

Foreword

This book, *Public Private Partnership for WTO Dispute Settlement: Enabling Developing Countries* by Professor Amrita Bahri, represents a critical area of international trade law research. If law is to be legitimate, it must be broadly available to all. Formalised law is not sufficient. As legal realists and law and society scholars have long explained, formalized law does not mean right prevails over might. Power rather manifests itself in new forms. Those able to wield the law deploy it to advance their interests. Once more, the haves can come out ahead.

We thus must look behind formal rules to see how law operates in practice. The book *Defending Interests: Public-Private Partnerships in WTO Litigation* showed how trade officials in the United States and Europe work with the private sector and lawyers hired by it to advance their reciprocal interests and attempt to shape legal interpretation and dispute settlement in the WTO. I concluded it by asking, 'If the United States and EC depend on assistance from private firms and trade associations, what does this bode for developing country participation in the system?' Professor Bahri takes up that challenge.

Her book is important because it gives voice to the experiences of those outside of the United States and Europe through a study of three emerging economies—Brazil, India and China—who invested significant resources in building trade-related legal capacity in government and the private sector. Professor Bahri studied this process through a research method that is too infrequently used in legal academia. She left the comfort of her office and traveled to meet with trade officials from these countries to understand their challenges and experiences with the WTO's legal system. She draws from this original fieldwork, combined with existing and parallel work of other scholars, to explain how WTO dispute settlement works. Going further, she assesses what important lessons can be drawn from these countries' experiences for themselves as well as for developing countries more generally.

Scholarship is a collective endeavour. It is a cumulative, never-ending process. It tests and verifies and renews what has come before. This work by Professor Bahri is an important contribution to a corpus of scholarship assessing the importance of building legal capacity if countries are to

be full stakeholders in the international trading system. When countries broadly are able to participate effectively to use the WTO legal system, then one can envision a rule of law for international trade. Yet history is never-ending and that hope is now under threat. Professor Bahri's work shows what can be done if countries invest in law and legal institutions. They now have a stake in the system. Let us hope that vision prevails during these difficult times.

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