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Blog of the European Journal of International Law

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The Parochialism of Western Cosmopolitanism in a Competitive World Order

Written by [Anthea Roberts](#)[Share](#)[Tweet](#)[Email](#)[Share](#)

This post is part of the Joint Symposium that we are co-hosting with [Opinio Juris](#) on Anthea Roberts' new book [Is International Law International?](#) (OUP, 2017).

We are familiar with the question: Is international law law? In my new book, I ask instead: [Is international law international?](#) Not particularly, is my answer—at least, not in the way that it tends to be conceptualized by international law academics in different states and in the international law textbooks and casebooks that they use.

When asked to reflect on the professional community of international lawyers, Oscar Schachter memorably called it an “[invisible college](#)” whose members were “dispersed throughout the world” yet “engaged in a continuous process of communication and collaboration.” But in rendering that college visible, I find that international lawyers may be better understood as constituting a “divisible college” whose members hail from different states and regions and who often form separate (though overlapping) communities with their own understandings and approaches.

In tracing these divisions and considering their consequences, I make three arguments. First, international lawyers are often subject to differences in their incoming influences and outgoing spheres of influence in ways that affect how they understand and approach international law. Second, actors, materials and approaches from some states and regions have come to dominate certain transnational flows and forums in ways that make them disproportionately instrumental in constructing the “international.” Third, existing understandings of the

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My book invites international lawyers to look in the mirror to discern and become more reflective about their blind spots and parochialism. It encourages international lawyers to recognize and speak openly about some of the socializing factors, incentives and power dynamics that shape their divisible college. It suggests that they try to see the field through the eyes of others and to diversify their sources, networks and perspectives. This call is particularly appropriate for Western international lawyers—myself included—who often study, work and publish in a Western bubble, which makes it harder for us to understand and adjust to the newly emerging competitive world order.

From National to Western Parochialism

In an earlier blogpost titled “[With Blinders On?](#)” on Just Security, I argued that US international law often gives the impression of being US foreign relations law under a different name. By way of example, I pointed to how unusually nationalized US international law casebooks were in terms of how heavily they relied upon US cases, executive practice, legislation, academics and publications. This national focus both reflects and reinforces what Samuel Moyn has insightfully described as the “[Parochialism of American Cosmopolitanism](#).” US insularity has many causes and consequences, from American power and exceptionalism to the locations where US international law academics typically study, work and publish.

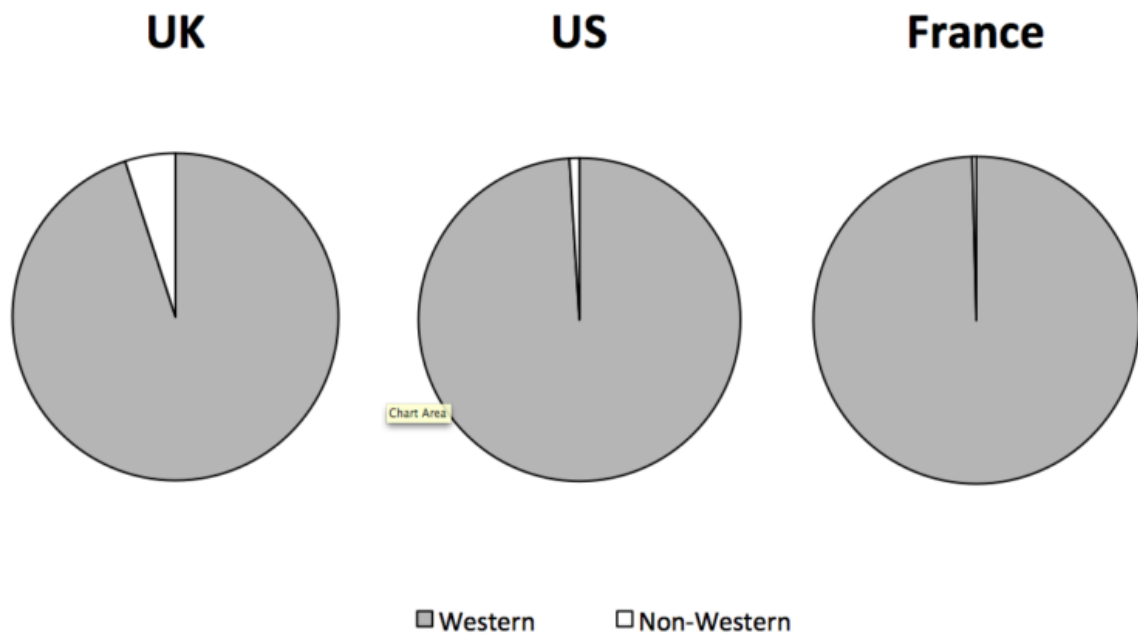
It is common for other Western international lawyers to see such reports and feel a slight sense of glee or superiority. “Those crazy Americans,” many would say, with a knowing smile and a roll of the eyes, safe in the knowledge that they could not be accused of similar parochialism. Yet one thing that really struck home for me in this study was that though I and many of my Western colleagues were not guilty of *national* parochialism, we were exceedingly guilty of *Western* parochialism. This issue seemed to be a fitting one to raise on the *European Journal of International Law*’s blog and the *US* blog *Opinio Juris*.

Let me give you an example that follows from my case citation analysis on *Just Security*. In that piece, I pointed to how US international law casebooks were the only ones that contained a higher—and, indeed,

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the domestic cases cited—whether from a state’s own courts or from foreign courts—come from Western states, by which I mean states in the Western Europe and Others Group? Suddenly, the US books are no longer outliers.



