**Abstract**

The increasing prevalence of family law disputes in England and Wales with an international element is well documented, both in the development of domestic legislation, case law and family practice. However, despite changes to the legal landscape and the academic recognition of international family law as a legal subject, it is still often disregarded within the undergraduate family law curriculum or as a standalone module. This article explores the development of international family law in England and Wales and presents the findings of a national questionnaire into whether international family law is taught as part of the undergraduate curriculum. The article also explores what barriers exist to including international family law topics. To conclude, the author offers some general advice about incorporating these topics into the curriculum to ensure that students are equipped to deal with the realities of family practice in England and Wales.

**Keywords *–*** international family law, legal education, curricula innovation, internationalisation.

**Introduction**

International family law (IFL) regulates family law disputes with an international dimension, how the law in England and Wales compares with other jurisdictions and how international laws and treaties are implemented, interpreted and enforced[[1]](#footnote-1). The spread of IFL is arguably the result of globalisation, increased migration and the spread of human rights which has led to many parts of the world becoming more legally pluralistic and multicultural than ever before[[2]](#footnote-2). Increasingly, lawyers in England and Wales are called to advise on cases relating to adoption, child abduction, divorce, custody, and domestic violence where the parties live in or have assets in multiple jurisdictions[[3]](#footnote-3). The family courts are also responding to an increase in cases where allegations of traditional harmful practices, such as forced marriage and female genital mutilation, are raised. Cultural competency is now a pre-requisite for family practitioners and the family justice system.

However, despite changes to the legal landscape and the increasing academic recognition of IFL as a legal subject in its own right[[4]](#footnote-4), the existing literature in this area suggests that the broad range of IFL issues rarely form part of the undergraduate family law curriculum[[5]](#footnote-5). Rather, the family law curriculum has remained concerned with teaching the basic principles of divorce and financial relief, private (and occasionally public) law children proceedings, domestic violence and cohabitation disputes. Research suggests that this is because of perceptions that IFL is a quickly changing area of law[[6]](#footnote-6), because academics can be reluctant to promote change within the curriculum[[7]](#footnote-7) and there is no scope for new materials to be included in an already busy family law curriculum[[8]](#footnote-8). However, the author is not aware of any empirical research which has been conducted to elicit the views of academics who are responsible for designing curriculum content and delivering family law modules.

This study aims to address this gap in the research by presenting the findings of a national study into whether IFL is taught as part of the undergraduate family law curriculum and if not, what barriers exist for its inclusion. The author invited all of the 92 Higher Education Institutions (HEIs) which deliver an undergraduate family law module in England and Wales to participate in an online questionnaire. 30 responses were received. The author also carried out a content analysis of the undergraduate family law curricula of the 62 HEIs who did not respond to the questionnaire, based on course materials available on their websites.

**Why does teaching IFL matter?**

Proponents of incorporating IFL into the family law curriculum often rely on the changing legal climate and demographics of many Western countries to argue that IFL no longer affects a minority of families and therefore is no longer only dealt with by a minority of specialist family law practitioners. The American scholar Stark argues that IFL is not simply a ‘curricula development’ but rather a product of globalisation and the spread of human rights[[9]](#footnote-9). These forces have changed family forms and dynamics and the laws which are required to regulate them.

*Borders have become more porous, allowing adoptees and mail order brides to join new families and women fleeing domestic violence to escape from old ones. People of different nationalities marry, have children, and divorce, not necessarily in that order[[10]](#footnote-10).*

Stark argues that in the USA, IFL has become a legal subject because it matters enough to generate demands that it does so, there is a coherent body of substantive law and an agreed upon set of rules and processes that enable it to function and because it grapples with the issues of the day[[11]](#footnote-11).

*Until that point, a legal subject can dally in elective seminars and esoteric panels… but when clients demand lawyers, judges ask for memos, lawyers call their old professors, committees are formed, and bar panels organised, the legal subject must put aside the games of childhood and become rigorous and responsible[[12]](#footnote-12).*

Stark’s observations are mirrored in England and Wales, where it has been recognised that globalisation of the legal professions ‘has been rapid with exponential growth’ from the mid-1980s[[13]](#footnote-13). Flood argues that there, ‘is an interdependence between the organisation of legal work and its cultural context… law firms develop specific cultures which are forced to adapt to changing social and economic circumstance’[[14]](#footnote-14). This can clearly be seen in relation to IFL, which used to be the preserve of wealthy clients and highly specialised practitioners whose main remit was forum shopping for high net worth clients who wished to commence divorce and financial relief proceedings in the most favourable jurisdiction for their case[[15]](#footnote-15). However, as a result of people seeking betterment in countries outside those to which they were born, the ‘black hole to which IFL was once consigned has imploded and IFL has made the leap from mega money couples to average families’[[16]](#footnote-16). Ignoring IFL is therefore an ‘unwise chauvinism’ because citizens will encounter these issues and there is a significant volume of work awaiting legal practices[[17]](#footnote-17).

The demographic changes referred to by Stark and Hodson can be charted in England and Wales. Such changes are partly attributable to the common European citizenship as well as immigration from non-EU countries and asylum applications. It is estimated that around 9.2 million people – approximately 14% of the UK population – were born abroad[[18]](#footnote-18). These statistics inevitably do not take into account second and third generations of migrant families who have been born and raised in the UK but nonetheless retain strong familial ties to other jurisdictions. International aspects may also arise in a case if a party or child:

1. Is or has been resident abroad, including spending any time abroad;
2. Is or has been habitually resident abroad;
3. Is or has been domiciled abroad;
4. Is or has been a foreign national;
5. Is or has been a citizen of another country;
6. Has passports of more than one country;
7. Was married abroad;
8. Is in a polygamous relationship;
9. Has entered into a civil registered relationship abroad;
10. Has a foreign pre-marriage or other marital/relationship agreement;
11. Has an agreement with a jurisdiction and/or choice of law clause;
12. Has chosen the law of another country as the law to govern the marriage or financial relationship;
13. Considers another personal law, including religious laws, should apply to the relationship;
14. Owns real property abroad;
15. Has a foreign pension;
16. Has material assets held abroad;
17. Has assets held by foreign companies or trusts;
18. Is being educated abroad; and/or
19. Is or has been involved in family law related proceedings abroad[[19]](#footnote-19).

These extensive circumstances demonstrate that whilst migration and globalisation may have resulted in the internationalisation of many other legal practice areas (and therefore similar arguments could be raised about the need to internationalise other areas of the law school curriculum), the laws which regulate families touch most of our lives in a way that many legal subjects do not. This is supported by Stark who argues that families ‘matter mostboth in the sense that they matter more to people than to anyone else and in the sense that it may well matter more to them than anything else in their lives’[[20]](#footnote-20). Similarly, Bias recognises that family law may affect many elements of a person’s life from concluding valid marriages, the disposition of claims in the event of a separation or dissolution, the protection of women's rights and issues regarding where and with whom their children may live[[21]](#footnote-21). This, he argues, has resulted in practitioners ‘internationalising’ practice even where they do not see themselves as practicing transnational law per se’[[22]](#footnote-22).

Demographic changes have also led to an internationalisation of laws and the politicisation of many aspects of family law. International treaties such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)[[23]](#footnote-23) and the Istanbul Convention[[24]](#footnote-24) have set minimum standards for signatories to comply with to ensure the protection of women and girls from harmful practices such as early and forced marriage, female genital mutilation (FGM) and domestic servitude[[25]](#footnote-25). Such practices are now recognised not only as a form of familial violence but as a potential human rights infringement resulting from structural gender inequality which States have a positive obligation to prevent[[26]](#footnote-26). The legalisation of same sex marriage is another such example of family law internationalisation which has followed the spread of human rights. Since the Netherlands were the first country to legalise same-sex marriage in 2010 over 27 other countries have followed suit, including South Africa, Argentina and Colombia[[27]](#footnote-27).

The internationalisation and politicisation of IFL has also led to the development of new domestic and international laws which lawyers must be able to understand, interpret and apply. IFL laws have developed in a piecemeal approach in Europe[[28]](#footnote-28). However, they play a valuable role in providing legal certainty, ensuring reciprocity and enforceability and minimising delays (and therefore legal costs) for the parties. At an international level, the UK government has become a signatory to numerous intervention conventions which seek to ensure cooperation in children[[29]](#footnote-29) and maintenance cases[[30]](#footnote-30). In respect of child abduction, the 1980 Convention on the Civil Aspects of International Child Abduction, ensures the prompt return of children to their country of habitual residence unless a successful defence can be raised[[31]](#footnote-31). Year on year there has been an increase in applications for return orders under the Convention. There were 954 applications worldwide in 1999 compared to 1,961 in 2008.[[32]](#footnote-32) In England alone, the Central Authority dealt with 444 applications in 2011, up from 288 in 2010[[33]](#footnote-33).

However, it is not necessary for the parties to be located in different countries for a case to have an international element and therefore domestic laws are equally relevant in teaching IFL. In England and Wales there has been a legislative and policy focus on ending cultural practices such as forced marriage and FGM. In 2005, the Foreign and Commonwealth Office and Home Office launched the Forced Marriage Unit (FMU) to lead on the Government’s forced marriage policy and casework[[34]](#footnote-34). In 2017, the FMU provided advice or support in relation to a possible forced marriage in 1,196 cases[[35]](#footnote-35). Whilst forced marriage is a criminal offence under the Anti-Social Behaviour, Crime and Policing Act 2014 it is also linked to family law because victims may seek legal advice about the validity of their marriage. In November 2008, the Government also introduced forced marriage protection orders as a civil remedy to protect someone who is facing being forced into a marriage or to declare a forced marriage invalid[[36]](#footnote-36). These provisions have been met with some success in tackling violence against women. Over the last year, 247 forced marriage protection orders have been granted (in all cases the applicants were women)[[37]](#footnote-37). Likewise, FGM protection orders were introduced in 2014 and since then over 222 applications have been made[[38]](#footnote-38).

Most recently, the Government introduced the Modern Slavery Act 2015[[39]](#footnote-39). The Act extends support for victims of human trafficking, slavery, servitude and forced and compulsory labour. As the author has examined in a separate article, modern slavery is a family law issue because women around the world perform a disproportionate amount of unpaid work in households and family businesses and domestic servitude is an increasingly recognised form of familial abuse, particularly within black and minority ethnic households[[40]](#footnote-40). Children are also disproportionately likely to be victims of modern slavery and human trafficking and family practitioners may become involved in the representation of one of the parties in public law proceedings[[41]](#footnote-41). It is vital that family practitioners adapt to the changing family laws to ensure clients are able to secure representation from practitioners who are able to deal with their cases quickly, knowledgeably and expertly[[42]](#footnote-42). Alongside new legislation, a number of practice directions under the Family Procedure Rules 2010 have been developed to provide guidance to practitioners involved in cases regarding international child abduction[[43]](#footnote-43), polygamous marriages[[44]](#footnote-44) and to regulate procedural matters[[45]](#footnote-45).

