Practice meeting theory: Introducing the Symposium on Learning and Teaching International Economic Law through Moot courts

By:

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Most law schools in Africa do not have moot courts as part of their core curriculum and most teaching of law both domestic and international law is done through lectures. A moot court is a simulation of real court, tribunal, or any other dispute settlement process using hypothetic scenarios or facts while applying real substantive law. The judges, arbitrators, adjudicators, or meditators involved in moot competitions are also role-playing what would happen in a real case. Moot competitions therefore allow students to learn all the essential skills of lawyering including research, writing, and oral advocacy all in one package. These skills are difficult to teach, learn, and assess in traditional lecture-based learning at least as one package. Moot courts thus

encourage problem-based learning in an unrivaled way. Yet learning and assessment of law in African international law generally and international economic law specifically is mainly lecture based. The learning through doing associated with historical models of apprenticeship has not been adequately embraced in Africa.

This symposium seeks to encourage and stimulate a discussion and showcase the benefits of how moot courts can be used as an important pedagogical tool for the teaching and learning of international economic law. Many a student learning international economic law in Africa will not have experienced the thrill and adrenaline involved in preparing memorials and presenting oral arguments before simulated panels in a class setting or as part of a national, regional, or international competition such as the John H. Jackson Moot Court on WTO law or the simulated tribunals in the Foreign Direct Investment moot court competition on Investor State Dispute Settlement (ISDS). Even fewer would get the opportunity to participate in the Willem Vis Moot Court on International Commercial arbitration. All these are annual and well recognized international moot competitions involving various subject areas of international economic law. The John H. Jackson moot is organized and run by the European Law Students Association (ELSA) in a similar model as the Phillip Jessup moot court competition which is run and administered by the International Law Students Association and has over many years focused on Public International Law. The evidence that the participation in these moots is beneficial for learning and teaching of international economic law for both faculty and students is the focus on this symposium.

I have participated in the John H. Jackson moot court competition as a student and coach, the FDI moot as coach, and the Willem Vis Moot Court competition as both student and coach. I have therefore seen this process both as a central participant (in front of the camera perspective) and as a coach (director of the process in something akin to being behind the camera). As a student, the Willem Vis moot court introduced me to the vast, dynamic, and interesting world of international commercial arbitration which at that point in my undergraduate law studies at the University of Nairobi School of law was not offered as a separate course unit. It is through this moot that my journey to graduate studies begun and my eventual desire to become an academic sprung. I later participated in the John H. Jackson moot court competition as a

graduate student at the Kenya School of law. It was through this moot that I was convinced and maybe convicted to the study, scholarship, and teaching of international trade law.

Not all African students can participate in all these moot court competitions. This is especially true of the international ones. However, law faculties interested in ensuring that they expand their assessment and pedagogical mechanisms can use moots as part of their teaching. Indeed, there are many structural challenges for African academics teaching and coaching moot court teams in the continent.

At the micro level, many average African classes are large and even in the unlikely cases that they small, the time commitments needed to execute moot courts as part of class assessment are onerous especially for academics who have never participated or are not interested in moot courts. The curriculum structures in most schools are also not as flexible to allow a variety of pedagogical methodologies that include moot courts. This time commitment and the fact that most lecturers in Africa are not teaching full-time makes it close to impossible to implement moot courts as part of the teaching of international economic law. This is of course tied to the wider concern that the remuneration of many African academics is not as well incentivizing as to allow this kind of time commitments. I have tried having a moot court as part of my teaching of Alternative Dispute Resolution (ADR) and International Human Rights and the feedback from my students have been mainly positive.

At the macro level, many law schools in Africa lack both the financial, and research facilities (though this gap is reducing), to facilitate the participation of their few students in international moot court competitions that are held in the global North. This means that even in cases where teams come from Africa, they have faced some difficult odds to actually participate in these competitions. These in many cases involves fundraising externally or receiving donor sponsorship from individuals and organizations.

Additionally, not many academics are involved in sacrificial targeted teaching and coaching of international economic law disciplines in African law schools. Invariably there is much more expertise in human rights law and related

subjects. Thus, it was indeed a surmounting of great odds when for the first-time last year, a team from Strathmore Law School won the global rounds of the John H. Jackson competition on WTO law against an Ivy League law school. This is the first time a law school from Africa has won an international moot court competition of a global scale and reach. It should, therefore, be a huge motivation for law schools, students, and academics that African law schools can compete and win at the global stage where they are normally viewed with a sense of inferiority.

This symposium presents two interesting memoirs of African students who have participated in these moots and have chosen paths of graduate studies that are related to international economic law and development studies. Mr Mishael Wambua a student at Strathmore University Law and last year winner and best oralist at the John H. Jackson writes about his experience and advice to future mooters. Ms Purity Maritim a former participant of the same moot and now a masters student at the Graduate Institute in Geneva also writes about her experiences and what she learnt from the moot. The other two contributions are from Mr Christian Campbell the Assistant Director FDI moot and Tsotang Tsietsi lecturer and moot coach from the National University of Lesotho. These two contributions present two interesting perspectives on the many directions that moot court competitions can take for Africa in the near future.

Contributors

Harisson Mbori Otieno: Practice meeting theory: Introducing the Symposium on Learning and Teaching International Economic Law through moot courts

Purity Maritim: Reflections of a Moot Court Participant

Mishael Wambua: Memoir: Moot Court Through my Lens

Mr Christian Campbell: Solid footing for Africa's Next Leap: sustainable investment, good governance and … mooting?

Tsotang Tsietsi: Teaching International Economic Law Through Moot Court Competitions

Sara Baksh, Kara John and Matthew Chin Barnes – A Caribbean Perspective About Participating in the 2020 John H. Jackson Moot Court North American

Round in the Middle of the COVID-19 Pandemic

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