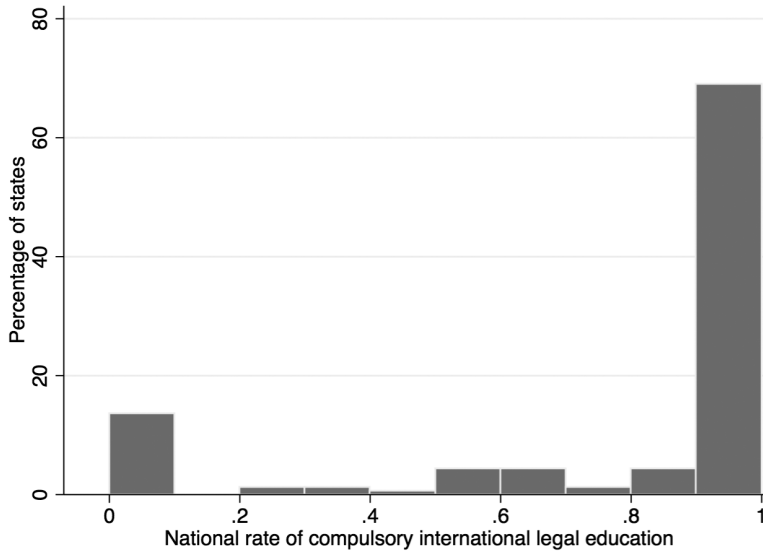

Figure 2: *Numerical Distribution of CILE Rates*

After establishing these classifications, we analyse their relationship with each explanatory variable of interest. We begin by quantitatively assessing the strength of the bivariate relationship between each potential CILE predictor and the outcomes of high and low CILE. For each variable that is continuous (that is, non-binary), we separately calculate its average value for states falling into the high- and low-CILE categories and use t-tests to assess whether the two averages are statistically distinguishable. For explanatory variables that are binary, we separately calculate the percentage of cases for which the variable is present or absent across the high- and low-CILE categories and use a chi-squared statistic to test the significance of the results. To check the robustness of the bivariate results, we run a set of multivariate logistic regressions that include all of the possible explanatory variables.

A Functionalist Explanations

A functionalist approach to international law understands the creation of international legal rules as the product of demand for mechanisms to improve efficiency and solve cooperation problems, such as by reducing transaction costs and increasing transparency.[25] As applied to law school curricula, such an approach would posit that schools respond to needs for training in areas of law that are particularly active. To illustrate, one might expect law schools in European Union (EU) member states to be more likely than those in non-member states to require training in EU law. From

[25] See, e.g., R.O. Keohane, *After Hegemony: Cooperation and Discord in the World Political Economy* (1984); Dunoff and Trachtman, 'A Functional Approach to Global Constitutionalism', in J.L. Dunoff and J.P. Trachtman (eds), *Ruling the World? Constitutionalism, International Law, and Global Governance* (2009) 3.

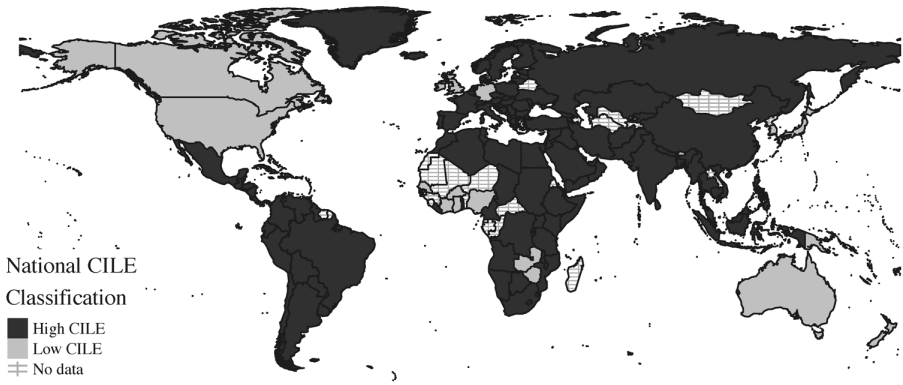

Figure 3: *High- and Low-CILE Classifications*

this perspective, training in international law should be in especially high demand in states where societal actors – governments, firms, courts and so on – are more likely to confront issues that touch on international law.

We identify four variables that should increase societal demand for training. The first is trade openness. The more a state participates in the global trading system, the more likely it is to be involved in disputes about international trade rules and the more domestic demand there should be for expertise in the intricacies of international trade law. Measuring trade openness as the total annual value of imports and exports as a percentage of a state's gross domestic product (GDP),[26] we expect that law schools in states where trade accounts for a greater proportion of the economy will be more likely to require training in international law.

The second variable is globalization, which refers to the 'increase in the flow of people, capital, goods, services, and ideas across national borders'.[27] Scholars have long argued that globalization creates a need for international legal training by generating political and economic links that rely upon supra-national norms.[28] By this logic, it is plausible that the popular need for international legal training is greatest in countries that are more globalized. We measure globalization using the Swiss Economic Institute's (KOF) Index of Globalization – a composite of 23 different indicators of economic, social and political globalization that ranges from 0 (least globalized) to 100 (most globalized)[29] – and expect that law schools in states with higher globalization scores will be more likely to exhibit high CILE.

[26] Data come from the World Bank's World Development Indicators dataset. See World Bank, *World Development Indicators* (2011).

[27] Dunoff and Trachtman, *supra* note 25, at 5.

[28] E.g., see generally W. van Caenegem and M. Hiscock (eds), *Internationalisation of Legal Education: The Future Practice of Law* (2014).

[29] Dreher, 'Does Globalization Affect Growth? Evidence from a New Index of Globalization', 38 *Applied Economics* (2006) 1091.

The third variable is economic development. Richer countries are home to larger numbers of multinational corporations, more likely to be a source of foreign direct investment and more likely to participate in international organizations, all of which generates need for expertise in international law.[30] We measure economic development as real GDP per capita[31] and, following conventional practice, take the natural log of this measure to compensate for the fact that differences among states at the low end of the distribution are more impactful than differences at the high end.[32] We expect that law schools in states with higher GDP per capita will be more likely to exhibit high CILE.

The final variable is monism/dualism. A traditional characterization holds that monist legal systems embrace the integration of international law and municipal law, while dualist systems hold the two apart. Given these structural relations, international law should play a greater role in the legal systems of monist states, which should in turn experience greater demand for international legal expertise. We follow previous research in measuring monist states as those in which the municipal constitution designates treaties as either superior or equal to domestic law[33] and rely on data from the Comparative Constitutions Project.[34] Our expectation is that monist states respond to the projected demand for international legal expertise by adopting CILE at higher rates.

Table 1 displays average values across the high- and low-CILE groups for each of the continuous functionalist variables. On these measures, high- and low-CILE states are virtually indistinguishable from one another. In the cases of trade openness and economic development, the differences indicate a negative relationship to CILE, which is the opposite of our prediction. In the case of globalization, the difference indicates a positive relationship to CILE, which is consistent with our prediction. In all cases, however, the differences are small and fail to reach statistical significance, suggesting that these variables cannot account for cross-national disparities in CILE classifications.