The importance of IFL has also been recognised by the judiciary through the creation of the Office of the Head of International Family Justice[[46]](#footnote-46). The office deals with IFL enquiries from judges, practitioners and academics globally and works with the Ministry of Justice and the Foreign and Commonwealth Office to ensure that cross-border family law cases are managed effectively. In their most recent annual report (2011-2012) the Office states:

 *The need for all involved in family law to integrate a trans-national mindset into their approach to resolving cases is self-evident, especially given globalisation, increasing movement of persons across borders, and the ever- rising number of family units which are truly international*[[47]](#footnote-47)*.*

Similar comments have also been made by judges in relation to potential negligence claims. In the case of *Re H (Abduction: Habitual Residence: Consent)* Holman J issued a reminder to solicitors that they have a duty to draw the attention of the court to the 1980 Hague Convention where this is relevant:

*… just as every general practitioner must be alert to spot a rare illness (even if he doesn’t have the experience to treat it), so also anyone, whether judge or practitioner, having involvement in cases concerning children, must always be alert to spot a possible case of international child abduction*[[48]](#footnote-48).

It is acknowledged that not all law students wish to enter legal practice. However, law students may go on to become frontline professionals in social work or police and increasingly such professionals are under a duty to identify and safeguard victims in IFL cases[[49]](#footnote-49).

**What are the objections and potential barriers to teaching IFL?**

Many academics have recognised that there is hesitance within legal education to break with tradition and innovate in the curriculum in response to changing legal climates. Reynolds, for example, acknowledges that academics can be ‘parochial’ and unwilling to engage with new materials, particularly when those materials are complex or deal with sensitive issues[[50]](#footnote-50). Similarly, Sanders argues that undergraduate legal education in England and Wales is too intellectually narrow in its focus. He suggests that barristers and solicitors in England and Wales need a broader intellectual education in addition to their technical training ‘if we wish them to be professional and not merely technicians’[[51]](#footnote-51). Waters provides a practical example of this. He recognises that the legal curriculum has failed to incorporate dispute resolution within litigation courses, despite the policy focus on resolving disputes out of court[[52]](#footnote-52). He argues that in order for less traditional content to be prioritised within the curriculum, law schools must adopt a more socio-legal approach. Adopting a socio-legal and vocational approach to legal education may increase the likelihood of IFL issues being taught within the undergraduate curriculum, given that it has emerged following a series of demographic and legal practice changes in England and Wales. IFL also has a socio-legal focus because it allows students to learn about the law and different religious, cultural and political perspectives[[53]](#footnote-53). It is a subject which recognises and regulates all walks of life and allows students to engage with the current socio-legal climate that many of the foundation subjects (i.e. contract, tort, equity and trusts) fail to[[54]](#footnote-54). Bentley argues that such a shift within legal education has already begun taking place. He recognises that traditionally, university education has focussed on ‘highly intellectual, theoretical learning and research’ however this has gradually adapted to dominant social, political and economic circumstances[[55]](#footnote-55). In part, this is because of the shift from universities as sites of knowledge generation and research to their playing an increasingly vocational role in the education and training a competent workforce[[56]](#footnote-56).

In light of Brexit and the globalisation of legal practice described above, the curriculum must also become more internationalised. This relates to the fact that ‘legal training must bear a relationship to legal practice… as the contours of the latter change, so, too, must the former’[[57]](#footnote-57). Bitas argues that this should be achieved at an early stage of legal education (i.e. at undergraduate level) so students develop an appreciation that law and legal practice do not occur in a ‘jurisdictional vacuum’[[58]](#footnote-58). Mijatov defines ‘internationalisation’ within the curriculum as ‘the process of integrating the international dimension into the major functions of a university course’ whereas ‘international’ refers to an ‘intercultural, global outlook and where 'dimension' includes perspectives, activities and programmes with that end in sight’ [[59]](#footnote-59). This geographical diversity is seemingly missing from the undergraduate legal curriculum in England and Wales where only one of the core modules – European Union (EU) law – considers international law. EU law can be regarded as a specific ‘supranational’ form of international law due to the principle of direct effectiveness, which allows it to be directly pleaded and relied upon by individuals before national courts and provides that EU law has primacy over any conflicting national laws. As such, international law, in its strictest sense, is often entirely absent from the core curriculum. Twining argues that confining the core subjects to domestic law cannot last long in light of the changes to legal practice considered above[[60]](#footnote-60). This position is further supported by a report undertaken for Legal Services Board which found that the UK is one of the biggest exports of lawyers to other jurisdictions. Using data from the Law Society they identified that 6,000 solicitors on the Roll in 2010 were practising outside their home jurisdiction[[61]](#footnote-61).

The benefits of internationalising the curriculum are recognised by academics as economic, political, humanistic, and academic[[62]](#footnote-62). The economic arguments revolve around the contention that neither law graduates, law firms or universities can survive in a globalised world with a legal education that focusses only on domestic law. This is because universities need to attract international students for financial and reputational purposes and law students themselves must be equipped to deal with legal disputes and their clients’ legal interests which are likely to extend beyond their local practice area[[63]](#footnote-63). This supports Bentley who suggests that globalisation has facilitated a shift from ‘small local law firms, working within the parochial confines of national law and single jurisdictions, to law firms working across multiple jurisdictions and within a much broader international legal context’[[64]](#footnote-64). Bentley’s study, which was conducted in Australia and Hong Kong, identified that law firms are increasingly seeking graduates with an ‘international perspective’, ‘global sensitivities’ and a familiarity with different legal systems. Therefore, modules which lend themselves to international perspectives should integrate these core values and skills within existing courses[[65]](#footnote-65). His respondents also felt that modules in private international law and comparative international law would be useful to help graduates work with or within multiple jurisdictions[[66]](#footnote-66). This supposes that employers expect graduates to understand the law and values underpinning international practice before they enter the world of work and do not regard it as a specialist skill or knowledge that is picked up on the job.

In relation to IFL specifically, law schools play a particularly important role in developing students’ interest in this area because there has been reluctance among some family law practitioners to engage with IFL. Hodson believes this is because IFL can be a complex, alien and quickly changing area of law[[67]](#footnote-67). This is a self-fulfilling prophecy however, because if IFL was taught within undergraduate family law curriculums, it is arguable that future practitioners would have the confidence to engage with these legal provisions. Further, it may encourage more scholarly activity in this field[[68]](#footnote-68). This is important because England is the world’s leading family law jurisdiction for international cases due to its close connections within Europe, North America and the Commonwealth[[69]](#footnote-69).

The political, humanistic and academic benefits of internationalising the curriculum all derive from the fact that teaching students about alternate legal systems encourages them to think critically and develop their curiosity[[70]](#footnote-70) whilst also enhancing their ‘sense of the interconnectedness of all things in a globalised world’[[71]](#footnote-71). This criticality, in turn, may develop students’ interest in law reform as they naturally are more willing to challenge why the law is how it is. This approach supports Reynolds’ proposition that IFL is ‘important, liberating, cross cultural and fun’ because it allows students to engage with topics and materials that they may not otherwise encounter on their degree programmes and exposes them to different legal systems and approaches to the law which promote ‘fascinating discussion’ and ‘intriguing legal questions’ for students to engage with[[72]](#footnote-72). As the author has examined in a separate article, the implications of the UK leaving the European Union and the impact this will have on family law will likely provide interesting and contentious legal fodder over the coming few years… should we maintain the current system of full reciprocity? What are the dangers of incorporating EU law in domestic law but losing the existing EU reciprocal arrangements? Could we start from scratch and set up a new arrangement? Would other international instruments suffice?[[73]](#footnote-73). There are a range of publications in relation to child abduction, divorce and children which have already started to critique these different options[[74]](#footnote-74).

However, there remain a number of objections to internationalising the curriculum. These objections can be applied directly to teaching IFL topics. The first concern is that such a curriculum development reduces the time available for teaching domestic law and that the increasing complexity of domestic law is already a pressure for academics. In addition, academics are apprehensive about the level of specialist knowledge and experience they require in order to incorporate international topics into their course content[[75]](#footnote-75). These are practical burdens rather than true objections to the idea that IFL should be taught. Mijatov states that the first argument is not persuasive because internationalising the curriculum does not need to reduce the amount or quality of domestic law teaching and lecturers can easily be taught how to add international material to their existing course content[[76]](#footnote-76). In addition, unless an area is particularly complex, many international concepts and legal provisions can be mastered with some reading and determination. This is certainty true of IFL where many of the topics (i.e. forced marriage and FGM) are regulated by domestic law. As such, it is more likely the real obstacle is that academics have a lack of interest or closed attitude towards teaching international and foreign law[[77]](#footnote-77).

A further resourcing difficulty is lack of financial support from an institution[[78]](#footnote-78). Again, the cost will depend on the method of incorporation. For example, it is inexpensive to add international materials to an existing module or develop relationships with overseas institutions for the purposes of facilitating placements abroad compared to the costs associated with developing new modules and recruiting qualified staff to teach on these modules. However, it is also recognised that support in the form of financial resourcing can increase the rewards from internationalisation. Bitas, for example, argues that an approach which addresses the issue simply in a manner which is manageable for academic purposes is likely to be too detached from reality to be useful. Instead, he argues that it is necessary to ‘change the terms of reference’ to allow for internationalisation to be at the forefront of legal education. Many academics have argued that these practical burdens should not therefore outweigh the benefits that come with incorporating international material[[79]](#footnote-79).

A further argument is that students cannot gain a meaningful understanding of international law or legal systems over a short period of time and that attempting to teach students both can in fact, led to confusion which is detrimental to student performance. Arguably, the effectiveness of any curriculum development will depend on *how* IFL is incorporated into the curriculum. Further, as has already been considered, many IFL issues are also regulated by domestic law, so consideration of these topics does not necessarily require significant knowledge of international provisions. In any event, academics have dismissed this objection as being ‘irrelevant’. Mijatov, for example, notes that ‘internationalising is not primarily valuable for its ability to thoroughly teach a foreign legal system’ as freestanding elective courses exist to achieve this aim[[80]](#footnote-80). Instead, the key aims are to achieve the academic, humanistic, political and economic benefits described above. Similarly, Jukier dismisses the suggestion that teaching students about international law can confuse them[[81]](#footnote-81). Instead, she argues that this can strengthen students’ understanding of domestic law by making them better able to deal with diversity and complexity in law. Jukier makes an analogy with linguistics…

 *Exposing young children to two languages simultaneously leads them to become more fluently bilingual than would be the case if the children had been exposed to the two languages sequentially, first mastering one and then moving to the other. Similarly, the philosophy of legal education at McGill posits that the best way to learn multiple modes of legal perspectives is to integrate their study right from the outset[[82]](#footnote-82).*

In relation to IFL more specifically, it has also been argued that legal education in England and Wales prioritises subjects which are concerned with property and the protection of property rather than those subjects which necessarily effect our day-to-day lives. In turn, this means that IFL is less likely to be taught. Sanders argues that law schools typically prioritise subjects which serve a particular section of society – ‘contract law, property law, equity and trusts with the doctrinal approach focused on appellate decisions, in other words the law of the wealthy’[[83]](#footnote-83). This means the law of the majority are written out of the curriculum[[84]](#footnote-84). Sanders argues that social welfare law does not feature in the curriculum because there is a belief that the legal aid cuts have significantly reduced practice in this area[[85]](#footnote-85). Whilst this may be more accurate in areas such as immigration and welfare law, this does not correspond with IFL because legal aid remains available for cases involving domestic abuse and honour-based violence, child abduction and cases where children are at risk of harm[[86]](#footnote-86). Teaching IFL can therefore provide a balance against privilege within the curriculum[[87]](#footnote-87). This is because whilst in the past IFL has been the reserve of wealthy individuals, increasingly it regulates cases with a social justice and human rights focus, such as forced marriage and FGM. Misconceptions may therefore arise from the fact that academics are not always also practitioners and changes to substantive law and practice take time to filter from the courts to the classroom.