Western and non-Western national cases cited in international Law Textbooks

Between 96% and 99.6% of the domestic cases cited in the most commonly used international law textbooks in these three Western states (France, the United Kingdom and the United States) come from—you guessed it—Western states. Like most international lawyers, I was aware of a level of Western bias in my field. Nevertheless, I was surprised by how stark it was when I started looking at the numbers. This pattern didn’t seem to deserve the moniker “international.”

Of course, one could leap to argue that perhaps this pattern just reflects the facts on the ground. The vast majority of domestic decisions on international law may actually have been issued in Western states, so this depiction simply reflects reality. I suspect that this is not the whole story. But even if it were, this circumstance should make us consider in more detail the biases built into the very metrics that we use when seeking to understand international law. To what extent do our metrics reflect the approaches to law we are used to dealing with domestically?

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odd when I first studied international law that an important way to understand the field was through case law, both domestic and international. This study made me much more conscious of the fact that when one applies this metric, it results in outsized emphasis on the practice of Western, democratic states in general, and English-speaking, common-law ones in particular. At the same time, this metric renders almost invisible the practice of non-Western, non-democratic, civil law states. China and Russia have made important contributions to international law practice, but you won't usually find it in their domestic courts.

Analyzing this issue among others helped me to realize that some of the approaches to international law that seem so natural to certain international lawyers can produce an effect equivalent to looking at the field through blinders. As with the US example above, this parochialism has causes and consequences, from Western power and exceptionalism to the locations where Western international law academics study, work and publish. That many Western international lawyers are trapped in a Western bubble will not surprise anyone from outside the West or those who have read or adopted Third World Approaches to International Law. But it is an uncomfortable reality that few in the West sufficiently acknowledge, let alone contemplate its possible consequences.

From Dominance to Disruption

The ideal of international law suggests that it is constructed by drawing equally on people, materials and ideas from all national and regional traditions. In reality, some national and regional actors, materials and approaches have come to dominate much of the transnational field and international lawyers' understandings of the "international." This point holds true for Western actors, materials and approaches in general, and Anglo-American ones in particular. The case law cited above represents a stark example of this pattern, but many others characterize the field as well, ranging from who appears before international courts and tribunals to which sources and practice these courts typically invoke.

Recognizing this situation made me wonder about how some of these patterns might be disrupted by forces such as changing geopolitical

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decades, the international order is unlikely to be dominated by Western, liberal democratic states to the same extent as before. A significant standoff is also emerging between Western, liberal democratic states and non-Western authoritarian ones, most notably China and Russia, across multiple domains.

Three things have become clearer since I completed this book in late 2016. First, the United States and the United Kingdom have seriously stepped back from their position as global leaders following Donald Trump's election and the Brexit vote. Anglo-American approaches that have featured so prominently in defining international fields in the last few decades seem to be quickly receding in importance. On many issues, from trade to climate change, the West is divided and weakened. American global leadership is in question and its prestige is tarnished.

Second, several non-Western states are more actively seeking to assert themselves on the international stage. China is a prime candidate, exemplified by President Xi's endorsement of economic globalization and expansive Belt and Road project. But these aspirations underlie many other developments, such as the battle in the recent [ICJ elections](#) between India and its former colonial master, the United Kingdom, which led for the first time to a British judge not sitting on the Court. This vote represented a sea change, breaking the traditions of granting the P5 informal permanent seats on the Court and casting votes according to informal regional group quotas.

Third, states are more openly acknowledging the emergence of a new era of great-power politics and ideological competition. Specifically, the December 2017 US [National Security Strategy](#) describes a newly emerged "Competitive World" in which great-power competition has returned and it characterizes China and Russia as "revisionist powers" seeking to "challenge American power, influence, and interests" and to "shape a world antithetical to U.S. values and interests."

In this new competitive global order, international lawyers of all stripes will need to develop a greater awareness of the diverse frameworks and narratives through which international law events are understood and arguments are made around the world. The first step in building this

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inclusive) or hard-bitten realism (along the lines of “know thy enemy”). Either way, knowledge is key, whether one ultimately accepts the alternative approaches as valid or not.

Developing such an understanding can be hard for Western international lawyers because often where we study, work and publish adds little to diversifying our perspectives. Just as those sitting in the United States often find it hard to look beyond their national standpoint, so many Western international lawyers find it hard to look beyond their geopolitical perspective. Our networks and sources are typically not national, but neither are they fully international. Yet, as power becomes more disaggregated among a larger number of more diverse states, international lawyers will experience a heightened need to adopt a “[comparative international law](#)” approach to come to grips with these differences.

In seeking to develop such an understanding, international lawyers must also be aware that some transnational flows are likely to be asymmetrical, leading to different patterns of diffusion and knowledge. For instance, elite Chinese international lawyers are far more likely to study in Western states than vice versa. Thus, Western materials and approaches are more likely to be found in China than the reverse (the power of diffusion), but Chinese international law academics are more likely to exhibit broad comprehension of Western perspectives on international law than the reverse (the power of knowledge). As China becomes an increasingly significant international player, it will want to disseminate its own approaches to international law more widely, whereas international lawyers in the West will need to deepen their knowledge of China’s interests, interpretations and approaches.

Conclusion

International law aspires to be universal; but it is also, and inevitably, a deeply human product. No international lawyer can understand all aspects of the field from all viewpoints, myself included. We are all prisoners of our own networks, languages, education, histories and trajectories. For this reason, this book should be understood as a [conversation starter](#) rather than the final word on the subject. It seeks

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It is this sort of dialogue that I am grateful to be starting with this thought-provoking collection of international lawyers. This book raises many questions and offers only some answers. I am not yet sure what it all means or where we go from here. As the very definition of a parochial English-speaking, Western international lawyer, I have much to learn and I look forward to seeing my book—and the transnational field of international law—through the eyes of my interlocutors.

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