Table 2 displays the cross-tabulation for monism/dualism. In total, 91.23 per cent of monist states and 82.65 per cent of dualist states qualify for the high-CILE designation. Thus, monism does exhibit a positive relationship with CILE, but this difference does not meet standard levels of statistical significance, meaning that, from a

[30] Kyrkilis and Pantelidis, 'Macroeconomic Determinants of Outward Foreign Direct Investment', 30 *International Journal of Social Economics* (2003) 827; Shanks, Jacobson and Kaplan, 'Inertia and Change in the Constellation of International Governmental Organizations, 1981–1992', 50 *IO* (1996) 593.

[31] Data come from Gleditsch, 'Expanded Trade and GDP Data', 46 *Journal of Conflict Resolution* (*JCR*) (2002) 712.

[32] By logging this measure, we aim to compensate for the fact that the difference between, say, $1,000 and $2,000 in gross domestic product (GDP) per capita is more significant than the difference between $30,000 and $31,000, even though both amount to a difference of $1,000.

[33] E.g., Ginsburg, Chernykh and Elkins, 'Commitment and Diffusion: How and Why National Constitutions Incorporate International Law', 2008 *University of Illinois Law Review* (2008) 201.

[34] Elkins, Ginsburg and Melton, *Characteristics of National Constitutions, Version 2.0* (2014), available at http://comparativeconstitutionsproject.org. We omit from the analysis states whose constitutions do not mention treaties. Where 2013 data are not available in this dataset, we use the most recent available year.

Table 1: Functionalist Explanations for Variation in CILE (Continuous Variables)

Variables	Average for low-CILE states	Average for high-CILE states	Statistically significant difference?
Trade openness (trade as % of GDP)	100.52%	91.66%	No
Globalization (KOF globalization index)	59.94	60.40	No
Economic development (GDP per capita in dollars, logged)	8.97	8.75	No

Table 2: Functionalist Explanations for Variation in CILE (Binary Variables)

Monism/Dualism	Percentage of states with		Statistically significant difference?
	Low CILE (%)	High CILE (%)	
Monist (57)	8.77 (5)	91.23 (52)	No
Dualist (98)	17.35 (17)	82.65 (81)	
Overall (155)	14.19 (22)	85.81 (133)	

Note: Parentheses indicate number of states.

statistical standpoint, the relationship between monism and CILE is indistinguishable from chance.

In sum, none of the functionalist variables explain cross-national differences in CILE. This finding is surprising given the ubiquity of functionalist accounts of state behaviour towards international law,[35] and it suggests one sense in which law schools are not highly responsive to societal needs.

B Socio-Political Explanations

The next set of explanations focuses on socio-political conditions. In contrast to functionalist explanations, which take a state's preferences as given in light of its functional needs, these variables speak to factors that shape a state's social or political affinity for international law regardless of functional need for international law expertise. The first is regime type. An influential literature at the intersection of law and international relations theory posits that liberal and illiberal states approach international law in divergent ways.[36] Liberal states are said to be more likely to comply with international rules because they are committed to the rule of law, tend to accord supreme status to international law in their domestic constitutions and exhibit higher levels of transparency, which facilitates monitoring.[37] By this logic, liberal states should value

[35] See, e.g., Hafner-Burton, Victor and Lupu, 'Political Science Research on International Law: The State of the Field', 106 *American Journal of International Law* (*AJIL*) (2012) 47; Shaffer and Ginsburg, 'The Empirical Turn in International Legal Scholarship', 106 *AJIL* (2012) 1.

[36] See, e.g., Raustiala and Victor, 'Conclusions', in D.G. Victor *et al*. (eds), *The Implementation and Effectiveness of International Environmental Commitments* (1998) 659; Slaughter, *supra* note 17, at 532–534.

[37] Raustiala and Victor, *supra* note 36; Slaughter, *supra* note 36.

international legal knowledge more than illiberal states and, in turn, make greater efforts to promote associated studies. We measure regime type using a 21-point index from the Polity IV dataset, which comprises indicators of the openness and competitiveness of political institutions and constraints on government power, ranging from –10 (most autocratic) to +10 (most democratic). Law schools in states that are more democratic should be more likely to have high rates of CILE.

The second socio-political variable is human rights protection. Research has found a link between a state's respect for human rights and its willingness to subject itself to strong international legal enforcement mechanisms. For example, states with better human rights records are more likely to join the International Criminal Court[38] and commit to the optional protocols of human rights treaties, which establish more intrusive individual complaint mechanisms.[39] This evidence raises the possibility that state respect for human rights fosters a more general tendency to embrace international law, including in the curricula of legal education. We measure human rights protection using the Latent Human Rights Protection Scores, which use 13 datasets on various aspects of political repression to derive overall levels of rights protection.[40] Our expectation is that states with higher scores will be more likely to have high rates of CILE.

The third socio-political variable concerns links to global civil society. Research in sociology, political science and cultural anthropology shows that international non-governmental organizations (INGOs) are a key conduit through which international norms diffuse to domestic institutions and political culture.[41] From this perspective, societies with greater concentrations of INGO activity should be more culturally disposed towards international law and, thus, more likely to include it as a mandatory component of legal education. We measure global civil society using data from the *Yearbook of International Associations*, which provides an annual count of the total number of INGOs that claim at least one member in each state.[42] Following common practice,[43] we divide those annual counts by population size to produce comparable measures of relative INGO prevalence and expect that states with greater numbers of INGOs per capita will have higher rates of CILE.

[38] Powell, 'Two Courts Two Roads: Domestic Rule of Law and Legitimacy of International Courts', 9 *Foreign Policy Analysis* (2013) 349.

[39] Cole, 'Sovereignty Relinquished? Explaining Commitment to the International Human Rights Covenants, 1966–1999', 70 *American Sociological Review* (*ASR*) (2005) 472.

[40] Fariss, 'Respect for Human Rights Has Improved over Time: Modeling the Changing Standard of Accountability', 108 *American Political Science Review* (*APSR*) (2014) 297.

[41] S.E. Merry, *Human Rights and Gender Violence: Translating International Law into Local Justice* (2005); Frank, Camp and Boutcher, 'Worldwide Trends in the Criminal Regulation of Sex, 1945 to 2005', 75 *ASR* (2010) 867; Kim, 'International Nongovernmental Organizations and the Global Diffusion of National Human Rights Institutions', 67 *IO* (2013) 505.

[42] See Union of International Associations, *Yearbook of International Organizations* (2018), available at https://uia.org/ybio/.

[43] E.g., Neumayer, 'Do International Human Rights Treaties Improve Respect for Human Rights?', 49 *JCR* (2005) 925.

Table 3: Socio-Political Explanations for Variation in CILE (Continuous Variables)

Variable	Average for low-CILE states	Average for high-CILE states	Statistically significant difference?
Regime type (Polity 2 index)	6.94	4.89	No
Human rights protection (Fariss scores)	2.05	0.72	Yes***
Global civil society (INGOs per capita)	0.58	0.34	No

Note: * $p \leq 0.10$; ** $p \leq 0.05$; *** $p \leq 0.01$.