The introduction of the solicitors qualifying examination (SQE) will be a challenge and an opportunity to the introduction of new materials into the legal curriculum. It is anticipated that many institutions will continue to offer a traditional liberal arts programme. These institutions will ultimately have more scope to include subjects such as IFL through elective modules (either within existing family law modules or as a freestanding module) as there will be no requirement to teach the core modules. In relation to the bar programme, future barristers will still need to complete a qualifying law degree meaning there will still be scope for bar students to complete electives in family law and/or IFL at an undergraduate level. However, those institutions which only intend to offer preparatory courses for SQE 1 and SQE 2 are unlikely to teach family law (let alone IFL) given that it is not one of the core subjects for SQE1 or practical contexts for SQE 2. This reveals a paradox in that whilst one of the stated aims of the reform is to ensure the competence of solicitors through a wholescale reform of legal education and training, it is proposed that this will be achieved through a much more restricted curriculum than is currently taught[[88]](#footnote-88). A restricted curriculum is likely to have disadvantages. As Sanders has noted, it encourages students to be ‘merely technicians’ with no broader intellectual understanding[[89]](#footnote-89). Further, it is arguable that this may reduce the number of students seeking to pursue a career in family law, legal aid or social justice law where many IFL topics (such as forced marriage and FGM) are encountered. This is because, with the exception of criminal law, the SQE 2 contexts are almost exclusively commercially focussed[[90]](#footnote-90). Teaching students about IFL as part of their legal education could provide them with a foundation of knowledge or spark an interest which may otherwise not be explored if these issues are absent from the curriculum. In turn, this would mean future practitioners are less able to identify and respond to their clients’ needs. In this sense, it is difficult to see how a more restricted and commercial focussed curriculum could lead to more competent IFL practitioners.

***How can IFL be incorporated into the curriculum?***

It is recognised that responses from law schools to incorporating international materials have ranged from ‘trail blazing to apathetic’[[91]](#footnote-91). At one end of the spectrum, some law schools have sought to develop international teaching partnerships and encourage their students to study or work abroad throughout their legal programmes[[92]](#footnote-92). At the other end of the spectrum, institutions such as McGill University in Canada have adopted a transnational approach into all legal programmes[[93]](#footnote-93). McGill University expose students to legislative, jurisprudential and doctrinal materials from Canada, the USA, Australia and many European countries. The ambition is to create more broadly trained ‘cosmopolitan jurists’ who have outward looking responsive legal minds[[94]](#footnote-94). Ultimately, the approach adopted is likely to depend on the institutions’ commitment to internationalisation and the resources they are able to dedicate to the endeavour.

O’Sullivan et al argue there are four key approaches to internationalising the curriculum, which are not necessarily mutually exclusive. These are; the aggregation approach, the segregation approach, the integration approach and the immersion approach[[95]](#footnote-95). The aggregation approach involves setting up separate specialist modules for international law or comparative law which are offered as elective subjects. A limitation of this approach is that it can treat international issues as ‘specialised’ and does not allow students to gain an appreciation of how international issues permeate every legal practice area. The segregation approach requires an institution to establish a separate international centre for teaching and research around international issues. This approach is arguably the most resource intensive therefore it requires an academic commitment to internationalisation. The integration approach is the most extensive method and requires institutions to ‘comprehensively integrate the law in other jurisdictions and global perspectives into core subjects and electives as well research and student services’[[96]](#footnote-96). In the author’s view this is the most effective approach as it places internationalisation at the forefront of legal education. However, it requires a similar level of commitment to internationalisation as the segregation approach. Finally, the immersion approach provides opportunities for students to study in a different jurisdiction. This approach is premised on the idea that it is preferable to learn the law of another jurisdiction while physically present in that jurisdiction.

Similarly, Mijatov argues that institutions can either quantitatively or qualitatively internationalise the curriculum[[97]](#footnote-97). The former requires incorporating international materials in any way possible since the goal is simply to increase global exposure. This approach is more aligned with the aggregation and segregation approaches described above as it favours teaching international material through separate courses, increasing the number of international cases referred to and potentially the number of internationally authored textbooks[[98]](#footnote-98).This approach invariably risks ‘tokenism’ since there is no overall commitment to internationalism. Further, this approach arguably does not go far enough to ‘reap the rewards’ of internationalisation, as discussed above[[99]](#footnote-99).

 In contrast, the qualitative approach requires a paradigmatic shift in the attitude adopted to legal education. This approach focuses on the legal problem and then ‘provides a range of solutions to that problem drawn from a number of jurisdictions instead of providing students with a single **-** domestic **-** response to that problem’[[100]](#footnote-100). This approach is more aligned with the integration approach identified by O’Sullivan. The qualitative approach is arguably more effective, not least because elective programmes typically come later in the degree programme and it may be more difficult for students to engage with internationalisation if they are not exposed to it at an earlier stage. Further, the qualitative approach stresses the importance of giving international material a substantial role in the programme by ‘discussing the differences, contradictions and similarities between international and domestic materials’ rather than simply mentioning international materials for its own sake[[101]](#footnote-101).

In relation to IFL more specifically, following the aggregated approach, IFL can be taught as a standalone module. Alternatively, within the integrated approach it could be taught as part of a family law elective. The most comprehensive approach would adopt both measures. There is an argument that IFL could simply be taught within a private international law (better known as ‘conflicts’) module. This suggestion has been rejected by academics, such as Stark, as it undermines the fact that IFL has ‘grown up’ and become a subject of its own[[102]](#footnote-102). Whilst conflicts may be offered on an elective basis at some institutions to introduce topics such as jurisdiction, choice of law and recognition and enforcement of judgments, this is by no means as popular an option as family law. Forsyth describes conflicts as ‘the Cinderella subject; seldom studied [and] little understood’[[103]](#footnote-103). Prosser also recognises that the way conflicts is taught can make it inaccessible to students and non-conflicts academics. He notes:

*The realm of the conflict of laws is a dismal swamp, filled with quaking quagmires, and inhabited by learned but eccentric professors who theorize about mysterious matters in a strange and incomprehensible jargon. The ordinary court, or lawyer, is quite lost when engulfed and entangled in it*[[104]](#footnote-104)*.*

Further, conflicts is more likely to consider these issues in the context of contract law and tort than family law disputes[[105]](#footnote-105). As such, it is not an appropriate substitute for teaching IFL in a family law elective. The importance attributed to commercial private international law over family law in international concerns can be evidenced in the ongoing Brexit negotiations. The draft withdrawal agreement published in November 2018 makes innumerable references to trade relations and agreements, however there appear to be no proposals for regulating arrangements in family cases or how the proposed withdrawal agreement will affect the EU family law legislation on which millions of people rely each year[[106]](#footnote-106). This is despite the recital to the draft withdrawal agreement stating that one of the key aims is to ‘recognise that it is necessary to provide reciprocal protection for Union citizens and UK nationals, as well as their respective family members’[[107]](#footnote-107).

**Methodology**

The existing literature in this area suggests that IFL rarely forms part of the undergraduate family law curriculum. However, the author is not aware of any empirical research which has been conducted to elicit the views of academics who are responsible for designing curriculum content and delivering family law modules. This is potentially due to the fact that there is still a clear preference towards doctrinal studies within English and European scholarship and therefore there is a paucity of empirical legal studies more generally, although literature indicates this is improving[[108]](#footnote-108). This study aims to address this gap in the research.

The sample was identified by conducting an electronic UCAS search of all HEIs in England and Wales offering law as an undergraduate degree programme. The results highlighted 114 such HEIs, which comprised 107 universities and 7 colleges and professional education providers. A manual analysis of course prospectuses published online revealed that 22 of these institutions did not offer a module in family law. Given the scope of the questionnaire, these institutions were excluded from the sample. An invitation to participate in the questionnaire was sent to the remaining 92 institutions in December 2017. As such, the whole of the research population was invited to participate. In the majority of cases, the online prospectuses identified a teaching lead which meant that email invitations were targeted to an appropriate contact. It was hoped that this would improve the response rate and therefore the representativeness of the study. Where no contact was identified, the email was sent to a generic law department email address. A chaser email was sent in January 2018. The questionnaire was hosted by Bristol Online and remained open for completion until 4 February 2018.

An online questionnaire was designed to elicit information about whether IFL topics are taught within the undergraduate family law curriculum and to identify any barriers or counterarguments that exist to incorporating these subjects within the curriculum if they are not. The questionnaire focussed on substantive legal topics which have been the focus of legislative or practice development, case law or media attention in recent years. As there is no readily accepted definition of IFL, it was not possible to include a definition or ask family law academics if they teach ‘IFL’. Instead, the respondents were asked whether they taught any of the following subjects within their undergraduate family law modules:

1. Child abduction;
2. Child relocation;
3. FGM;
4. Forced marriage;
5. Honour based violence;
6. Human trafficking;
7. International adoption;
8. International injunctions;
9. International surrogacy;
10. Jurisdiction;
11. Modern-day slavery;
12. Religious marriage contracts; and
13. Recognition and enforcement of judgments.

This approach was designed to ensure all of the respondents had the same understanding of the topics which were regarded as falling within the scope of IFL for the purposes of the questionnaire. The legal significance of many of these topics has been addressed earlier in this article.

If the respondents reported that they did teach a particular topic, they were asked how the topic was incorporated into the curriculum. This could include one or more of the following options:

1. Students can gain experience in this topic by practising live cases within our pro bono clinic[[109]](#footnote-109);
2. Students can complete their dissertation in this area;
3. Students will complete or have completed coursework in this topic[[110]](#footnote-110);
4. The topic is taught in a lecture;
5. We deliver a seminar/workshop on this topic; and
6. Other, please specify.

