Book Review Symposium Introduction: Asymmetric Power Relations and International Trade Law: A Legal Analysis of Economic Partnership Agreements, Inebu C. Agbo-Ejeh (Routledge, 2025)

By:

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I am pleased to present the symposium on my book, *Asymmetric Power Relations and International Trade Law: A Legal Analysis of Economic Partnership Agreements*, published by Routledge-Taylor and Francis Group in January 2025. The symposium features five reviews that provide a thorough analysis and evaluation that should be considered alongside my introduction. The review reflects on broadly similar and some different aspects, drawing attention to future research. I extend my heartfelt thanks to the reviewers for their invaluable contributions, constructive critiques, and encouraging

feedback. Furthermore, I appreciate the efforts of the editors at AfronomicsLaw.org for their role in organising this written symposium.

This introduction aims to set the stage for the reviews that follow. Here, I provide a concise overview of the book's key arguments. I challenge widely accepted beliefs regarding the benefits of trade liberalisation for developing nations. I contend that the systemic imbalance in trade relations between ACP countries and their longstanding partners, alongside their limited advantages within the multilateral framework, can be traced back to colonialism. Furthermore, trade agreements face significant theoretical and practical contradictions, undermining their effectiveness in developing countries.

Thus, the book offers various theoretical approaches to the free trade system as it examines the impact of the contradiction between theory and practice in the trading system on 'periphery' countries. It argues that the sustained marginal position of developing countries results from the colonial legal construct, which shaped trade relations, whether bilaterally or multilaterally. I use Ghana and Nigeria to illustrate the systemic asymmetry in trade relations between developed and developing countries. Using Ghana and Nigeria as case studies, the book demonstrates the lack of symmetry in trade relations between European/USA and ACP countries. This distinct feature sets the book apart as exceptional and a first of its kind, as legal research is conducted using a multidisciplinary method. The book blends legal discourse with critical theory and political economy to weave together the complexities of developing countries' trade relations with 'core' countries.

The arguments presented in this book are divided into three parts. Essentially, I argue that colonialism is not merely a past event, as some would have us believe; its effects and influence are still palpable in Africa and other developing countries that have experienced similar situations. In this regard, several scholars believe that the colonial construct is steeped in the economic asymmetry between the West and developing countries, with all its complexities. As such, developing countries have not significantly benefited from either multilateral or bilateral trade with major economies. Not everyone agrees with this claim, as some argue that the trading system is sufficiently balanced to allow countries to participate in global trade. When necessary, a member can diverge to address domestic policy issues, as argued by

proponents of embedded liberalism. However, as discussed in the book, embedded liberalism does not consider the countries emerging from the ashes of colonialism.

Limited in extent by colonial experience and development deficiencies, developing countries, especially Africa, have not influenced outcomes significantly, both at regional and multilateral trade engagements. Following the above, the book compellingly situates Economic Partnership Agreements within the ‘systemic’ asymmetry that characterised the relationship between developed and developing countries in the trading system. Thus, the concept of asymmetry applies to trade relations between core countries, such as the European Union and the United States, and peripheral countries, especially those in the African, Caribbean and Pacific regions in the GATT/WTO multilaterally and in the EU/ACP bilaterally. Although trade is believed to bring about development, developed countries exercise caution regarding how much they liberalise but prise the market of the developing countries open without reservations, this remains a contradiction between practice and theory.

In this book’s second aspect, I connected the colonial treaties imposed on Africa’s indigenous populations during colonial rule with current trade relations. These agreements often resulted in the transfer of African lands to European powers without consulting local communities, who were left to protect the colonisers’ interests. I draw a direct connection between the colonial legal framework and its resulting limitations on participation and meagre benefits in the trading system. Even after African nations secured independence from European powers in the late 1950s and 1960s, the repercussions of these colonial treaties persisted, influencing African interactions with developed nations even as parties claimed to trade on equal terms. After independence, Africans hoped the continent would control its economic and political affairs and build a system that would benefit them both domestically and globally, but this did not occur as expected. To illustrate the enduring impact of European influence, I investigated the events leading to the establishment of Associated States, where a heated debate ensued during the Treaty of Rome discussions regarding the inclusion of specific African nations in the agreement. While some opposed the French proposal to include the colonies, the French persuaded them that this would benefit the European Economic Community. The French government strongly maintained that this effort should be viewed as a