Table 3 displays the average values of the socio-political variables across states in the high- and low-CILE groups. All three variables exhibit slight differences in the opposite direction of our prediction. High-CILE states appear to be less democratic, more prone to human rights violations and less embedded in global civil society. Nevertheless, only the differences in human rights protection are statistically significant. One possible interpretation of this finding is that states adopt CILE to help defuse internal or external criticism about lack of respect for international law, including human rights law. Another is that states with poor track records on human rights adopt CILE in order to improve. We currently lack the longitudinal data necessary to test these possibilities, but both raise intriguing questions for future research. In sum, most of the socio-political variables fail to explain variation in CILE, suggesting that law school curricula are substantially disconnected from the political preferences of national governments.

C Historical Explanations

The final set of explanations focuses on national characteristics that are exogenously given and largely unchangeable. These characteristics are the product of historical circumstance and independent of both functional needs and socio-political attitudes. The first is state age, which could predict CILE in either of two opposite ways. On the one hand, it might correlate positively, such that older states, which tend to be Western and relatively powerful, fall into the high-CILE category more often than newer states, which tend to be part of the global South.[44] This relationship might result from conceivably age-based disparities in national affinity for international norms; for most of modern history since Vitoria, the West has used international law to facilitate colonization and imperialism.[45] Having benefited from this history, older states might view international law favourably and respond by adopting CILE at high rates. Newer states, in contrast, might be less inclined to pursue CILE if they object to

[44] Rotberg, 'The Failure and Collapse of Nation-States: Breakdown, Prevention, and Repair', in R.I. Rotberg (ed.), *When States Fail: Causes and Consequences* (2003) 1.

[45] See generally A. Anghie, *Imperialism, Sovereignty and the Making of International Law* (2005).

the long-standing domination of international institutions and law-making by older and more powerful states.[46]

On the other hand, newer states may be more prone to high CILE than older states. In the decades after World War II, international law began to foster arguments for decolonization and support claims of independence more generally, with the UN, itself a product of international law, positioned as a central global authority for recognizing such claims.[47] States have thus inverted international law, at least in part, from a device that legitimates the domination of the strong against the weak to one that the weak can use to limit abuse by the strong. From this perspective, newer states might embrace international law more than older states, including by adopting CILE at higher rates. To account for such divergent possibilities, we treat state age as a bidirectional hypothesis. We measure our independent variable using dates of independence from the Issue Correlates of War Colonial History Dataset[48] and take the natural log of this measure to reduce the skewness of its distribution.

The second historical factor is legal tradition, which refers to 'deeply rooted, historically conditioned attitudes about the nature of law, about the role of law in the society and the polity, about the proper organization of the legal system, and about the way law is or should be made, applied, studied, perfected, and taught'.[49] Research has suggested that legal traditions such as the common law and the civil law shape national laws and policies across a wide range of matters, notwithstanding the homogenizing influence of globalization.[50] Economists, for instance, have found that 'civil law is associated with a heavier hand of government ownership and regulation' and that 'common law is associated with lower formalism in judicial procedures and greater judicial independence'.[51] Similar dynamics reportedly extend to international law. For example, Sara Mitchell and Emilia Powell find that civil law states are more likely than common law and Islamic law states to commit to the International Court of Justice's compulsory jurisdiction, and Pierre-Hughes Verdier and Mila Versteeg find that civil law states are far more likely than common law states to allow for the direct application of international law.[52]

[46] Cf., e.g., J.K. Gamble and D.D. Fischer, *The International Court of Justice: An Analysis of a Failure* (1976) (describing how newer states have traditionally evinced greater scepticism towards the International Court of Justice).

[47] Claude, 'Collective Legitimization as a Political Function of the United Nations', 20 *IO* (1966) 367.

[48] P.R. Hensel, *ICOW Colonial History Data Set, Version 1.0* (2014), available at www.paulhensel.org/icowcol.htm.

[49] R.P. Pérez-Perdomo and J.H. Merryman, *The Civil Law Tradition: An Introduction to the Legal Systems of Europe and Latin America* (2007).

[50] See, e.g., La Porta, Lopez-de-Silanes and Shleifer, 'The Economic Consequences of Legal Origins', 46 *Journal of Economic Literature* (2008) 285, at 286.

[51] *Ibid.*, at 286.

[52] E.g. S.M. Mitchell and E.J. Powell, *Domestic Law Goes Global* (2011); Verdier and Versteeg, 'Modes of Domestic Incorporation of International Law', in W. Sandholtz and C.A. Whytock (eds), *Research Handbook on the Politics of International Law* (2017) 149, at 168.

There is no single, agreed-upon typology for classifying legal traditions, and scholars have disagreed about the appropriateness of different distinctions.[53] Given this disagreement, we adopt the broadest concept of legal tradition, classifying all states into common law, civil law, Islamic law and mixed legal traditions. This typology has been employed frequently by political scientists, who have found the categories to have robust explanatory power in accounting for patterns in government behaviour towards the law.[54] To classify states, we use the groupings defined by Emilia Powell and Sara Mitchell[55] and anticipate that civil law states will be the most likely to have high rates of CILE, given that they appear to be the most favourably disposed towards the international legal system overall.

The final historical factor is region. There is substantial evidence that norms diffuse more readily among actors located in spatial proximity to one another.[56] For instance, pension privatization spread within Latin America before it appeared in other parts of the world,[57] and states have been more inclined to participate in, and comply with, Article VIII of the International Monetary Fund when their regional counterparts do likewise.[58] It is thus plausible that states within a given region will converge on similar curricula. We code states using UN continental regional classifications[59] – Africa, Americas, Asia, Europe and Oceania – and add two additional, narrower classifications to better represent groupings of legal peers: Middle East and North Africa and post-Soviet Union. Our expectation is that there will be a convergence of CILE rates within each of these regions.

Table 4 displays the average levels of state age (logged) across high- and low-CILE states. The levels for these two groups are almost indistinguishable. Although high-CILE states are slightly older on average than low-CILE states, the difference is not statistically significant, suggesting that state age is unrelated to CILE.

Table 5 displays high- and low-CILE outcomes for legal tradition and region. Compared to functionalist and socio-political variables, these factors offer robust explanatory power. In fact, a combination of legal tradition and region can explain most variation across the entire sample. On the one hand, civil law and Islamic law tradition are extremely strong predictors of high national rates of compulsory training: 95 per cent of civil law states and 100 per cent of Islamic law states fall into

53 For a discussion of different approaches, see Husa, 'Legal Families', in J.M. Smits (ed.), *Elgar Encyclopedia of Comparative Law* (2006) 382.

54 E.g., McLaughlin Mitchell, Ring and Spellman, 'Domestic Legal Traditions and States' Human Rights Practices', 50 *Journal of Peace Research* (2013) 189, at 189–202 (finding that common law states uphold better human rights practices); D. Zartner, *Courts, Codes, and Custom: Legal Tradition and State Policy toward International Human Rights and Environmental Law* (2014) (finding that civil law states are more likely to ratify human rights and environmental law treaties).

55 Powell and Mitchell, 'The International Court of Justice and the World's Three Legal Systems', 69 *Journal of Politics* (2007) 397.

56 Strang and Soule, 'Diffusion in Organizations and Social Movements: From Hybrid Corn to Poison Pills', 24 *Annual Review of Sociology* (1998) 265, at 275.