Alternatively, if the respondents did not teach a particular topic, they were asked to explain this with reference to the following list:

1. There is not enough time to cover this topic within the course;
2. The topic is not relevant to the practice of family law;
3. The topic is not relevant to the subject area;
4. The topic is too complex to cover within this module;
5. This is a sensitive topic – we would have concerns for student wellbeing if we taught this topic[[111]](#footnote-111);
6. There is no student demand for this topic to be taught;
7. We cover this topic in other modules;
8. We do not have any staff specialising in this area who teach on the module; and
9. Other, please specify

The benefit of using an online questionnaire was that it was quick and relatively easy to design and allowed the author to reach individuals in distant locations[[112]](#footnote-112). In addition, questionnaires are widely regarded as an appropriate method to test peoples’ attitudes, beliefs, views and opinions in relation to a particular topic[[113]](#footnote-113). The questionnaire was free to design, albeit the University pays a subscription for the use of Bristol Online’s services. In addition to providing design tools, Bristol Online offers features that assist data collection and analysis, such as the ability to export responses to statistical software packages such as SAS and SPSS[[114]](#footnote-114).

A total of 30 responses to the questionnaire were received, meaning the study had an overall response rate of 32.6%. This can be broken down as follows:

***Figure 1: response rate by geographical region***

|  |  |  |  |
| --- | --- | --- | --- |
| **Region** | **Invitations**  | **Responses** | **Response rate (%)** |
| North East | 5 | 4 | 80.0% |
| North West | 18 | 6 | 33.3% |
| Midlands | 17 | 6 | 35.3% |
| South East | 37 | 10 | 27.0% |
| South West | 8 | 3 | 37.5% |
| Wales | 7 | 1 | 14.3% |

***Figure 2: Response rate by type of institution***

|  |  |  |  |
| --- | --- | --- | --- |
| **Type of institution** | **Invitations** | **Responses** | **Response rate (%)** |
| Russell Group[[115]](#footnote-115) | 20 | 12 | 60.0% |
| Plate Glass | 9 | 3 | 33.3% |
| New Universities | 56 | 13 | 23.2% |
| Other[[116]](#footnote-116) | 7 | 2 | 28.6% |

As the questionnaire was sent to the entire research population (i.e. all HEIs who appear to teach family law), the data had the potential to be representative of the population being examined. However, the response rate of 32% meant that the data gathered from the questionnaire could not be reflective of the overall participants more generally[[117]](#footnote-117). The response rate was higher among particular populations of respondents and therefore can make some claims about its representativeness amongst these groups. For example, as figure 1 illustrates, 80% of HEIs in the North East of England responded to the questionnaire. A response rate of 80% is likely to be regarded as representative[[118]](#footnote-118). In contrast, as figure 1 demonstrates, there was a very low response rate of 14.3% from HEIs based in Wales therefore the study cannot make any claims about its representativeness in this region. Further affecting the representativeness of the data was the potential for response bias, in that those institutions with an interest in IFL may have been more likely to complete the questionnaire and/or teach IFL topics. In contrast, it may be that those institutions which did not respond are less likely to teach IFL. This, in itself, would have been revealing about the treatment of IFL topics within the curriculum as 67.4% of the sample did not complete the questionnaire. However, if response bias was present, the exclusion of these responses from the questionnaire would also have reduced the representativeness of the data obtained. This is discussed further, below.

A descriptive statistical analysis was used to examine the prevalence of teaching IFL topics and to identify any counterarguments or barriers to incorporating IFL in the curriculum. The responses were also classified according to the geographical region of the HEI and the type of institution. This allowed for regional and institutional patterns to be identified. A free text box was included at the end of the questionnaire to allow participants to express any other thoughts about including IFL topics within the curriculum. Twenty-one comments were received and coded on paper[[119]](#footnote-119). The study received ethical approval from Northumbria University.

In order to test whether response bias was present in the questionnaire responses, the author also carried out a review of the prospectus information available about the content of the undergraduate family law curriculums of the 62 institutions who did not respond to the questionnaire. This was carried out in August 2018, six months after the questionnaire closed. The review took the form of a content analysis. Hall et al define a ‘content analysis’ as where a researcher ‘collects a set of documents on a particular subject and systematically reads them, recording consistent features of each and drawing inferences about their use and meaning’[[120]](#footnote-120). Content analysis is predominantly utilised in empirical legal studies to analyse legislation and court judgments[[121]](#footnote-121) and as Cane argues, there is still an apparent reluctance of empirical legal researchers to use non-legal documents (such as, in this case, module prospectuses) as sources of data which may be due to concerns about the reliance that can be placed on such documents. However, Hall et al note that this method has the potential to produce data that is high in reliability as it follows systematic procedures which can be replicated[[122]](#footnote-122). Further, this method comes naturally to legal scholars because ‘it resembles the classic scholarly exercise of reading a collection of cases, finding common threads that link the opinions and commenting on their significance’[[123]](#footnote-123).

In this study the author reviewed the information published online in relation to the content of the non-responding HEI’s family law curriculums. To identify the appropriate modules, the author carried out an online search for each institutions’ ‘family law’ module. Where this did not produce any results, alternative searches were carried out such as ‘child law’ ‘matrimonial law’ and ‘private international family law’ and ‘international family law’. In the majority of cases, each institution only had one relevant module. However, where an HEI appeared to be delivering more than one relevant module, both modules were analysed. The module information was coded according to the different topics that were listed as being taught. This allowed the author to examine whether IFL issues were taught either as a standalone topic or as part of a wider topic. The occurrences of each topic were also recorded to allow inferences to be drawn about which, if any, IFL topics seemed to be most prevalent in the curriculum. Each time a topic fell within a code, it was given a score of 1. The following codes were identified and many of the topics fell within multiple codes:

* IFL
* Marriage and divorce
* Financial claims
* Cohabitation
* Private children law
* Public children law
* Domestic abuse
* Miscellaneous

In 42 cases (67.74%), information about the undergraduate family law curriculums was published on the HEIs’ website. In 20 cases, no information was available, and the analysis could not be completed in respect of these modules. Taken together with the data obtained through the questionnaires, the analysis therefore considered the curriculums of 72 out of a total of 92 HEIs which appeared to teach family law at an undergraduate level. This was an effective response rate of 78.3% across the two research methods.

A limitation of the content analysis which will affect the reliability of the data collected and the representativeness of the study is that the information included on institutions’ websites was taken at face value. It is possible that this information was out of date and therefore not reflective of the current curriculum. This was particularly relevant as the content analysis was carried out during the academic summer when module materials are most likely to be updated. Further, in many cases, the only information provided about the module content was broad headings or blurbs about the topics covered. This meant that it was not always possible to identify whether IFL topics were taught within broader subjects (for example, whether forced marriage was taught as part of marriage validity or domestic abuse). Where this was not explicit, the author inferred that such topics were not taught. This reveals a further limitation of this method, which is that the selection of codes and interpretation of them is subjective to the author. Again, this will affect the representativeness and reliability of this study.

**Discussion**

As discussed above, all of the HEIs were selected on the basis that they taught family law at undergraduate level. The respondents reported that in all cases family law was taught as an elective module. As is shown in the table below, the modules attracted varying levels of credits:

***Figure 3: credits attached to family law modules***

|  |  |  |
| --- | --- | --- |
|  | **Number of respondents** | **Percentage** |
| **10 credits** | 0 | 0% |
| **15 credits** | 4 | 13% |
| **20 credits** | 16 | 53% |
| **25 credits** | 0 | 0.0% |
| **30 credits** | 9 | 30% |
| **Other** | 1 | 3% |

One of the respondents selected ‘other’ and noted that their institution offers two family law modules, each of which attracts 20 credits. Typically, 20 credit modules are delivered over one semester, therefore the majority of these modules will have taken place over approximately a twelve-week period.

1. ***Is IFL taught in undergraduate family law curriculums?***

The content analysis confirmed that, as one may expect, the majority of undergraduate family law modules focus on the basic principles of divorce and financial relief proceedings, private (and to a lesser extent public) law children proceedings, domestic violence applications and cohabitation disputes. This appeared to also be representative of the respondents who completed the questionnaire. One respondent, for example, stated *“the focus of the module is on divorce, finances, children and domestic abuse in a workshop format”* whilst another noted that their module covered *“marriage, divorce, division of assets, cohabitation and private and public aspects of child law”*.

The data from the questionnaire indicates that many of the respondents acknowledge the increasing importance of IFL and internationalisation more generally. This was evidenced through the author being invited to deliver a guest lecture on IFL to family law students by one of the respondents directly as a result of the questionnaire. Another of the respondents reported that they had been contacted by a leading family law judge about the importance of including the significant issue of forced marriage in the undergraduate law curriculum and how the law can prevent such practice especially when a minor is involved. Following Mijatov, the respondents also acknowledged the economic, political, humanistic and academic value of IFL in the qualitative comments:

*Our college is based in a wider participation area, so subjects like FGM, forced marriage and religious marriages are of relevance in terms of domestic law. Students find these sessions both informative and eye opening.*

*International law is often disregarded within the context of family law, but I feel it adds a level of depth to critiquing family law issues at the domestic level[[124]](#footnote-124).*

The increasing importance of IFL was also reflected in the curriculum where it was clear that efforts are being made to incorporate some IFL topics. All of the respondents identified teaching at least one of the IFL subjects however there were differences between the number of subjects that were taught, the extent to which they were incorporated into the formal curriculum and the method of incorporation. This is demonstrated by Figure 4, below.

***Figure 4: prevalence of IFL topics***

The respondents to the questionnaire taught an average of 3.8 of the 13 topics shown in Figure 4 above within their family law curriculums, however inevitably not all institutions taught the same topics. The content analysis indicated that IFL topics were also taught by those institutions who did not participate in the survey, albeit to a lower extent. This suggests there was some degree of response bias in the questionnaire data. In total, there were 16 references to IFL topics within the content analysis, meaning around 38% of the institutions taught at least one family law topic. The actual figure may be higher than this as most institutions did not include comprehensive details of the topics taught.

The data obtained through the questionnaire suggested there was no positive statistical correlation between the type of institution (i.e. Russell Group, plate glass, new universities or other) and the extent to which IFL was incorporated in the curriculum. This was interesting because new universities are typically regarded as more innovative and practical focussed in their approach to legal education[[125]](#footnote-125). As such, it may be expected that they would be more likely to adapt their curriculums to reflect the changing legal landscape, however this was not the case.

There was, however, a geographical variation in the extent to which IFL was incorporated into the curriculum. Of the 14 institutions who taught fewer topics than the 3.8 average, 10 (71%) were based in the North of England or Wales. Likewise, of the 16 institutions who taught more than the average, 12 (75%) were based in the Midlands or the South of England. This may be reflective of demographic trends which demonstrate that London has the highest population of non-UK born and non-British nationals[[126]](#footnote-126). Further, individuals identifying as black or Asian are more likely to be concentrated in London and the Midlands[[127]](#footnote-127). In contrast, many of the least ethnically diverse local authorities are based in the North of England and Wales[[128]](#footnote-128). It is possible that institutions based in areas with high levels of internationalisation are more mindful of the issues facing their local communities (and student populace) and this has filtered into the curriculum.