commitment to uphold the shared interests of Europe, grounded in the interdependence of states. While Article 131 of the Treaty of Rome requires the Community to support the development of associated countries, these associates were significantly unequal in many respects. The African resources were exploited, and markets were used for the finished products from the Community. Also, it claimed with evidentiary support that, even after achieving independence, subsequent agreements echoed the patterns of colonial rule.

Before the Lome Conventions, the preferential trade agreements between ACP countries and the EU were perceived as offering limited advantages and mainly contributing to weakening attempts at fostering development in Africa. It has been suggested that the chief purpose of establishing the ACP was to form a diverse group of colonies characterised by weak economies and little negotiating leverage, but to serve the interests of the Community. However, this does not mean that the Conventions lacked benefits; for example, aid played a crucial role in the Lome Convention. Yet, these aid programs led to dependency, which some claim sustains neocolonialism. In the 2000s, preferential trade experienced major transformations to comply with Article XXIV of the GATT/WTO regulations. The Economic Partnership Agreements (EPAs) emerged during this shift as the most viable option for ACP countries, as noted in the EU Green Paper.

Thus, the third aspect of the book focused on the EPA as negotiated and signed between the EU and Ghana, as well as the impasse that continued to exist between the EU and Nigeria. Concerning Ghana EPA with the EU, I asked whether Special and Differential Treatment included in the agreement between Ghana and the EU is sufficient, and why Ghana signed and Nigeria declined. The insights are derived from interviews, the agreement terms between the Parties, and both the parties' positions and those of the supporters and detractors of the EPA. I explore in detail the safeguard measures, non-discrimination and Special and Differential Treatment as provided in the agreement. The claim made was that although specific differential treatments were offered, the deal remains unequal as it largely reflects the interests and norms of the EU. I made the case that Ghana was granted some preferential treatment, but cannot take advantage of such an arrangement. It was revealed during the interview that Ghana signed the agreement because it did not have Nigeria's economic power. The former needed to access the EU market for its

cocoa and other agricultural products. Therefore, Ghana could not withstand the power and influence of the EU as Nigeria could. However, Nigeria came under serious pressure, coercion to sign the agreement, but the country's leader argued that the country had no economic capacity to compete with the EU on a reciprocal basis and objected to the interpretation of Article XXIV of the GATT/WTO by the EU. Does this then mean that Nigeria withstood the economic power and influence of the EU?

While Nigeria made a strong case that it refused to sign because it does not have symmetrical power with the EU, to them, this means that the EPA is a threat to the country's industrialisation. Nevertheless, I claimed that Nigeria could challenge the EU's coercion because it exports crude oil to the EU duty-free, which is the country's main export. A qualitative method was adopted to assess the issues raised by Nigeria during the negotiation of the EPA. This approach offers a comprehensive means of gaining insight into the real concerns debated by those opposing the EPA and the ongoing impasse between Nigeria and the EU. Additionally, it was speculated that Nigeria, during the negotiation, had plans to enter into a trade agreement with the United Kingdom once it leaves the EU.

Upon Brexit in 2023, Nigeria signed a Memorandum of Understanding the following year, which has not been without controversy. The central issue revolves around the provision of legal services by UK lawyers, and vice versa. As major stakeholders were not consulted before signing the agreement, along with the advantages it granted to the UK, the Nigerian Bar Association described the MOU as reminiscent of the colonial era. The question arose as to whether there was a need for concern, given that the MOU is not legally binding on the parties, but is intended to be observed in good faith. However, the principle of good faith is taken seriously under international law, and as discussed by various scholars, an MOU could receive legal backing depending on the terms and circumstances surrounding its creation. Therefore, I argued that the relevant stakeholders should have been consulted. In other agreements the UK had with different countries, organisations similar to the NBA were consulted.