57 K. Weyland, *Bounded Rationality and Policy Diffusion: Social Sector Reform in Latin America* (2006).

58 Simmons, 'The Legalization of International Monetary Affairs', 54 *IO* (2000) 573, at 596–597.

59 United Nations Statistics Division, *Methodology: Standard Country or Area Codes for Statistical Use (M49)*, available at https://unstats.un.org/unsd/methodology/m49/.

Table 4: Historical Explanations for Variation in CILE (Continuous Variables)

Variable	Average for low-CILE states	Average for high-CILE states	Statistically significant difference?
State age (logged)	4.30	4.38	No

Table 5: Historical Explanations for Variation in CILE (Binary Variables)

	Percentage of states with		Statistically significant difference?
	Low CILE (%)	High CILE (%)	
Legal tradition			
Civil law (80)	5.00 (4)	95.00 (76)	Yes***
Common law (45)	42.22 (19)	57.78 (26)	Yes***
Islamic law (20)	0.00 (0)	100.00 (20)	Yes**
Mixed (16)	25.00 (4)	75.00 (12)	No
Region			
Africa (28)	17.86 (5)	82.14 (23)	No
Americas (33)	6.06 (2)	93.94 (31)	Yes*
Asia (17)	17.65 (3)	82.35 (14)	No
Europe (36)	11.11 (4)	88.89 (32)	No
Middle East and North Africa (24)	0.00 (0)	100 (24)	Yes**
Oceania (13)	100 (13)	0.00 (0)	Yes***
Post-Soviet Union (10)	0.00 (0)	100 (10)	No
Overall (161)	16.77 (27)	83.23 (134)	

Note: Parentheses indicate number of states. * $p \leq 0.10$; ** $p \leq 0.05$; *** $p \leq 0.01$.

the high-CILE classification, compared to 83.23 per cent of the overall sample, and the differences are statistically significant. On the other hand, only 57.78 per cent of common law states fall into the high-CILE classification. This figure is markedly lower than that of the overall sample, and the difference between them is statistically significant at the < 0.01 level, showing that common law states overall are less likely to exhibit high rates of compulsory training. The commonality of the high-CILE classification among states with mixed systems is statistically indistinguishable from that of the overall sample, suggesting that mixed systems are neither more nor less likely to adopt compulsory programmes of instruction.

Canada nicely illustrates these dynamics. Most of the Canadian provinces use only the common law, but Quebec maintains elements of a civil law system inherited from the French. Notwithstanding the global tendency for high levels of intra-state uniformity with respect to CILE,[60] Canadian law schools take markedly different approaches

[60] See Figure 2 in this article.

Table 6: Regional Variation in CILE among Common Law States

	Percentage of common law states with		Statistically significant difference?
	Low CILE (%)	High CILE (%)	
Region			
Africa (9)	22.22 (2)	77.78 (7)	No
Americas (14)	14.29 (2)	85.71 (12)	Yes***
Asia (7)	14.29 (1)	85.71 (6)	No
Europe (3)	66.67 (2)	33.33 (1)	No
Middle East and North Africa (0)	–	–	–
Oceania (12)	100 (12)	0.00 (0)	Yes***
Post-Soviet Union (0)	–	–	–
Overall (45)	42.22 (19)	57.78 (26)	

Note: Parentheses indicate number of states. * $p \leq 0.10$; ** $p \leq 0.05$; *** $p \leq 0.01$.

depending on the legal tradition under which they operate: virtually none of the schools in the common law provinces require their students to study international law, but nearly all of the schools in Quebec have adopted CILE.[61] The functionalist and socio-political variables discussed above cannot account for such intra-national variation.

If civil law and Islamic law states both converge so strongly around the same CILE classification, what accounts for the much greater variation among common law states? The answer appears to be region. Table 5 shows that, overall, CILE classifications are highly uniform within regions, though only the Americas, the Middle East and North Africa and Oceania are statistically significant categories when compared to the overall sample. Table 6 further demonstrates the explanatory power of region by depicting CILE classifications across regions for common law states. This table shows that, although only 57.78 per cent of all common law states have high CILE, 100 per cent of common law states in Oceania have low CILE. Meanwhile, most common law states in Africa, the Americas and Asia exhibit classification patterns that are almost identical to those of the regions themselves. In other words, schools in civil law and Islamic law states tend to converge on the curricular patterns of states that share their legal tradition, but schools in common law states tend to converge on the curricular patterns of states that share their region.

D Relative Impact and Robustness

We conclude this section of the article by analysing the relative impact of each of the variables we have discussed and checking the robustness of our bivariate findings. Figure 4 depicts the average change in the predicted probability of a high rate of compulsory training for each variable across the three categories of explanation. For binary variables, we measure change as the average shift in the predicted probability of a high-CILE designation produced by a change from 0 (variable absent) to 1

[61] See Scoville, *supra* note 5.

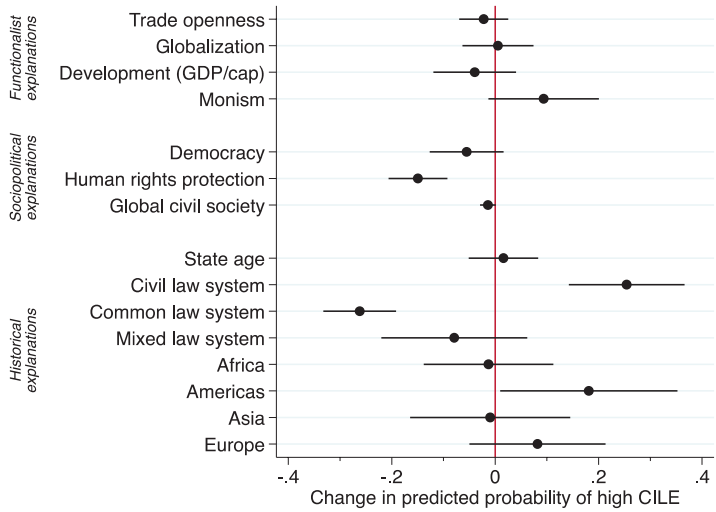

Figure 4: *Magnitude of Effects on Likelihood of High CILE (Individual Bivariate Logit Models)*

(variable present). For continuous variables, we measure change as the average shift in the predicted probability of high CILE produced by a change from the 25th percentile to the 75th percentile. The dots in Figure 4 reflect estimates of change in predicted probabilities, while the solid horizontal lines depict the ranges within which the estimates are likely to fall, at the 90 per cent confidence level. A horizontal line that does not intersect 0 indicates confidence at the 90 per cent level that the given variable is associated with a statistically significant effect on the likelihood of compulsory training.

As Figure 4 shows, several variables exhibit statistically significant effects: human rights protection, civil law system, common law system and Americas, though the effect of human rights protection is opposite of our prediction, as discussed above.[62] Having a civil law system increases the likelihood of a high-CILE designation by roughly 0.25 per cent. Given that the baseline probability of such a designation is already 0.83 per cent, the presence of a civil law system amounts to a near sufficient condition for a high rate of compulsory training. In contrast, having a common law system decreases the likelihood of a high-CILE classification by approximately 0.26 per cent, bringing the baseline conditional probability of such a classification to roughly 0.57 per cent for common law states, which is comparable to a coin toss. As shown in Table 6, region explains most of the remaining variation across common law states.