Contrary to expectations, the most frequently taught topics were not those which would benefit clients seeking to protect assets or protect financial claims (such as jurisdiction, recognition and enforcement of judgments and international injunctions). There was therefore no evidence within the data that the curriculum favoured particular demographics, as hypothesised by Sanders and Crownie. In contrast, the most popular IFL subject that was included in the undergraduate family law curriculum was forced marriage. This was taught by 26 (87%) of the respondents who completed the questionnaire. This finding was also mirrored in the content analysis. The popularity of teaching forced marriage is arguably reflective of the legal and policy focus on protecting women through forced marriage protection orders and the creation of the Forced Marriage Unit. As such, the data suggests there may be a link between the amount of policy attention given to a topic and its likelihood of inclusion within the curriculum. Pessimistically, as forced marriage also fits within the broader family law topics of marriage validity and domestic abuse, it is also possible that the respondents found it quantitatively easier to incorporate into existing topics, following Mijatov[[129]](#footnote-129).

The content analysis also revealed that family law academics adopt a more socio-legal approach to the undergraduate curriculum than anticipated. This was evidenced in the following module descriptions:

*We look at families and family law in their social and cultural contexts.*

*The changing nature of “the family”, with reference to issues such as scientifically assisted reproduction, ethnic cultures and traditions, sexual orientation.*

*The extent to which the law accommodates different family forms and interpersonal relationships in the light of cultural, religious and social variables[[130]](#footnote-130).*

These module descriptions indicate that institutions which adopt a socio-legal approach may be more likely to teach IFL. This is because these modules seemed more open to examining the changing legal landscape which has brought about the need for IFL, the cultural issues which may affect international families and wider legal practice developments. This supports the literature which suggests that a socio-legal approach can bring added intellectual diversity to the legal curriculum and open the door for innovation within the curriculum[[131]](#footnote-131).

The data from the questionnaire suggests that an IFL topic is more likely to be covered if it is regulated by domestic legislation. This was evident in relation to forced marriage which is regulated entirely by the Family Law Act 1996[[132]](#footnote-132). There was a perception that topics which were regulated by domestic legislation were not too complex to be included in the curriculum and therefore, following Salehi-Sangari[[133]](#footnote-133), did not require specialist knowledge on the part of the lecturer. However, this led to disparities in that complementary topics which were governed by international law, were still largely ignored within the undergraduate family law curriculum.

An example of this can be found in international surrogacy (which was taught by 13 of the responding institutions) and international adoption (which was only taught by 4 of the HEIs). Surrogacy arrangements are regulated by domestic legislation (the Surrogacy Arrangements Act 1985[[134]](#footnote-134) and the Human Fertilisation and Embryology Act 2008[[135]](#footnote-135)) whereas there is an international framework for dealing with inter-country adoption through the Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption[[136]](#footnote-136). However, the processes of surrogacy and adoption target similar markets (typically same sex couples and those unable to conceive naturally) and involve third-party participation in the reproductive process[[137]](#footnote-137). As such, they could logically be taught as complimentary subject areas. There was a perception that international adoption was more ‘complex’ than surrogacy – three of the respondents cited this as a reason for not teaching adoption compared to two similar responses in relation to surrogacy. Further, eight of the respondents stated they did not have staff specialising in adoption whereas this was only mentioned in five responses for surrogacy. Twenty-one of the respondents reported that there was ‘not enough time’ to cover adoption whereas this was only cited in 14 responses in relation to why surrogacy was not taught. The exclusion of international adoption from the family law curriculum suggests that practical barriers such as time, expertise and attitudes to internationalisation may be key drivers affecting whether a topic is incorporated in the curriculum. It also suggests that academics are adopting a ‘quantitative’ approach and looking for an ‘easy’ fix to the issue of internationalisation[[138]](#footnote-138). Surrogacy and adoption both provide stimulating legal questions for students to critically engage with. For example, why is adoption perceived as an acceptable method of building a family, whereas in many countries’ surrogacy is illegal or discouraged? Should it be lawful for Madonna to adopt twins in Malawi who have a living father?

The findings of this study support the work of Davies who argues that many areas of reproductive rights lend themselves to being studied with an international focus however they are often neglected within the curriculum[[139]](#footnote-139). Her research found that only nineteen universities in the USA offered courses in reproductive rights law and of these, only five adopted a transnational approach[[140]](#footnote-140). In relation to family law, she notes that topics such as sterilisation, abortion and surrogacy are often relevant in the context of fundamental rights to make decisions about one's own family life. The contrasting case law that has emerged globally demonstrates differing approaches to the law and promotes students’ curiosity and ability to challenge perceived injustice. High profile cases include the Canadian Supreme Court case of *Eve (Mrs) v Eve* which concerned a mother's application to sterilise her daughter who had significant mental impairments[[141]](#footnote-141); *Javed v. State of Haryana,* where the Supreme Court of India addressed a policy that individuals with more than two children were barred from seeking election for certain official government positions[[142]](#footnote-142); *Chavez v. Peru* which arose from the Peru's government policy of sterilising poor women in the 1980s and 1990s[[143]](#footnote-143); and the recent USA decision of *Carhart II* which banned particular methods of abortion regardless of the impact on women's health[[144]](#footnote-144). As such, teaching about reproductive health in family law has the potential for academic benefits. In addition, there are likely to be economic benefits to discussing these topics, as our domestic case law demonstrates that judges are regularly asked to adjudicate on cases relating to the validity of adoption and surrogacy agreements entered into or to decide where and with whom such children should live [[145]](#footnote-145).

The discrepancy in the inclusion of domestic versus international materials was also reflected in the statistics on child relocation and child abduction which are complementary subjects because they both regulate the case where one parent wants to remove or does remove a child from the jurisdiction. Child relocation, for example, was taught by 13 of the respondents and is regulated by domestic case law (specifically the Children Act 1989 and the case of *Re F (A Child) (International Relocation Case)*[[146]](#footnote-146). In contrast, only 10 of the respondents reported teaching child abduction. In the majority of cases child abduction is regulated by international legislation including the 1980 Hague Convention on the Civil Aspects of International Child Abduction[[147]](#footnote-147) and/or Brussels II[[148]](#footnote-148). As has been explored above, there is an economic case for teaching child abduction as there are thousands of applications for the summary return of abducted children under the Hague Convention each year.

There may be a number of reasons that those responsible for designing course content decide not to incorporate topics which are regulated by international law. In addition to the practical barriers discussed above, it is possible that this finding supports Reynolds’ suggestion that academics do not like complex and unfamiliar statutes and, as a result, often avoid teaching these materials[[149]](#footnote-149). If module leaders are exercising their discretion to deliberately avoid these subjects based simply on their own parochialism, then at best they are doing a disservice to their students and at worst this is a form of professional misconduct.

This level of parochialism will be increasingly problematic in a post-Brexit era when England will be more closed-off to other legal systems. However, Brexit will also add legal complexity to some previously well settled areas of family law and therefore it is vital that academics are not hesitant to keep pace with these changes. In the coming months (and potentially years) UK policy-makers will have to consider how to re-shape the UK private international law regime, whilst EU policy-makers will need to assess the impact of the UK’s decision to leave the European Union[[150]](#footnote-150). In the post-Brexit era, there will also be a need for arrangements between the UK and EU to ensure an effectively functioning regime which facilitates parties’ access to remedies in cross-border cases[[151]](#footnote-151). As Briggs has identified, Brexit will have a considerable impact on the relevant legal literature – ‘[i]t could mean that about half the pages in the current edition of Dicey – the better half, as some would say – could be torn out and thrown away’[[152]](#footnote-152). Academics will therefore need to assess which areas of their module are affected and what proposals are being considered for reform. Failing to do so may result in students being taught outdated and irrelevant provisions which will clearly compromise any academic, political and economic benefits derived from the module.

1. ***Barriers in practice to incorporating IFL into the family law curriculum***

As outlined above, in principle the respondents were positive about incorporating IFL into the curriculum. However, they identified key practical obstacles to taking such a step. This reflects Jukier’s observation that ‘not much time was spent at the conference on the somewhat tired and trite theme of globalization or the reality of cross-border transactions. These were accepted as givens. Rather, the focus of that day was on the ‘how’[[153]](#footnote-153).

Supporting the literature in this area, the main barriers were perceived to be time and staff expertise. However, one barrier emerged that was not identified in the literature – this was that some of the IFL topics were not recognised as being relevant to the subject area or practice of family law. In contrast, a lack of student demand for these topics to be taught and concerns about student wellbeing were rarely cited as barriers to incorporating IFL topics. This suggests that academics were more concerned with the practical barriers which would burden themselves, rather than the student experience.

1. *Time*

***Figure 5: time***

Supporting Mijatov’s findings, time was perceived to be the main practical obstacle to incorporating IFL into the curriculum as most of the modules were delivered over one semester (see figure 3). This resulted from the fact that the existing family law curriculum was perceived to be at capacity. This was also one of the key themes arising from qualitative comments:

*The undergraduate family law module is limited in scope due to the amount of lectures that can be provided.*

*We do not teach the full range of international family law topics primarily because there would be insufficient time within an already packed curriculum.*

*The biggest hindrance is lack of time[[154]](#footnote-154).*

Whilst time was identified as a key obstacle, there was not a positive relationship between the number of IFL topics taught at an institution and the amount of credits attached to a module. For example, one of the respondents, whose module was only worth 15 credits taught 5 of the IFL topics whereas another whose module attracted 30 credits only taught 2 of the topics. This suggests that either there is no direct link between the length of a module and the amount of credits attached to it, or in fact time was not the obstacle that the respondents perceived it to be.

As this article has already considered, there are a number of ways in which IFL topics could be brought into an existing family law module. At a very basic level, this could include referring to cases with an international element. In relation to domestic abuse, for example, the topic could be contextualised within the wider international instruments to which the UK is a signatory, such as the CEDAW and the Istanbul Convention. This would allow for students to develop an understanding of domestic abuse as a gendered human rights infringement and the proposals for tackling violence against women and girls. Taking forced marriage as another example, it can be considered in the context of marriage validity and declarations of nullity and non-recognition. Within a lecture or seminar on domestic abuse, forced marriage could also be taught alongside occupation orders and non-molestation orders as a form of injunctive protection. Likewise, child relocation proceedings could be taught within a lecture or seminar on parental responsibility and child arrangements. This approach could be regarded as either the integrated approach discussed by O’Sullivan or the quantitative approach discussed by Mijatov, as it would achieve a measurable increase in the IFL topics discussed but by incorporating this within an existing course. This also replicates the approach adopted at McGill University where international issues (and legislation) are interwoven with domestic law[[155]](#footnote-155). It was clear that some of the respondents were also making attempts to do this:

*We bring in honour-based issues within domestic violence. The part of the module dealing with children covers relationships and orders within England and Wales. Child abduction is mentioned but only in passing.*

*We discuss FGM briefly as a child safeguarding topic.*

*Forced marriage is not taught as a separate, specific topic, but within the topics of marriage and domestic abuse[[156]](#footnote-156).*

Within the content analysis, there was also evidence that international issues, legislation and legal traditions were being explored alongside domestic perspectives. One institution, for example, reported that their family law module included a tutorial on international perspectives which considers how children are protected under EU laws whilst another noted that the module would conclude with a session on European and international family law. One module stood out as achieving full integration between family law and IFL. The scope of this family module included:

*Sources of the law of the family in the legal systems of selected countries: Africa or Asia including diasporic minority ethnic and religious communities in England and Wales…. where appropriate, the received laws, local statutory laws, religious and customary laws in the field of marriage and domestic relations, their comparison and interaction will be studied. The module includes the law of family property and succession and both the traditional and modern law will be studied.*

This module most closely resembled a qualitative integrated approach as it placed internationalisation at the forefront of the exercise and considered the legal traditions and perspectives of other countries rather than just giving a cursory mention to international legislation to which England is bound.

