Prof. Liew: Today we are talking to Professor Tony VanDuzer about his research work here at the Faculty of Law, University of Ottawa. So, Professor VanDuzer, can you tell me a little bit about what your area of research is and how you became interested in it, how you started your career in this field of law.

Prof. VanDuzer: Well, my main research interest, currently, is international investment law which is the law which is defined in part by the network of investment treaties that bind countries around the world. Most of them are bilateral. There are some multilateral ones like NAFTA an the recently concluded Comprehensive and Progressive Trans Pacific Partnership Agreement. Now some of those agreements like NAFTA AND The TPP, ECTPP deal with trade issues as well as investment issues. Investment issues are ones related to businesses that are in one country and they are investing in buying or starting operations in another whereas trade is about businesses in one country that are exchanging their goods or services for money from another country. So some of these agreements are comprehensive in dealing with trade and investment and others just deal with investment.

So, most of my research, as I said, is focused on investment and in particular on the link between these agreements and sustainable development and my particular concern is that these investment treaties typically provide a bunch of rules that state that have to be observed with respect to foreign investors with a view to protecting them against arbitrary or discriminatory actions by the state. But in some cases, the way in which these rules have been interpreted, they restrict the ability of states to manage investment to ensure that its channelled in productive ways to contribute to the sustainable development of the state. So that is really the main thing.

I got interested in this when I started my work as a professor and became interested in international trade an investment generally which was around the time when the World Trade Organization came into existence. It was just after the North American Free Trade Agreement had been negotiated so there is an enormous amount of interest in these areas and there is a lot that was new. I felt there was an opportunity for me as a new professor to embark on some of the new issues that were then being discussed which included investment.

Prof. Liew: That’s an interesting path. Can you tell us a little bit about the challenges doing research in this area or what you’ve found to be challenging about sharing your research or communicating different aspects of that or using your research to effect what is happening on the ground when it comes to the implementation of these agreements, the content of these agreements.

Prof. VanDuzer: There are several challenges to researching in this area. One is a kind of fragmentation problem which is that international investment law is not a single coherent body of rules. As I’ve said earlier, it is made up of literally thousands of individual investment treaties and while the content of them tends to be similar, it’s not the same. So it’s a very difficult area to engage in comprehensively because of the diversity of the underlying subject matter.

The other thing that is challenging is that unlike most other areas of international law, international trade and investment rules are the subject quite well developed dispute settlement systems and as a consequence there are cases which are decided on a very regular basis which you have to keep track of and in particular, in the investment area, there has been an explosion of these cases in the last number of years an the decisions tend to be extremely long, some of them extending to 4 or 500 pages. So it’s very hard to keep track and to keep up to date.

One other complication is that these decisions , unlike our decisions in domestic courts in Canada, are not binding beyond the decision in the individual case. What I mean by that is there is no system of precedent so there is a high degree of inconsistency and even incoherence in the way in which these decisions are rendered. So that is a complication in terms of the research.

In terms of the impact, most of the work that I do shows up in conventional academic settings, in scholarly journals, couple of books, but in order to be really effective, you have to be engaged really with the people who are making policy. We’re really quite fortunate here at the University of Ottawa because we have a really good relationship with the Department of Global Affairs at the federal government an in particular the trade law bureau. So, when we have things that we at the law school want to communicate about the way in which Canada is conducting its international trade relations or its negotiation in international investment treaties, we have very good access to some of the people who are involved actively who are making those policy decisions and negotiating these treaties and defending Canada and in some cases claims that are made under the dispute resolution provisions which are in these treaties. So it’s an area where if you really want to have an impact, you have to go beyond sitting at your desk and cranking out your research to be engaged with the people who are making the decisions that matter in this area.

Prof. Liew: Sounds very fascinating. It is a huge privilege to be in Ottawa where we are close to so many different persons and organizations where we can share our research. I wanted to ask what is the most exciting aspect of your research right now. What gets you motivated to continue the work you are doing?

Prof. VanDuzer: I think the most exciting thing at the moment is that there is a kind of global reconsideration going on of the desirability of international investment agreements an the concern generally is, and this is consistent with the main research focus that I have, is they are two constraining on states; that they restrict the ability of states to do what states are supposed to do, which is to legislate in the public interest. And so there is a lot of discussion both in the academic community and amongst governments as to how these agreements can be reformed to make them more effective instruments to achieve what ultimately states want which is sustainable economic growth. And so, there is an awful lot of interesting research which is being produced, an awful lot of experimentation going on with respect to the negotiation of individual treaties, and we are in a era where there is significant change both ongoing and in the future.

Prof. Liew: Sounds very exciting to be part of. Finally, I just want to ask you whether you have one piece of advice for our first year class coming in the fall; an important message to send them as they start their law school career.

Prof. VanDuzer: Well, I think that is a big question of course but I think that I would say that one of the things that we offer at the University of Ottawa as do other schools, there are all kinds of courses you can take. I think that you should not be shy about pursuing your interests and you shouldn’t be intimidated or daunted by the fact that you may have no prior background in a particular area in advance of taking a course. I think you’d find that for most students, they are in exactly the same situation and most courses are set up so that you don’t really require any specific prior background. I’d encourage students to be bold and adventurous in the choices that they make an to use their short time at law school to try a whole lot of different things; to find what they are really interested in.

Prof. Liew: That’s excellent advice. I can say that I did not think that I would be practicing or researching in the area of immigration law when I started so that is very apt. Thank you so much for your time Professor VanDuzer and for your advice.