Figure 5 in turn displays the results of three multivariate logistic regression models – one each for civil law, common law and mixed tradition – across the three categories of independent variables. These models provide an additional check on the

[62] Figures 4 and 5 omit the following variables because they perfectly correlate with high or low CILE and therefore cannot be graphically depicted: Islamic law system (high); Oceania (low); Middle East and North Africa (high); and Post-Soviet Union (high).

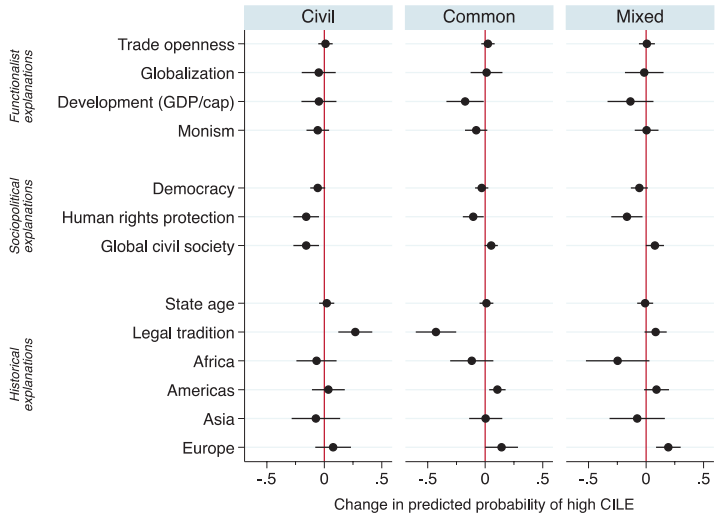

Figure 5: *Magnitude of Effects on Likelihood of High CILE (Multivariate Logit Models)*

robustness of the results from the bivariate models and suggest the same conclusions. Even while controlling for functional and socio-political factors, a civil law system increases the likelihood of high CILE by about 0.27 per cent. Likewise, with the same controls, the presence of a common law system decreases the likelihood of high CILE by about 0.43 per cent. A mixed system does not exhibit a statistically significant relationship with CILE.

In sum, variables based on historical circumstance are far more capable of explaining CILE patterns than functionalist or socio-political variables. In the next section, we explore possible explanations for these findings.

3 The Roles of Legal Tradition and Region

Legal tradition and geographic region correlate highly with CILE rates, but what is it about these factors that produces different approaches to CILE? We draw on research in comparative law, political science and sociology to discuss a number of plausible mechanisms underlying these correlations. The limits of our data mean that we cannot test these mechanisms directly, but future research should aim to assess their relative merits.

A Legal Tradition

Legal tradition may influence the likelihood of CILE in two possible ways, one as an outgrowth of philosophical or doctrinal characteristics that are inherent to the legal cultures of these traditions (the 'culture thesis') and the other due to choices made at distant historical moments and reinforced through path dependence over time (the 'path dependence thesis'). One version of the culture thesis would focus on long-standing

jurisprudential connections between international law and domestic legal tradition. Early public international law is often said to have been substantially reflective of civil law concepts and principles,[63] and the evidence of this influence remains apparent today. To name one example, the design of the Permanent Court of International Justice and its successor, the International Court of Justice, affirms the principle of *bona fides*, which is fundamental to civil law systems, and formally rejects the principle of *stare decisis*, which is fundamental to common law systems. Similarly, there is a long history of Islamic law principles on inter-civilizational relations,[64] some of which may have shaped contemporary international law on issues such as the treatment of religious minorities and prisoners of war.[65] The common law, in contrast, is said to have exerted little influence over public international law until the 20th century.[66] These historical relations may have cemented varying degrees of comfort with, or affinity for, international law in states with different legal traditions at critical moments in the development of modern legal education and, in turn, spurred divergent approaches to CILE.

Another version of the culture thesis would conceive of CILE as an outgrowth of generic features of legal education within each legal tradition. Under this approach, common law, civil law and Islamic law engender divergent philosophies of legal education, and these philosophies in turn encourage disparate approaches to CILE. By standard accounts, the civil law conceives of law as an organized field of knowledge and posits that the primary purpose of legal education is to supply a 'panoramic' view of the major subfields, concepts and principles.[67] In this tradition, 'instruction … is more abstract, more concerned with questions of philosophic than immediate practical importance, [and] more removed from the solution of social problems'.[68] Although the English literature on contemporary legal education in Islamic law states is limited, there are indications that a similar philosophy prevails in those jurisdictions.[69] The common law, in contrast, is said to envision law as a profession and to treat the acquisition of skills and analytic techniques as the primary purpose of instruction.[70]

[63] E.g., Pérez-Perdomo and Merryman, *supra* note 49, at 3.

[64] Baderin, 'Muhammad Al-Shaybani', in B. Fassbender and A. Peters (eds), *The Oxford Handbook of the History of International Law* (2012) 749.

[65] Sahli and El Ouazzani, 'Africa North of the Sahara and Arab Countries', in Fassbender and Peters, *supra* note 64, at 405; see also Ago, 'Pluralism and the Origins of the International Community', 3 *Italian Yearbook of International Law* (1977) 3, at 14–15 (discussing Islamic law's influence on international law).

[66] See, e.g., Picker, 'International Law's Mixed Heritage: A Common/Civil Law Jurisdiction', 41 *Vanderbilt Journal of Transnational Law* (2008) 1083, at 1404–1406.

[67] Damaška, 'A Continental Lawyer in an American Law School: Trials and Tribulations of Adjustment', 116 *University of Pennsylvania Law Review* (1968) 1363, at 1367; see also Casper, 'Two Models of Legal Education', 41 *Tennessee Law Review* (1973) 13, at 16; Merryman, 'Legal Education There and Here: A Comparison', 27 *Stanford Law Review* (1975) 859, at 865–870.

[68] Merryman, *supra* note 67, at 866.

[69] See, e.g., S. Farran, J. Gallen and C. Rautenbach, *The Diffusion of Law: The Movement of Laws and Norms Around the World* (2015) 43; Thomas and Mahasneh, 'Learning from the Unique and Common Challenges: Clinical Legal Education in Jordan', 5 *Berkeley Journal of Middle Eastern and Islamic Law* (2012) 1, at 12.

[70] Brand, 'Exporting Legal Education: Lessons Learned from Efforts in Transition Countries', 32 *Harvard International Review* (2010) 43, at 45.

This difference could explain the CILE data in a couple of related ways. First, in civil law and Islamic law jurisdictions, the relative lack of concern for the practical value of the curriculum might help to justify a compulsory course on a subfield that is often said to carry limited relevance for many lawyers.[71] The common law's reputed emphasis on instruction that is professionally useful, meanwhile, could have the opposite effect; given limited resources, schools might decline CILE on the view that knowledge of international law is relatively unhelpful for students hoping to secure employment as a lawyer.