The fourth aspect of the book was the discussion on China and Africa. I argued that China's relationship with Africa will not solve the latter's challenges.

Nevertheless, it can take advantage of the multipolarity that comes from its engagement with China and also the policy space it creates. This point is made because China does not give African countries conditions like the EU and other Western institutions. It offers an alternative to Africa's development. However, the issue of China encroaching on the sovereignty of Africa remains a thorny issue of discussion on the continent. Instructively, due to government involvement in contractual relations, sovereign waivers have become a standard clause in international commercial transactions. The general rule in international law is that a sovereign state is not subject to litigation and is immune from foreign judgment. This general principle of law has become restricted due to states' involvement in commercial agreements. The African countries have gained from China's investment, even though it is not a panacea for all the challenges in Africa, it is promising if the recipient of the investments is vigilant and critical.

The investigation focuses on the impact of colonial legal frameworks on Africa's disadvantaged position and limited gains in multilateral and bilateral trade agreements with developed nations. In my book, I have rekindled an interest in these colonial legal frameworks and their role in creating imbalances between developed and developing countries. This fresh perspective on the connection between colonial legal frameworks and post-colonial agreements aims to inspire developing nations to leverage multipolarity for their benefit while maintaining trade relations with their traditional partners, ensuring value for value.

This symposium offers an extensive review featuring various scholars. It begins with **Dr. Sam Amadi**, Director at the Abuja School of Social and Political Thought and former Chairman and CEO of the Nigerian Electricity Regulatory Commission. Dr Amadi presents a thought-provoking review. He employs a broad perspective in the book review, relating the concept of asymmetry discussed to various phenomena in trade relations, particularly the economic disparity in power between Ghana and Nigeria. He acknowledges that Ghana is more strategic in its economic policy formulation, yet Nigeria has the potential to withstand the asymmetry with the EU. He commends the book for its multidisciplinary approach to legal research. **Nicholas Oche**, a doctoral candidate at the University of Jos, Nigeria. He agreed that Africans were engaged in trade prior to European colonisation. Drawing from the book's

insights, Oche believes that the Berlin Conference fractured Africa into smaller states and fostered mutual hostility among African nations to safeguard the interests of colonial powers. Oche also addresses China's involvement in Africa, admitting that while the loans offered to Africa lack stringent conditions, unlike Western conditionalities, they tend not to favour African borrowers. **Dr. Chidi A. Odinkalu**, a Professor of Practice in International Human Rights Law at the Fletcher School of Law and Diplomacy, USA, presents a thought-provoking review. Dr Odinkalu takes a broader look at the book by correlating regional integration with trade discourse. He meticulously analyses the various arguments presented in the book, agreeing that it compellingly addresses the rhetoric and myths surrounding trade liberalisation; however, the benefits of multilateral trading remain elusive for developing nations. Odinkalu's constructive critique highlights the necessity for more research into both 'exogenous' and 'endogenous' asymmetries and those that shape the regional integration framework in Africa. Nathaniel Ejeh is a senior legal officer at the Nigerian Shippers' Council and a former legal consultant for the ECOWAS Commission. Ejeh's reflection affirmed that the discussions on trade relations between ACP countries and the EU are compelling and well-researched. His critique focused on the lack of a specific chapter on the African Continental Free Trade Area, which he deems crucial for outlining how the continent can enhance intra-African trade moving forward. **Dr. Onivehu J. Beida**, Head of the Department of Public Law at Bingham University, Nigeria. Dr Beida presents a thoughtful analysis review. He supports the argument that Africans engaged in trade before colonial incursions. He posits that intra-African trade existed alongside external trade. Thus, the claim that the West globalised and civilised Africa holds no merit, as ample counter-evidence exists. For Dr Beida, the book's standout feature is its thorough examination of pre-colonial trade in Africa, and he lauds it for its originality, backed by solid evidence.

I want to express my gratitude to the reviewers for their excellent evaluations. I found their insights enjoyable and encourage everyone to read and appreciate their work as I did.

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