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EPISTEMOLOGICAL BLINDSPOTS IN INTERNATIONAL ECONOMIC LAW

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Much of existing literature would have us believe that international economic law developed principally through international economic instruments concluded between States, such as the General Agreement on Tariffs and Trade, as well as bilateral and multilateral free trade agreements and investment treaties. And that IEL has also been elaborated in interpretations of provisions found in these instruments by dispute settlement bodies which have on occasion drawn on scholarly reflection for guidance. However, this apparently substantial and well-chronicled body of law struggles to remain relevant at a time when economic development and gain can no longer be had at the irreversible expense of environmental degradation and human suffering. Current attempts at balancing competing interests highlight a growing disconnect between means and ends. This disconnect, I argue, stems from the disregard of three interrelated epistemological blindspots in IEL. Acknowledging and addressing these blindspots is vital for achieving a more representative and more responsive IEL.

The first blind spot is asymmetry in the making of IEL by former imperial powers and its taking by everyone else eager to achieve at least symbolic equality among nations. This asymmetry, although vigorously discussed by progressive scholars, has barely influenced the practice of IEL, where the second blind spot resides. The recent trend of tacking sustainability concerns onto forthcoming international economic agreements exhibits either ignorance or indifference to the reality that instruments conceived by neoliberals to safeguard private wealth are poor vehicles for advancing developmental goals. The effect of self-imposed marginalisation by progressive scholars campaigning from a humble “third world” platform, and misplaced conviction in the encompassing nature of international economic agreements by practitioners, generate the third blind spot that

occurs in the teaching of IEL. The deliberate or inadvertent presentation of a skewed narrative as the intellectual backbone of IEL desensitizes the next generation of scholars and practitioners to the first two blindspots, creating a vicious cycle.