Second, in civil law and Islamic law jurisdictions, the goal of imparting broad knowledge might impel relevant actors to designate a wider array of doctrinal courses as compulsory. Under this possibility, states with civil law and Islamic law traditions exhibit higher CILE rates not because they care more about international law per se but, rather, because international law happens to be a distinct area of law and, thus, an important component of the type of curriculum that is idealized. By similar logic, relative indifference towards panoramic doctrinal knowledge might yield lower CILE rates in common law jurisdictions. If the principal goal is to enhance student capacities for analogical reasoning, exegesis, legal writing and the like, there is little reason to mandate the study of international law (or any other topic); students might acquire relevant skills through instruction on torts or civil procedure as much as the law of the sea or state responsibility.

In contrast to the culture thesis, the path-dependence thesis would posit that inter-traditional difference is a product not of dispositions inherent to these approaches to law but, rather, of early, contingent organizational choices at influential universities. Distinct approaches to CILE appear to date back to the 19th century, when university courses on international law first emerged. Christopher Langdell's curriculum at Harvard University focused exclusively on domestic and private law,[72] and the curriculum in mid-century England included no mandatory elements.[73] French universities in this period, however, required students to study international law.[74] It is not clear why this difference appeared, but the answer could be as mundane as historical disparities in resources, the personal preferences of those in charge of curricula at critical junctures or the views of influential commentators. To illustrate, it is well known that John Austin rejected international law's claim to legal status, in disagreement with many continental writers.[75] Perhaps academics at leading universities in common law jurisdictions were more inclined to oppose CILE in deference to the views

[71] See D'Amato, 'Public International Law as a Career', 1 *American University International Law Review* (1986) 5.

[72] B.A. Kimball, *The Inception of Modern Professional Education: C.C. Langdell, 1826–1906* (2009), at 208–209.

[73] 'Rules of the Four Inns of Court in England', in Alexander Thom (ed.), *LX Sessional Papers of the House of Lords, Reports from Commissioners, & C* (1853) 360, at 360–361.

[74] M. Koskenniemi, *The Gentle Civilizer of Nations: The Rise and Fall of International Law 1870–1960* (2001), at 31.

[75] See W.E. Rumble (ed.), *John Austin, The Province of Jurisprudence Determined* (1995), at 123–124, 171, 175.

of a fellow common law theorist. Whatever the underlying explanation, the key is that the early choices of a few elite institutions may have normalized divergent models of legal education and that these models, in turn, may have diffused along well-established pathways of norm transmission, such as colonial ties, that are segregated by legal tradition.[76]

B Region

When it comes to civil law and Islamic law systems, legal tradition is highly determinative of CILE classification. But even though common law states are more likely to have low CILE than the average state, there is still wide variation among them. As discussed above, region is almost entirely responsible for this remaining variation. What is it about region that promotes convergence?

Two factors might play a role. First, in some cases, regional states have pooled their resources to create a shared system of instruction. The leading example is the Agreement Establishing the Council of Legal Education, which over a dozen states in the Caribbean Community adopted in 1970.[77] Under this agreement, graduates from any of three schools – Norman Manley Law School in Jamaica, Hugh Wooding Law School in Trinidad and Tobago and Eugene Dupuch Law School in The Bahamas – are qualified to practise in jurisdictions throughout the region.[78] Similarly, some governments in Oceania accept degrees from the University of Papua New Guinea and Fiji's University of the South Pacific as qualification for domestic legal practice.[79] These arrangements appear to make it possible for the schools to operate in states where resource constraints, a small population and perhaps other conditions limit the domestic demand for legal education. One result is extensive intra-regional convergence of law school curricula and, as a result, a high level of intra-regional uniformity with respect to CILE.[80]

Second, even where states do not share law schools, norms of legal education might diffuse more easily within a region than across multiple regions. An influential typology suggests that diffusion can occur as a result of international competition, learning and emulation.[81] Under the competition model, a new policy in one state increases the costs or reduces the benefits of the *status quo* for the others, who respond by copying the innovation to maintain their relative competitiveness.[82]

[76] *Cf.* Spamann, 'Contemporary Legal Transplants: Legal Families and the Diffusion of (Corporate) Law', 2009 *Brigham Young University Law Review* 1813 (suggesting that norms are more likely to diffuse among countries that share a legal tradition); Twining, 'Diffusion of Law: A Global Perspective', 49 *Journal of Legal Pluralism* (2005) 1 (same).

[77] See Agreement Establishing the Council of Legal Education 1970, 2366 UNTS 19.

[78] *Ibid.*, at Arts 3–5.

[79] See Scoville, *supra* note 5.

[80] See *ibid.*

[81] See Simmons, Dobbin and Garret, 'Introduction: The International Diffusion of Liberalism', 60 *IO* (2006) 788, at 790–801. The typology also identifies coercion as a mechanism of diffusion, but we doubt its relevance in this context.

[82] *Ibid.*, at 792–795; Simmons and Elkins, 'The Globalization of Liberalization: Policy Diffusion in the International Political Economy', 98 *APSR* (2004) 171, at 172.

Under the learning model, diffusion occurs when states perceive that an earlier innovation was sufficiently successful to merit replication.[83] Finally, the emulation model posits that diffusion occurs when exemplars, experts or peers succeed in socially constructing a reform as legitimate, such that others must follow suit to maintain their own legitimacy.[84]

These mechanisms might operate more intensely within regions in a variety of ways. If intra-regional schools are more likely to compete with one another for applicants and prestige, there will be particularly strong incentives to replicate each other's reforms to neutralize the advantages that might otherwise accrue to innovators. In this scenario, one state or university pursues or declines CILE, and the selected reform spreads as other regional actors work to negate the reputational gains of the pioneer.

Learning-based diffusion might also be more robust at the regional level. Operating on the premise that decision-makers frequently lack the resources to systematically identify and evaluate their options, a number of scholars have argued that policy learning rests on decisional shortcuts, such as the availability heuristic, which 'induces people to assign disproportionate weight to particularly striking, vivid, memorable information and to overestimate the significance or relative frequency of such cognitively available information'.[85] On this view, diffusion is more robust within a region because the policy choices of geographically proximate actors are relatively salient.[86] As applied to CILE, the implications are that training rates will show regional clustering if the individuals who set them tend to learn primarily from the practices of neighbouring states and universities or if views about the merits of CILE spread within academic networks that are predominantly regional in character.

Finally, it is plausible that emulation-based diffusion is more substantial within regions than among them. Sociological institutionalism suggests that organizations such as universities adopt policies that conform to the prescriptions of world culture in order to acquire legitimacy and resources, regardless of local conditions.[87] This research helps to account for otherwise perplexing instances of structural isomorphism in various types of organizations around the globe,[88] but it does not rule out the possibility of cross-national variation or regional culture, which might exert relatively strong influence over organizational structures for any number of reasons, including a comparative abundance of ethnic, religious and geographic commonalities that could help to construct the activities of regional actors as relatively legitimate and

[83] *Ibid.*, at 795–799.
[84] *Ibid.*, at 799–801.
[85] Weyland, *supra* note 57, at 13.
[86] *Ibid.*, at 13–14.
[87] See, e.g., Meyer and Rowan, 'Institutionalized Organizations: Formal Structure as Myth and Ceremony', 83 *American Journal of Sociology* (*AJS*) (1977) 340.
[88] See Meyer et al., 'World Society and the Nation-State', 103 *AJS* (1997) 144.

important.[89] In short, regional logics of appropriateness could influence CILE rates to a greater extent than, and even at cross-purposes with, world society at large.