The benefit of the integrated approach is that it does not treat international issues as ‘specialist’ or only affecting a minority of communities. It also appears to have academic benefits for students in that it can lead to improved levels of comprehension amongst the students who are able to think more nimbly about different legal systems. From an economic perspective, it also enables students to start gaining an international perspective and global sensitivity, as discussed by Bentley[[157]](#footnote-157). However, the potential disadvantage of this approach is that there is unlikely to be sufficient time to consider all of the topics in any level of detail. Further, as Mijatov highlights, considering IFL topics as part of a wider subject will usually not result in the full benefits of internationalisation because it typically achieved without a qualitative shift in the pedagogical approach to incorporating such subjects.

An alternative approach would be for IFL to be taught as a standalone module. This would mean that IFL topics did not encroach on an already busy curriculum. This is the aggregation approach, propounded by O’Sullivan[[158]](#footnote-158). The respondents appeared to favour this approach, despite the fact that it was rarely practiced by them:

*I find it difficult to find the time to teach all of these topics together with traditional family law topics - it is probably suited to a stand-alone elective module.*

*It seems that there is more than enough for a bespoke international family law module[[159]](#footnote-159).*

At the author’s own institution, a range of responses to incorporating IFL have been adopted, using a mixed qualitative and quantitative approach, in order to reap maximum benefits. For example, efforts have been made to incorporate IFL issues into the mainstream family law curriculum where possible. Within the law school clinic, for example, family law students work with a black and minority ethnic women’s organisation to advise their clients about issues such as marriage validity (i.e. to what extent Islamic marriages are recognised under domestic law) and how their clients can be protected against culturally specific forms of domestic abuse such as FGM, slavery, forced marriages and honour based violence. Students are also invited to attend a range of documentary screenings about IFL issues, including Banaz: A Love Story[[160]](#footnote-160), Eve’s Apple[[161]](#footnote-161) and Not my Life[[162]](#footnote-162). After the screenings, students engage in discussions about the issues raised. Finally, students are encouraged to develop their knowledge of IFL areas by preparing articles for the law school’s family law blog[[163]](#footnote-163). Documentary screenings and blog articles are simple, inexpensive and effective ways of bringing additional elements into the curriculum.

However, ultimately, IFL is offered as a standalone 20 credit level 6 elective module at the author’s institution. The module runs alongside the elective in family law, however it is not compulsory for students of IFL to also study family law. The module covers jurisdiction, connecting factors, marriage validity and religious marriage contracts, forced marriage, FGM and child abduction, over one semester[[164]](#footnote-164). The module provides intellectual and pedagogical diversity by combining black letter law (i.e. an academic focus on conflicts concepts including the connecting factors of domicile and habitual residence), a practical focus on substantive areas of law (i.e. through problem-based learning) and law reform.

As an example, the recognition of Islamic marriage is taught as an area of law in need of reform through an exploration of the key case law in this area which demonstrates the unpredictability with which Islamic marriages have been regarded as valid, void or non-marriages[[165]](#footnote-165). This issue has been at the forefront of research and practice in recent years[[166]](#footnote-166). Many Muslim men and women only have an Islamic Nikah ceremony (i.e. the religious ceremony) and are unaware that in the majority of cases, a Nikah does not create a legally recognised marriage with the couple regarded as cohabitants in English law[[167]](#footnote-167). Therefore, should the marriage break down, the parties will not have the same protection of the law as they would have if they had a civil registry marriage. This can be disadvantageous because it allows men to marry multiple women – one woman by way of a Nikah and civil registry and a second wife by way of Nikah only. In such circumstances, there is no polygamy in the eyes of English law but if the relationship with the second wife breaks down, she will have limited financial claims against her husband. The difficulties with this has led to the ‘Register our Marriage’ campaign, which consists of lawyers, academics and parliamentarians who are lobbying for a change to the Marriage Act 1949 to increase the prospects of a Nikah ceremony falling within the requirements of the Act. Drawing on the academic benefits, teaching Islamic marriage as an area for law reform also provides students with an opportunity to consider whether this is an issue of some faiths receiving unfavourable treatment under the law or whether it is an issue of integration as this is seemingly a problem which only affects Islamic communities rather than other minority faiths such as Sikhs and Hindus[[168]](#footnote-168).

Three of the respondents to the questionnaire reported teaching standalone international modules in international family law, international child law or Islamic family law. The focus on child law and Islamic law are likely to be because of the disproportionate number of cases dealt with in the family courts involving children[[169]](#footnote-169) and Islamic women[[170]](#footnote-170). The focus on Islamic law is also perhaps unsurprising given that there are over 3.3 million Muslims living in England, many of whom will be first and second generation migrants who have retained close links to their country of origin[[171]](#footnote-171). Within the content analysis, only one of the institutions delivered a freestanding IFL module and this was in private international family law (i.e. conflicts of law). This suggests that whilst private international law may be an alternative way of teaching IFL topics, it does not appear to be a popular offering. The benefit of a standalone module is that topics can be covered in more detail than they would through being integrated into existing family law topics however, it does risk ‘tokenism’[[172]](#footnote-172).

1. *Not recognising the topics as relevant to family law*

***Figure 6 – not relevant***

Another obstacle to incorporating IFL into the curriculum, was that a few of the topics were not identified as relevant to the subject area or practice of family law. Seven of the respondents reported that FGM was either not relevant to the subject area or practice of family law. This suggests there is a lack of understanding amongst family law academics about the protection afforded to victims of FGM through the family courts and the fact that family legal aid remains available to fund such proceedings. This perception had a clear effect on whether FGM was taught. Whilst forced marriage was taught by 87% of the respondents, FGM was only taught by 23% of the respondents. As mentioned earlier in this article, the Government has had a near identical response to both forms of violence with criminalising the practices, introducing protection orders and issuing guidance for professionals. There are also similarities between forced marriage and FGM in that both are a form of family violence and honour violence which are disproportionately perpetrated against young black and minority ethnic (BAME) women. This disparity suggests that more needs to be done to raise the profile of FGM protection. It also lends support to the view that most of the respondents adopted a quantitative approach, simply incorporating IFL topics where it was convenient to do so. This is because, with the exception of domestic violence, FGM does not fit as well into broader family law topics in the same way that forced marriage does.

Academics may not keep pace with many of the practices which IFL regulates because they are viewed as regressive. As such, they may be surprised to learn that they still exist (or that they have returned following large-scale migration) in twenty-first century England and Wales. FGM and forced marriage are clear examples of this. The regressive nature of these practices only become more obvious when they are compared against other developments in family law in the UK in recent years. For example, the acquisition of equality within same sex marriage and the acceptance of mono-parental, same sex and blended family units demonstrate the uneasy political relationship between liberal Western democracies and many IFL practices.

Some of the IFL topics were recognised as multidisciplinary and therefore not exclusively within the scope of family law. This was particularly apparent in relation to human trafficking and modern-day slavery. Overall, only one institution reported teaching either of these topics within their family law curriculum. Eight respondents stated that it was not relevant to family law whereas twelve respondents cited this for modern day slavery. These subjects were, however, more likely than other topics to be taught in other modules (see figure 7 below).

***Figure 7 – IFL topics taught in another module***

One of the respondents taught human trafficking within a gender and the law module whilst others suggested it should feature within a criminal law, migrant law or human rights module. Within the content analysis, two institutions taught trafficking in the context of children’s rights. The author agrees there is also a clear place for human trafficking and modern-day slavery within a family law module. As examined earlier in this article, in 2016 the government introduced the Modern Slavery Act 2015[[173]](#footnote-173) which seeks to protect victims and ensure they receive appropriate support. Domestic servitude (where victims are forced to carry out housework and domestic chores in private households with little or no pay) is a form of domestic abuse. Further, human trafficking where children are involved is a safeguarding concern. Cases dealt with through the National Referral Mechanism will inevitably be referred to the local authority and will involve the family court making decisions about children’s welfare[[174]](#footnote-174). The duties on the local authority derive from the Children Act 1989[[175]](#footnote-175). It is anticipated that as these issues filter from the courtroom to the classroom through new case law, they may be more easily recognised as family law issues and in turn, organically brought into the curriculum.

There was also a feeling amongst some of the respondents that IFL was a practice focussed module and therefore more suited to a postgraduate or LPC course. One respondent, for example, noted that they did not teach the topics raised in the questionnaire because the module focussed on *“black letter law rather than practice”*. This was somewhat confusing given IFL is no more practice focussed than any other academic discipline which also happens to be a legal practice area (i.e. criminal law, housing law, private client law). Further, as this article has already considered, IFL has academic, political and humanistic benefits as a black letter subject as it allows students to critically engage with the different approaches to legal provisions and the different responses taken by countries to family law concerns. It is also an area that is rife for law reform.

1. *Staff expertise*

***Figure 8 - expertise***

A further barrier to incorporating IFL into the undergraduate family law curriculum was the perception that staff did not have the expertise to teach these issues. This mirrors the findings of Bentley et al[[176]](#footnote-176). In part this is likely to be because IFL has only emerged as a legal discipline within the last few decades and therefore its unfamiliarity to some may be disconcerting. However, as explored by Reynolds and Salehi-Sangari[[177]](#footnote-177) the issue may also be one of willingness to learn and having a closed attitude to IFL which will ultimately prevent real engagement with these issues and therefore the scope for any rewards. Many academics teach topics with which they are initially unfamiliar, and all academics must remain up to date with developments in their field to ensure their modules are relevant to the students they teach. IFL is such a development in family law.

IFL materials are not impenetrable. Many of the laws regulating IFL issues are domestic laws with which academics will already be familiar. This can be seen in the context of forced marriage which is regulated by the Family Law Act 1996[[178]](#footnote-178), FGM which is governed by the Female Genital Mutilation Act 2003[[179]](#footnote-179) and in child relocation for which applications are made under the Children Act 1989[[180]](#footnote-180). This also means that many IFL topics are no more difficult for students to engage with as traditional family law topics. Jukier suggests that expertise should not be an impediment to academic reform[[181]](#footnote-181). If academics with familiarity or expertise in a particular area or legal system cannot be identified, then hiring people with the commitment and energy to learn can be just as valuable. Of course, this requires a qualitative commitment to introducing IFL into the curriculum because of the resource requirements of hiring new staff.

