Reflections on my methodological approach researching on International Economic Law

By:

Ohio Omiunu

January 20, 2020

As a postgraduate student, I initially struggled to find a niche in International Economic Law (IEL). Although I was fascinated by the workings and complexity of trade rules/governance, the technicality of the rules and theories underpinning trade and economic governance were challenging to rationalise at times. For example, I was not comfortable just soaking up the rules and wisdom of economists and international trade lawyers without questioning the impact of these rules on the livelihoods of billions of people across the world. Especially in the context of Africa, it was evident to me that trade rules cannot be crafted and implemented in isolation of the broader societal context in which they operate. This approach inevitably led me to question the conventional protocols and underpinning theories of IEL.

Given this, three words best sum up my initial approach to IEL research – 'critical', 'pessimistic' and 'revisionist.' From my first day in a WTO class (at the

University of Hull), I was sceptical of the ideological slant which has dominated the narrative of IEL in the post-World War II era.

Notably, I have questioned the adherence to conventional protocols on 'involved actors' in international trade negotiations. For example, I have researched the principles under art XXIV: 12 of the GATT, which attributes vicarious liability for the actions of sub-national governments (especially in federal systems) to the central government (Meyer, 2017). I had argued in my PhD that this provision does not conform to current realities where sub-national governments (e.g. sub-federal units) have enhanced access to the international scene. However, not up until the events relating to the Canada-EU CETA negotiations was I able to speak about these changing realities confidently. The reason being that most of the work I was reading during my PhD, which engaged with this issue from a critical perspective came mostly from International Relations and Foreign Relations Law experts such as Christopher Kukucha and Curtis Bradley. I felt straddled across different disciplines, even though each discipline was exploring a similar issue.

The Wallonia debacle during the ratification of the Canada-EU CETA and the body of work by Anthony Van Duzer gave me the boldness to explore these issues as an IEL scholar. Having found a voice, albeit an eclectic voice in the IEL space, I recall that my interest in this research agenda famously got me into trouble with a senior academic at a conference (somewhere in Europe)! I remember being chastised for my 'insinuations' that the trans-Atlantic social movement mobilisation witnessed during the negotiations and ratification of the Canada-EU CETA was a welcome development which epitomised shifting forms of cooperation in IEL. I left that conference deflated.

However, just a few months later, I attended another workshop (somewhere in England – the Midlands to be more precise) organised by academics working at the intersections of law, economics, development and politics. At this gathering, I was fascinated to learn how I could rebound from the chastening I got previously by focusing on the rigour of my methodology. I left that meeting with more clarity and a better understanding of the approach I needed to find a voice in the IEL community.

Thus, I now engage with IEL research from a socio-legal and interdisciplinary perspective, dovetailing into issues of sustainable development, international relations and international political economy. I take this approach because IEL as a discipline, though distinguishable from general public international law, is broad enough to accommodate diverse disciplinary perspectives.

After nine years of researching in the field, I have come to realise that the beauty of the IEL discipline lies in its complications and inherent contradictions. For example, as the current trajectory of global economic governance indicates, principles of IEL considered sacrosanct a few decades ago are now being questioned. Also, erstwhile entrenched methodological approaches to researching IEL are no longer sacred. These events create a challenge, albeit an exciting one for IEL researchers like me to critically reflect on how we got to this point. More importantly, I believe that the next generation of trade rules or the next model of global trade governance will undoubtedly be framed within the context of the new realities and priorities facing the planet (e.g. climate change, gender parity etc.). As such, IEL research and by extension, IEL researchers like me must evolve. Evolution here will entail a re-framing of the methodological approaches we adopt. I am now keen to explore alternative narratives of IEL without being dogmatic in adherence to the epistemology IEL, past and present. For example, new ideas I am experimenting with right now take me into the world of Complex Adaptive Systems (CAS) which is already being tested by scholars such as Jean Frédéric Morin, Joost Pauwelyn & James Hollway. I am also fascinated by the use of Human Right Impact Assessments (HRIAs) by James Gathii and others to measure the impact of trade agreements such as the African CFTA.

Undoubtedly, the IEL community is in a Research & Development (R&D) mode, tasked with coming up with new ideas that will reframe global economic governance in the 21st century and beyond. IEL scholars are tasked not just to make the world prosper economically, but, to make it a better place. As we go back to the drawing board, experimentation with new ideas is no longer an option but an imperative. We must explore a broad range of methodological approaches at our disposal as IEL scholars, even if this takes us out of our comfort zones. This provides a unique opportunity especially for IEL scholars interested in Africa. If indeed Africa is the next frontier for investment and trade

, the next generation of IEL rules should emerge from Africa as well.

Utilising interdisciplinary methodologies for IEL research in the African context is not without its challenges. Access to empirical data is still difficult. Meandering your way past the bureaucracy and protocols that ‘gatekeep’ vital information is also tricky. However, all these challenges and experiences all add up to our journey as researchers.

View online: Reflections on my methodological approach researching on International Economic Law

Provided by Afronomicslaw