Regional organizations might facilitate each of these mechanisms. The EU's Bologna Process has promoted comparability and recognition of degrees, quality assurance and student mobility among universities in 47 participating states in the EU and beyond,[90] and the associated Tuning Project has facilitated regional convergence of curricula on a variety of subjects.[91] Since the 1980s, the EU has also helped to network universities from different states under the Erasmus Program, which facilitates student exchanges.[92] Meanwhile, comparable regional efforts have emerged in Africa, Latin America and Southeast Asia.[93] These developments have reportedly stimulated international regulatory competition, whereby states work to implement approved educational policies to maintain or enhance their relative economic positions,[94] and appear to have facilitated learning and emulation by fostering communication among policy-makers and experts.[95] To be sure, most of the regional efforts towards integration in higher education are not specific to law schools, but it is easy to imagine spillover effects.

Whatever the precise mechanism, diffusion theory appears consonant with much of the data. It would explain why common law states converge on high CILE rates in regions with large concentrations of civil law jurisdictions, such as the Americas, despite the fact that such rates are generally less typical in common law states. It would also explain why common law states in Oceania exhibit comparatively low rates; because this region is home to few civil law jurisdictions, the forces of regional convergence are more likely to reflect the default approach of common law states, which is to eschew CILE.

4 Implications

We believe that our findings carry significance for researchers and policy-makers alike. First, in pointing to the importance of legal tradition, the data identify at least one situation in which professional culture appears to be the primary source of cross-national variation. To say that CILE correlates with legal tradition far more than other variables, including regime type and globalization rates, is to suggest

[89] See Strang and Meyer, 'Institutional Conditions for Diffusion', 22 *Theory and Society* (1993) 487, at 490.

[90] Melo, 'Different Regionalisms, One European Higher Education Regionalization: The Case of the Bologna Process', in S.L. Robertson *et al*. (eds), *Global Regionalisms and Higher Education: Projects, Processes, Politics* (2016) 49.

[91] Knight, 'A Model for the Regionalization of Higher Education: The Role and Contribution of Tuning', 1 *Tuning Journal of Higher Education* (2013) 105, at 109–110.

[92] Basedow, 'Breeding Lawyers for the Global Village: The Internationalisation of Law and Legal Education', in Caenegem and Hiscock, *supra* note 28, at 9.

[93] See generally Robertson *et al*., *supra* note 90.

[94] See T. Bieber, *Soft Governance, International Organizations and Education Policy Convergence* (2016), at 49.

[95] *Ibid.*

that national differences are not necessarily a product of political dispositions or the strategic pursuit of national interests. Indeed, it is hard to imagine how high CILE could be in the interests of the numerous and diverse jurisdictions that use civil law and Islamic law but in the interests of only a handful of jurisdictions that use common law.

The explanatory power of historical variables is in turn significant because the strategy for mitigating cross-national differences, whether on CILE or other matters of international law, should vary depending on their underlying source. The evidence that differences in CILE reflect neither functional demands nor most socio-political conditions suggests that efforts to enhance cross-national uniformity need not focus on those issues to succeed. To the contrary, the importance of legal tradition and region raise the possibility that the most useful efforts towards harmonization will be those that create opportunities for certain forms of mutual socialization; government regulators, law faculties and university administrators might gradually acquire common perspectives on CILE and other matters if given opportunities to observe the models that predominate elsewhere. The most valuable programmes will be both inter-traditional and inter-regional.

Second, the findings suggest that graduates of law programmes in common law jurisdictions are less likely to possess even a basic familiarity with international law. To be clear, CILE is not a perfect indicator of the commonality of international legal education; many students at some universities in low-CILE jurisdictions study international law on their own initiative. James Crawford has suggested that 'most' law students at Cambridge University, for example, study international law even though it is not mandatory.[96] But this sort of enthusiasm does not manifest in all common law jurisdictions.[97] And, even where it is present, we think it unlikely that voluntary enrolment rates at the national level reach anything close to 100 per cent – a number that is common in high-CILE jurisdictions. In the absence of cross-national data on course enrolment rates, cross-national disparities in CILE remain a meaningful indicator of the variable commonality of international legal education.

This variation seems likely to carry significance. Social psychological research on persuasion offers reasons to think that the classroom is a particularly favourable environment for shaping attitudes, especially on a topic, such as international law, on which many students possess little prior familiarity.[98] Indeed, there is mounting empirical evidence of such influence.[99] One recent study reports that mandatory training

[96] Interview by Lesley Dingle and Daniel Bates with James Richard Crawford, Judge of the International Court of Justice and Emeritus Whewell Professor of International Law at the University of Cambridge (2018), available at https://perma.cc/Q2XF-RLYG.

[97] See, e.g., Ku and Borgen, 'American Lawyers and International Competence', 18 *Dickinson Journal of International Law* (2000) 493, at 502–503 (describing historically low enrollment rates in the USA).

[98] For a more extensive discussion of the implications of the social psychology of persuasion for international legal education, see Scoville, *supra* note 12, at 1474–1484.

[99] See Scoville, *supra* note 12, at 1471–1472, n.133 (citing a collection of studies finding that law schools are capable of shaping student interests, values and modes of thinking).

on the law of armed conflict effectively socialized cadets at the US Military Academy to be more sensitive towards the treatment of civilians in wartime and that the intensity of this training corresponded with the extent of the attitude change that occurred.[100] Recent experimental research similarly shows that when individuals are more knowledgeable about international law, their policy preferences are more likely to conform to international legal obligations.[101] Given that law graduates often influence decisions about international law compliance as government elites and legal experts,[102] it is plausible that these dynamics shape state action in favour of respect for international law over the long run.

Our findings thus raise the possibility that law schools in common law jurisdictions contribute less to the international rule of law than their counterparts in civil law jurisdictions. Elite universities in common law jurisdictions do tend to train a disproportionate share of international law elites from around the world.[103] In that sense, one might argue that common law schools contribute materially to the international rule of law even while frequently exhibiting low rates of CILE. But foreign students in common law schools are likely already disposed towards an interest in international law and represent only a small proportion of law school graduates globally. Thus, insofar as low CILE corresponds with lower levels of international legal education in general, common law schools appear less likely to socialize many of their graduates to internalize favourable views of international law.[104] We think it plausible, moreover, that the decision to eschew CILE devalues international law in the eyes of all law graduates by implicitly framing the field as non-essential and peripheral. In these ways, common law schools might undermine societal respect for international law even while training and socializing many of the field's elite.

In any event, further research is needed on CILE's causal significance. High rates of voluntary training might diminish the significance of CILE, but the global commonality of such training is unclear. And although education seems likely to generate respect for international law, it might not. If students resent compulsory study and respond with hostility, CILE could even disserve the efficacy of international norms. We see no evidence in the current literature of such a 'backlash' effect, but future

[100] A. Bell, 'Can Military Training Change Combatant Norms? Comparing the Effects of Ethics and Law of War Training at the U.S. Military Academy and Army ROTC' (2014) (unpublished PhD dissertation on file with authors).