**Conclusions**

The data from the content analysis and the questionnaire demonstrates that academics recognise the increasing importance of IFL and efforts are being made to incorporate IFL into the undergraduate family law curriculum. On the whole, however, this often seemed to be a superficial level where IFL is discussed briefly as part of a wider family law topic. The data indicates that there are three main barriers to incorporating IFL into the family law curriculum. The first is a lack of time to incorporate additional materials into the family law curriculum. The second obstacle is a failure to identify IFL issues as relevant to the subject or practice of family law. This indicates that some family law academics are not keeping pace with the developments in family law. The final obstacle is that many institutions feel they do not have sufficient academic expertise to teach IFL.

Many of these obstacles are not insurmountable but require commitment and creativity to overcome. As this article has examined, there are great rewards for students in studying IFL. Perhaps more importantly, however, as a result of globalisation and the internationalisation of legislation, clients with ties to more than one jurisdiction are here to stay. As such, the endeavour to internationalise the family law curriculum is vital if family law students are to be prepared for the realities of family law practice in England and Wales and equipped to serve this growing market at the forefront of societal challenges.

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106. It was suggested in the [Brexit and family law—Joint paper of Resolution, the Family Law Bar Association and the International Academy of Family Lawyers—October 2017](http://www.resolution.org.uk/site_content_files/files/brexit_and_family_law.pdf) that there are four broad possibilities in relation to family law upon the UK’s withdrawal from the EU. The first would be to maintain a system of full reciprocity (i.e. that EU instruments are replicated in domestic law and current reciprocal arrangements with EU Member States are maintained). The second approach would involve EU instruments being replicated in domestic arrangements but the current reciprocal arrangements with EU member states would no longer be maintained. The third approach would require a bespoke arrangement or finally there would be a ‘no deal’ scenario. On 6 November 2018, Parliamentary Under-Secretary of State for Justice, Lucy Frazer QC MP, wrote a letter to the chair of the Justice Select Committee in response to Committee's letter concerning a 23 October 2018 evidence session on the implications of Brexit for the justice system. Concerning the question of whether international child abduction is sufficiently addressed in the draft withdrawal agreement, specifically in reference to Article 11 of Brussels II, Frazer said that the government agreed that the current EU civil judicial cooperation rules will continue to apply during the implementation period that runs until the end of 2020 and stated that the government will continue to operate the provisions of the 1980 Hague Convention on the Civil Aspects of International Child Abduction to secure the prompt return of abducted children. The ongoing role of the Court of Justice of the European Union (CJEU) after Brexit is not yet clear, but it may continue to have jurisdiction in relation to the UK during a Brexit implementation period. In family law cases, the CJEU has considered issues such as jurisdiction, enforcement and the definition of habitual residence. [↑](#footnote-ref-106)
107. The draft withdrawal agreement published in November 2018 can be accessed in full at: <https://ec.europa.eu/commission/sites/beta-political/files/draft_withdrawal_agreement_0.pdf> [↑](#footnote-ref-107)
108. See, for example, Cane, P. Herbert M. Kritzer (eds) (2012) ‘The Oxford Hanbook of Empirical Legal Research’ (Oxford: Oxford University Press; Cahillane L. Schweppe, J (2016) ‘Legal Research Methods: Principles and Practicalities’ Dublin: Clarus Press; Eisenberg (2011) ‘The Origins, Nature and Promise of Empirical Legal Studies and a Response to Concerns’ Cornell Law Faculty Publications. Paper 974. [↑](#footnote-ref-108)
109. Clinical legal education (CLE) is one of the most widespread trends in legal education in England and Wales over the last few decades. It is ‘a method of training law students by putting them in situations where they must apply the legal theory, principles, and doctrines they have studied in the classroom setting (Dunn, R (2017) ‘A systematic review of the literature in Europe relating to clinical legal education’ International Journal of Clinical Legal Education. Volume 24, Issue 2.). CLE takes various forms including simulation, drop-in clinics and full representation clinics. Research suggests that over 70% of all law schools offer practical focussed pro bono opportunities to their students (McKeown, P (2017) ‘Pro Bono: what’s in it for law students? The students’ perspective’ International Journal of Clinical Legal Education Volume 24 Issue 2). In the year ending March 2017 two-fifths (40%) of the 225 clinics within the LawWorks Network, operated within law schools. These law school clinics received 18,461 enquiries over the year. Law school clinics accounted for half (50%) of all clients receiving general information, signposting or referral. This suggests that many students at universities in England and Wales have the opportunity to engage with clinical education. In 2017, family law was the most popular area of law which clinics assisted with, comprising over 25% of the enquiries received (LawWorks (2017) ‘LawWorks Clinic Network Report April 2016 – March 2017: analysis of pro bono legal advice work being done across the LawWorks network between April 2016 and March 2017). [↑](#footnote-ref-109)
110. Elective modules are typically summatively assessed by way of a written piece of coursework or examination. It was felt that an IFL topic was included within the assessment it was more likely to be regarded as a core element of the curriculum, rather than an ancillary topic or simply being taught as part of a wider topic. [↑](#footnote-ref-110)
111. In relation to sensitive content, the family law curriculum covers many potentially distressing topics, including domestic abuse and child abuse. The author argues that there are benefits to teaching such subjects as they contribute towards a students’ ability to work with clients from diverse backgrounds who may have different values to their own. In order to appropriately prepare students for professional practice, it is also necessary to address sensitive issues in order to develop students’ resilience. Heath et al agree that classes on sensitive material can provide ‘spaces for students to hear and respectfully engage with opinions that may confront their own, which is an important skill in any professional or social environment’ (Heath, M. Due, C. Hamood, W. Hutchison, A, Leiman, T. Maxfield, K. Warland, J (2017) ‘Teaching Sensitive Material: a multi-disciplinary approach’ ERGO, volume 4 No 1 p.9). However, law schools are increasingly conscious of whether and how they teach sensitive or controversial topics. This is because as educators, we owe a duty of care towards our students to ensure their wellbeing in addressing such topics. As researchers such as Heath at el have highlighted, our cohorts are likely to be comprised of students who have experienced trauma or potentially the subject matter in discussion and we should rightly be mindful of exposing such students to re-victimisation. However, rather than simply leaving a topic off the curriculum, curriculum planning should ensure that students should have advance notice if sensitive content is being taught. [↑](#footnote-ref-111)
112. Wright, B (2005) ‘Researching Internet-Based Populations: Advantages and Disadvantages of Online Survey Research, Online Questionnaire Authoring Software Packages, and Web Survey Services. Journal of Computer-Mediated Communication, Volume 10, Issue 3. [↑](#footnote-ref-112)
113. See, for example, McConville M. Chui, W (2007) ‘Research Methods for Law’ Edinburgh University Press. [↑](#footnote-ref-113)
114. Ibid [↑](#footnote-ref-114)
115. There are 24 Russell Group universities (<https://russellgroup.ac.uk>). However, Edinburgh, Glasgow and Queen’s University Belfast were not included because they are not located in England and Wales. Further, Imperial College London was excluded from the survey as from the information published on their website they did not appear to offer an undergraduate module in family law. [↑](#footnote-ref-115)
116. ‘Other’ refers to colleges and professional education providers who do not have university status. [↑](#footnote-ref-116)
117. See, for example, social scientist researchers Converse, J.M. Schuman, H (1974) Conversations at Random. New York:  Wiley, p.40 where it was said that a non-response rate of 20% is a reasonable amount of missing data and does not jeopardize the representativeness of the sample. In the present study, the response rate was closer to 68%. [↑](#footnote-ref-117)
118. Ibid. [↑](#footnote-ref-118)
119. The author designed a matrix of squares which recorded each of the respondents’ free text box answers based on the different themes that the answer raised. This allowed the most popular themes raised by the respondents to be identified. This was a relatively simple process because the comments were frequently short. For example, one of the comments simply stated ‘*the biggest hindrance is the lack of time’*. This comment was only included in one square under the theme of ‘barrier: time’. In contrast, the response ‘*we discuss impact of human rights and Brexit’* was recorded in the squares relating to ‘scope of the module’ and ‘additional topics covered’. The key themes identified in the matrix were (1) scope of the module (2) recognition of IFL as important to the family law curriculum (3) barrier: expertise (4) barrier: time and (5) additional topics covered (i.e. which were not asked about in the questionnaire). The use of the matrix was in part based on a coding strategy discussed in Basit, T (2003) ‘Manual or electronic? The role of coding in qualitative data analysis’ Educational Research Volume 45 Issue 2, pp. 143-154, [↑](#footnote-ref-119)
120. Hall, M. Wright, R (2008 ‘Systematic Content Analysis of Judicial Opinions’ California Law Review Volume 96 Issue 1, Article 2. [↑](#footnote-ref-120)
121. Ibid. [↑](#footnote-ref-121)
122. Ibid. [↑](#footnote-ref-122)
123. Ibid, p. 64. [↑](#footnote-ref-123)
124. One respondent made a similar comment that *“as a new member of staff, I am planning to develop the curriculum to incorporate FGM in subsequent years”.* The same respondent stated that they were also *“planning to incorporate honour violence into the module development”.* Another respondent noted that international perspectives “*can illustrate western constructs of family, childhood and cultural imperialism”.*  [↑](#footnote-ref-124)
125. This can be seen, for example, in the introduction of clinical legal education which has been predominantly offered at new universities. Northumbria University and Sheffield Hallam are good examples of HEIs which have put clinical legal education at the forefront of legal education. [↑](#footnote-ref-125)
126. The Office of National Statistics (2017) statistical bulletin: Population of the UK by country of nationality (accessed at <https://www.ons.gov.uk/peoplepopulationandcommunity/populationandmigration/internationalmigration/bulletins/ukpopulationbycountryofbirthandnationality/2017>) accessed on 23 July 2018. [↑](#footnote-ref-126)
127. HM Government (2018) Regional Ethnic Diversity Statistics (<https://www.ethnicity-facts-figures.service.gov.uk/ethnicity-in-the-uk/ethnic-groups-by-region>) accessed on 23 July 2018. [↑](#footnote-ref-127)
128. Examples include Cumbria, Red Car and Cleveland, Northumberland, Powys and Caerphilly - <https://www.ethnicity-facts-figures.service.gov.uk/ethnicity-in-the-uk/ethnic-groups-by-region> [↑](#footnote-ref-128)
129. Mijatov, T (2014) ‘Why and How to Internationalise Law Curriculum Content’, Legal Education Review Volume 24. [↑](#footnote-ref-129)
130. Another respondent commented that *they ‘consider the extent to which English family law is based on the Judaeo-Christian tradition and how easily it accommodates family patterns from different ethnic and faith traditions. This is examined both in relation to domestic law and the recognition of overseas marriages and divorces’.* [↑](#footnote-ref-130)
131. A. Sanders, ‘Poor Thinking, Poor Outcome? The Future of the Law Degree after the Legal Education Training Review and the Case for Socio-Legalism’, in H. Sommerlad, S. Harris-Short, S. Vaughan and R. Young (eds), The Futures of Legal Education and the Legal Profession (1st ed., Oxford, Hart Publishing, 2015). [↑](#footnote-ref-131)
132. Family Law Act 1996. [↑](#footnote-ref-132)
133. Salehi-Sangari, E., & Foster, T. (1999). Curriculum internationalization: A comparative study in Iran and Sweden. European Journal of Marketing, Volume 33 Issue 7/8, p.760-771. [↑](#footnote-ref-133)
134. Surrogacy Arrangements Act 1985 [↑](#footnote-ref-134)
135. Human Fertilisation and Embryology Act 2008. [↑](#footnote-ref-135)
136. The Hague Convention of 29 May 1993 on Protection of Children and Co-operation in Respect of Intercountry Adoption. [↑](#footnote-ref-136)
137. Mohapatra, S (2015) ‘Adopting an International Convention on Surrogacy – a lesson from intercountry adoption’ Digital Commons at Barry University – accessed at <https://lawpublications.barry.edu/cgi/viewcontent.cgi?article=1082&context=facultyscholarship> on 25 June 2018. [↑](#footnote-ref-137)
138. Mijatov, T (2014) ‘Why and How to Internationalise Law Curriculum Content’, Legal Education Review Volume 24. [↑](#footnote-ref-138)
139. Davis, M. Withers, B (2009) ‘Reproductive Rights in the Legal Academy: A New Role for Transnational Law’, Journal of Legal Education, Volume 59 Issue 1. [↑](#footnote-ref-139)
140. Ibid. [↑](#footnote-ref-140)
141. Eve (Mrs) v Eve [1986] 2 S.C.R. 388 (Can.). [↑](#footnote-ref-141)
142. Javed v. State of Haryana A.I.R.2003 S.C. 3057. [↑](#footnote-ref-142)
143. #  María Mamerita Mestanza Chávez v. Peru (Inter-American Commission on Human Rights) Case 12.191, Inter-Am. C.H.R., Report No. 71/03, Friendly Settlement Agreement (2003), available at <http://cidh.org/annualrep/2003eng/Peru.12191.htm>

