Introduction: Symposium on Teaching International Economic Law in Africa

By:

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Some of my most fulfilling teaching has involved teaching international economic law in Africa. I remember teaching an LL.M. class on International Investment Law at the University of Nairobi's School of Law. Most of the students were already practicing advocates. One of them narrated how he went to a closing of a loan for his client with the International Finance Corporation, (IFC). He had underlined various clauses he wanted to discuss with the IFC team. The IFC team included its General Counsel and at least two other attorneys. As he went through clause after clause, the IFC team rebutted his efforts to question whether clauses such as the choice of forum and choice of law were in the best interest of his client. Anxious to get the loan, his client nudged him with his shoe under the table not to delay the closing. My student had not had the benefit of taking a class like that in his undergraduate curriculum. My student believed that he was not as well prepared to negotiate on behalf of his client. I am not sure the extent to which taking the class in

advance would have made a whole lot of difference since the IFC uses standard form contracts for these loans. However, my student thought that he would have been better prepared to respond to claims that the clauses he was seeking to negotiate had withstood the test of time and therefore were beneficial to both the IFC and his client. Discussions like these with my students when I have taught in Africa have been a teaching moment for me.

My many years teaching at the Trade Policy Training Institute in Africa (TRAPCA) was the inspiration for me to write my book, African Regional Trade Agreements as Legal Regimes. I needed materials that were relevant to my students. I did not assume that the casebooks I used in the United States would have the same relevance. I got myself a crash course on the East African Community when I was asked to teach East African Community Law when I visited the University of Nairobi in the 2007-2008 academic year. In addition to the fulfilment I felt teaching in Nairobi and Arusha, that experience also influenced my research agenda.

Afronomicslaw.org invited submissions on the teaching of international economic law, (IEL), in Africa to reflect on a number of questions. We asked the contributors to reflect on these questions: What materials did you use to teach? What teaching style did you adopt? Did you center Africa or make the materials relevant to an African context in the materials you used and if so how? For example, did you use of African case studies; or use African-specific materials (e.g. books, articles, cases, treaties)? Was the class required? How many enrolled in the class? How did you determine grades in the class? Did class participation count towards the grade? Did you have prior background in the area when you first taught the course e.g. in your graduate school education, in your research and scholarship, in practice? How would you say the students received the course? Did they find it interesting, relevant, or indifferent?

In the first post of the symposium, Tsotang Tsietsi discusses her experience at the Faculty of Law at the National University of Lesotho, where she teaches. She notes that there is a compulsory final year course over two semesters called ‘Legal Aspects of Economic Development,” that has about 85 students enrolled every year. As a student there, Tsotang took the course and now as a

PhD candidate at the University of Cape Town, (where she has just submitted her thesis, congratulations!), IEL is her main field of research. Although many African materials are assigned as part of the course, she notes that the Faculty of Law in Lesotho does not have its own library and that the main University library has few IEL resources. Innovative solutions such as a Study Guide that is updated annually is used. In addition, the University acquired the UN's Audio-Visual Programme of Assistance in the Teaching, Study, Dissemination and Wider Appreciation of International Law. Learning through Moot Court competitions has been another strategy.

Luwam Dirar reflects on her experience at the University of Asmara Law School in Eritrea as well as he teaching experience at Saint Augustine University in Tanzania. As a student she remembers IEL taught in a 'neo-liberal and Eurocentric way.' In her view, this includes viewing markets as neutral in a way that camouflages the biases of IEL. She notes this approach may be the result of lack of capacity, teaching materials and approaches to the teaching of law that are still rooted in very positivist groundings. In her teaching, she found that a discussion format that opens up a dialogue with the students was effective in opening up space for critical analysis of the IEL rules and their policy implications.

On his part, Markus Wagner reflects on his experience teaching IEL at the Arusha based TRAPCA. While Markus notes he used the standard texts made available to the students, he supplemented these materials with Africa-specific materials, case studies and readings. He discussed the implications of the US/China trade was for international trade governance in general and in Africa in particular. He argues that he found the 2018 cohort that he taught more critical of Chinese engagement with Africa than his 2017 cohort and suggests some possible explanations for this. For both cohorts, he notes that he "placed a heavy emphasis on the prospects for a future development of some form of pan-African integration mechanism." He adopted a hybrid teaching approach between lecture and debate. Markus notes in his essay that he benefitted greatly teaching these students and especially liked the way the students challenged each other's views, but also his own.

Babatunde Fagbayibo's essay reflects on his teaching in the largest University in Africa based on enrolment – the University of South Africa (UNISA). There he has taught IEL subjects such as Foreign Investment Law and Southern Africa Trade Law. He taught these courses online. He notes that the model UNISA uses begins the class by sending to the students by postal mail a tutorial letter that contains the objectives, chapters, assignments and reading materials for the course. The materials are also available on an online portal that serves as discussion platform for him and his students. Interactive tools on this portal make it easier to provide quick interactive feedback to students. Although he says the bulk of the materials used are produced outside South Africa, he has increased readings from African authors addressing African themes. In particular, he notes that he has made an effort to include readings from scholars who adopt a critical approach to IEL. In addition, he is increasing the amount of readings from other disciplines.

In the final contribution to the symposium, Caroline Lichuma, a Phd candidate at the Georg-August-Universität Göttingen in Germany, who has teaching experience from Riara and Strathmore Law Schools in Kenya, argues in favor of adopting a more critical approach to IEL teaching in Africa. She argues that at the moment most of the teaching and research in Africa needs to be infused with critical approaches such as Third World Approaches to International Law (TWAIL). For her, adopting TWAIL or TWAIL-like approaches would provide the necessary 'resistance to mainstream international law scholarship.' This she says is necessary because it would prevent "the churning out of students with an exclusive and exclusionary understanding of international legal relations."

While this symposium on Teaching IEL in Africa is very welcome, it barely scratches the surface. Much more could be said and done. This symposium hopefully contributes to beginning that conversation.

Contributors

Tsotang Tsietsi: Teaching of International Economic Law in Africa: Experience from the Faculty of Law, University of Lesotho

Markus Wagner: Rethinking International Economic Law Curriculum in African Law Schools

Luwam Dirar: Teaching IEL in Africa: My Experience at the Trade Policy Training Center in Africa (TRAPCA)

Babatunde Fagbayibo: Teaching International Economic Law in an open distance learning (ODL) Education Environment

Caroline Omari Lichuma: TWAILing the International Economic Law Classroom: (Dis)locating the “International” in International Law

Dunia P. Zongwe: International Economic Law Teachers in Africa Need to Beat Their Own Drums

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