[101] Chilton, *supra* note 13; Wallace, *supra* note 13.

[102] See Scoville, *supra* note 12, at 1484–1500.

[103] C.F. Schuetze, 'A Bigger World of International Law', *New York Times* (5 October 2014); see also Roberts, *supra* note 22, at 52–67 (discussing the outsized influence of common law schools in the global production of legal knowledge); see also Krisch, 'The Many Fields of (German) International Law', in A. Roberts *et al.* (eds), *Comparative International Law* (2018) (discussing the relatively limited influence of the German academy).

[104] See, e.g., Babcock, 'The Role of International Law in United States Death Penalty Cases', 15 *Leiden Journal of International Law* (2002) 367, at 374, n. 31 (suggesting that criminal defence lawyers in the USA rarely raise arguments based on the Vienna Convention on Consular Relations because '[i]nternational law is not a required subject in the vast majority of law schools in the United States', the result of which is that 'few law school graduates understand the relevance of international law in domestic legal proceedings').

research should aim to assess the potentially divergent consequences of compulsory and elective study, among other features of the global pattern.

For now, a series of intriguing questions arise from our findings. Do lawyers in common law jurisdictions make use of international law less frequently than lawyers in civil law jurisdictions? In turn, do national publics in common law jurisdictions tend to know less about, or exhibit less respect for, international law? Do states with common law traditions tend to violate international norms at greater rates? Are students who leave civil law jurisdictions to study abroad at common law schools more likely to return home with sceptical views about international law? If universities are important venues for socialization and the diffusion of legal knowledge, one can imagine that the answers might be affirmative. And yet, such a possibility stands in considerable tension with the instincts of common law lawyers, who tend to perceive states such as China, Iran and Russia – all of which have extremely high CILE rates – as less respectful of international norms than states such as the United Kingdom and the USA, both of which have extremely low rates. In these ways, the results signal intriguing avenues of future inquiry.

Third, and by similar logic, the regional findings suggest inter-regional variation in the commonality of international legal knowledge. In particular, we should expect to see greater familiarity with international law among graduates in the Americas and the Middle East and North Africa and less among graduates in Oceania. Depending on the quality of the training that occurs in these regions and the societal influence of graduates, regional fluctuations in the efficacy of international law might follow. Future research might profitably examine whether that is the case.

Fourth, our results carry implications for a long-standing debate over the contemporary significance of legal families. There is ample evidence of cross-traditional transplantation of norms among states, including on matters of legal education.[105] As discussed earlier, there is also evidence of a world society that similarly socializes educational organizations across the globe.[106] Perhaps for these reasons, some have argued that legal families have become less useful as conceptual frameworks.[107] But, at least with respect to CILE, this argument clearly does not hold. The continuing influence of national traditions on CILE coheres with evidence that norms diffuse primarily within legal families[108] and stands as an exception to the reported tendency for structural isomorphism among educational organizations around the world.[109]

Finally, the evidence that CILE rates do not correlate with societal needs suggests that there is room for law schools to improve the practical utility of their curricula.

[105] See, e.g., R.A. Brand and D. Wes Rist (eds), *The Export of Legal Education: Its Promise and Impact in Transition Countries* (2009); Clark, 'Tracing the Roots of American Legal Education: A Nineteenth-Century German Connection', 51 *Rabel Journal of Comparative and International Private Law* (1987) 313.

[106] See notes 8–10 above (citing research).

[107] See, e.g., Graziadei, 'Comparative Law as the Study of Transplants and Receptions', in M. Reiman and R. Zimmerman (eds), *Oxford Handbook of Comparative Law* (2006) 441, at 473–474.

[108] See Spamann, *supra* note 76.

[109] See notes 8–10 above (citing studies).

Depending on national conditions, this might entail either abandoning or adopting CILE, along with other possible measures. In jurisdictions such as Ireland, the United Kingdom or the USA, where extremely low rates of compulsory training coexist with high degrees of trade openness and economic development, a functional approach to international legal education would seem to call for more instruction, whether by compulsion or otherwise. In this sense, conventional wisdom that functionalism justifies the marginalization of international legal education in these states seems to have things precisely backwards. At a minimum, their law schools have greater reason to adopt CILE than schools in the many states that are less connected with international society.

5 Conclusion

Research in comparative international law has been far more successful at identifying national differences than at ascertaining their origins. To help correct for this condition, we have used new, original data and quantitative methods to test for the determinants of cross-national variation with respect to a discrete area of practice: compulsory international legal education. The findings that legal tradition and regional geography predict variation undermine accounts that attribute all differences to national needs or socio-political conditions, suggest a variety of new research questions and indicate that, in at least one area, inter-traditional and inter-regional socialization might be the most effective mechanism for harmonizing national practices and perspectives.

Appendix: CILE Rate Classifications

Table A1: States Classified as High CILE

Afghanistan	Cuba	Jamaica
Albania	Cyprus	Jordan
Algeria	Czech Republic	Kazakhstan
Andorra	Democratic Republic of Congo	Kenya
Angola	Denmark	Kosovo
Antigua and Barbuda	Djibouti	Kuwait
Argentina	Dominica	Kyrgyzstan
Armenia	Dominican Republic	Latvia
Austria	East Timor	Lebanon
Bahamas	Ecuador	Lesotho
Bahrain	Egypt	Liberia
Bangladesh	El Salvador	Libya
Barbados	Estonia	Lithuania
Belgium	Ethiopia	Luxembourg
Belize	Finland	Macedonia
Bolivia	France	Malawi
Bosnia	Georgia	Malaysia
Botswana	Greece	Malta

Table A1: Continued

Brazil	Grenada	Mauritius
Bulgaria	Guatemala	Mexico
Burundi	Guyana	Moldova
Cambodia	Honduras	Montenegro
Cameroon	Hungary	Morocco
Cape Verde	Iceland	Mozambique
Chad	India	Myanmar
Chile	Indonesia	Namibia
China	Iran	Nepal
Colombia	Iraq	Netherlands
Costa Rica	Israel	Nicaragua
Croatia	Italy	Norway
Oman	Somalia	Trinidad and Tobago
Pakistan	South Africa	Tunisia
Panama	Spain	Turkey
Paraguay	Sri Lanka	Uganda
Peru	St Kitts and Nevis	Ukraine
Philippines	St Lucia	United Arab Emirates
Poland	St Vincent	Uruguay
Portugal	Sudan	Venezuela
Qatar	Swaziland	Vietnam
Romania	Sweden	Yemen
Russia	Switzerland	Zambia
Rwanda	Syria	Zimbabwe
Saudi Arabia	Taiwan	
Serbia	Tanzania	
Slovakia	Thailand	
Slovenia	Togo	

Table A2: States Classified as Low CILE

Australia	Marshall Islands	Seychelles
Canada	Micronesia	Singapore
Fiji	Nauru	Solomon Islands
Germany	New Zealand	South Korea
Ghana	Nigeria	Tonga
Ireland	Papua New Guinea	Tuvalu
Ivory Coast	Samoa	United Kingdom
Japan	San Marino	United States
Kiribati	Senegal	Vanuatu