 [↑](#footnote-ref-143)
144. Gonzales v. Carhart 127 S. Ct. 16io (2007). [↑](#footnote-ref-144)
145. See, for example, Re IJ (A Child) [2011] EWHC 921 (Fam) and Re X & Y (Foreign Surrogacy) [2008] EWHC 3030 (Fam). [↑](#footnote-ref-145)
146. [2015] EWCA Civ 882, [2017] 1 FLR 979 [↑](#footnote-ref-146)
147. The 1980 Hague Convention on the Civil Aspects of International Child Abduction. [↑](#footnote-ref-147)
148. Council Regulation (EC) No 2201/2003 of 27 November 2003 concerning jurisdiction and the recognition and enforcement of judgments in matrimonial matters and the matters of parental responsibility, repealing Regulation (EC) No 1347/2000. [↑](#footnote-ref-148)
149. Reynolds, W (1995) ‘Why Teach International Family Law in Conflicts’ 28 Vanderbilt Journal of Transnational Law. [↑](#footnote-ref-149)
150. Danov, M (2018) ‘Cross-Border Litigation in England and Wales: Pre-Brexit Data and Post-Brexit Implications’ Maastricht Journal of European and Comparative Law. Volume 25, Issue 2, pp. 139 – 167. [↑](#footnote-ref-150)
151. Danov, M (2018) ‘Cross-Border Litigation in England and Wales: Pre-Brexit Data and Post-Brexit Implications’ Maastricht Journal of European and Comparative Law. Volume 25, Issue 2, pp. 139 – 167. [↑](#footnote-ref-151)
152. As reported in Danov, M (2018) ‘Cross-Border Litigation in England and Wales: Pre-Brexit Data and Post-Brexit Implications’ Maastricht Journal of European and Comparative Law. Volume 25, Issue 2, pp. 139 – 167. [↑](#footnote-ref-152)
153. Jukier, R (2006) ‘Transnationalising the Legal Education: How to Teach What we Live’, 56 Journal of Education. p.172. [↑](#footnote-ref-153)
154. Other respondents made similar comments, including ‘i*nternational family law issues are explored to some extent on this course but… we currently have 20 hours of lectures. Therefore, with such limited time availability, the key topics in domestic law are prioritised (marriage, divorce, division of assets, cohabitation, private and public aspects of child law)’; ‘the international dimension is only covered insofar as relevant for domestic law. Time precludes proper engagement with international family law’; ‘the undergraduate module cannot accommodate these diverse issues’.*  [↑](#footnote-ref-154)
155. Jukier, R (2006) ‘Transnationalising the Legal Education: How to Teach What we Live’, Journal of Education Issue 56. pp 172-189. [↑](#footnote-ref-155)
156. Another respondent noted *‘we do teach about restrictions on removing children from the jurisdiction as an aspect of parental responsibility (in a tutorial)’.*  [↑](#footnote-ref-156)
157. Bentley, D (2014) ‘Employer Perspectives on Essential Knowledge, Skills and Attributes for Law Graduates to Work in a Global Context’ Legal Education Review Volume 34, p.95. [↑](#footnote-ref-157)
158. O’Sullivan, C. McNamara, J (2015) ‘Creating a global law graduate: The need, benefits and practical approaches to internationalise the curriculum’. Journal of Leaning Design. Volume 8, Number 2. [↑](#footnote-ref-158)
159. Other respondents made similar comments including *“international family law issues would need to be dealt with in a stand-alone module”; “In order to do justice to the full range of international family law topics, we would almost require a separate module”.*  [↑](#footnote-ref-159)
160. Banaz: A Love Story (2012) documents the life and death of Banaz Mahood, a young Kurdish Iranian girl living in Britain who was subject to a so-called honour killing by her parents. The documentary can be accessed at: <https://www.youtube.com/watch?v=VepuyvhHYdM> (as at 26 August 2018). [↑](#footnote-ref-160)
161. Eve’s Apple (2017) is a documentary about the fight to end female genital mutilation around the world. The documentary is currently available to subscribers of Netflix (as at 26 August 2018). [↑](#footnote-ref-161)
162. Not my Life (2011) tells the story of human trafficking and modern slavery across all five continents. The documentary can be purchased at: <https://www.notmylife.org> (as at 26 August 2018). [↑](#footnote-ref-162)
163. IFL topics covered include FGM protection orders, strategies to end FGM, honour killings and international child abduction case updates. To view the articles, please see the ‘A Family Affair’ blog at <https://afamilyaffairsite.wordpress.com> [↑](#footnote-ref-163)
164. For more information about the module, see <https://www.northumbria.ac.uk/study-at-northumbria/courses/m-law-exempting-ft-uufmay1/modules/lw6028-international-family-law/> (accessed on 20 August 2018). [↑](#footnote-ref-164)
165. See, for example, the key cases of Akhter v Khan [2018] EWFC 54; Hudson v Leigh [2009] EWHC 1306 (Fam); MA v JA and the Attorney General [2012] EWHC 2219 (Fam). [↑](#footnote-ref-165)
166. See, for example, O’Sullivan, K. Jackson, L (2017) ‘Muslim marriage (non) recognition: implications and possible solutions’. The Journal of Social Welfare and Family Law. Volume 39, Issue 1, pp. 22-41; Law Commission (2015) ‘Getting Married; a Scoping Paper’. Crown Copyright; ‘The Independent review into the application of sharia law in England and Wales’ (2018) Presented to Parliament by the Secretary of State for the Home Department by Command of Her Majesty. Crown Copyright. [↑](#footnote-ref-166)
167. https://www.familylaw.co.uk/news\_and\_comment/the-big-islamic-nikah-myth#.WkgVLSOcauk [↑](#footnote-ref-167)
168. Islamic Nikah ceremonies (just like any other religious marriages) can result in a valid marriage if they comply with the requirements of the Marriage Act 1949. This requires ceremonies to take place in a licensed premises, conducted by an approved person in the presence of witnesses and the marriages must subsequently be registered. It has been noted by both academics and the judiciary that the failure to comply with these requirements can be deliberate, in order to deprive the financially weaker ‘spouse’ (usually the wife) of financial claims if, in the event of separation, the marriage is held to be a ‘non marriage’ (see for example, the case of Akhter v Khan [2018] EWFC 54; O’Sullivan, K. Jackson, L (2017) ‘Muslim marriage (non) recognition: implications and possible solutions’. The Journal of Social Welfare and Family Law). Such control can, in itself, arguably be an example of domestic abuse. [↑](#footnote-ref-168)
169. As outlined earlier in this article, most recent figures for applications under The Hague Convention were collected in 2011. At that time, applications had increased from 954 worldwide in 1999, to 1,259 in 2003 and 1,961 in 2008. Since then, the number of return applications dealt with by the International Child Abduction and Contact Unit (the UK’s Central Authority) increased further with 407 such applications in 2009, 288 in 2010 and 444 in 2011 (Judiciary of England and Wales. Office of the Head of International Family Justice for England and Wales. Annual Report 1 January – 31 December 2012). Of course, this does not reflect the full picture as these figures do not include children removed to non-Hague / non-Brussels II countries whose return is sought under the court’s inherent jurisdiction. [↑](#footnote-ref-169)
170. See, for example, the discussions regarding the recognition of Islamic marriages and forced marriage. [↑](#footnote-ref-170)
171. Annual Population Survey April 2017 to March 2018, weighted Person Weight APS 2017 [↑](#footnote-ref-171)
172. O’Sullivan, C. McNamara, J (2015) ‘Creating a global law graduate: The need, benefits and practical approaches to internationalise the curriculum’. Journal of Leaning Design. Volume 8, Number 2. [↑](#footnote-ref-172)
173. Modern Slavery Act 2015 [↑](#footnote-ref-173)
174. See, for example, Re M (Children) (Suspected Trafficking – Competent Authority) [2017] EWFC 56 [↑](#footnote-ref-174)
175. Children Act 1989 [↑](#footnote-ref-175)
176. Bentley, D., & Squelch, J. (2014) ‘Employer perspectives on essential knowledge, skills and attributes for law graduates to work in a global context’. Legal Education Review, Volume 24 Issue 1, pp. 93- 114. [↑](#footnote-ref-176)
177. Reynolds, W (1995) Why Teach International Family Law in Conflicts 28 Vanderbilt Journal of Transnational Law 411; Salehi-Sangari, E., & Foster, T. (1999). Curriculum internationalization: A comparative study in Iran and Sweden. European Journal of Marketing, Volume 33 Issue 7/8, p.760-771. [↑](#footnote-ref-177)
178. Family Law Act 1996 [↑](#footnote-ref-178)
179. Female Genital Mutilation Act 2003 as amended by the Serious Crime Act 2015. [↑](#footnote-ref-179)
180. Children Act 1989. [↑](#footnote-ref-180)
181. Jukier, R (2006) ‘Transnationalising the Legal Education: How to Teach What we Live’, 56 Journal of Education pp. 172 – 186. [↑](#footnote-ref-181)