

## BOOK REVIEWS

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***Behind the Multilateral Trading System: Legal Indigenization and the WTO in Comparative Perspective.*** By Xing Lijuan. Durham, NC: Carolina Academic Press, 2014. Pp. xxii, 276. ISBN 978-1-61163-294-1. US\$ 50.00.

Xing Lijuan of the City University of Hong Kong School of Law analyses in this book how the differing legal traditions of China, the United States (common law), and the European Union (civil law) affect their participation in the World Trade Organization regime. She views this topic through the prism of “legal indigenization,” which she defines as

the process or ideology with which domestic authorities, when behaving as international actors, make and implement international or domestic rules in a way appealing to their native characteristics (especially legal traditions), as responses to globalization led by a defective global legal system, for the purpose of getting an advantageous position in the context of globalization.

Legal indigenization, Lijuan explains, manifests itself in two directions: in how individual states seek to influence international rulemaking and implementation in ways consistent with their legal traditions and cultures, and in how they implement international rules domestically.

Lijuan’s first chapter provides a review of the literature on legal indigenization in the context of the WTO. An appendix to the first chapter, entitled “Extended Survey of the Key Sources,” provides an annotated bibliography of the relevant literature.

Chapter 2 places the concept of legal indigenization against a backdrop of a multilateral trading system beset with various inherent and acquired difficulties. She describes legal indigenization as a response to a problematic globalization reflected in the WTO system, in which countries that affirmatively choose to participate in globalization do so within an incomplete WTO framework that provides opportunities to participate in a manner advantageous to them. Lijuan also provides an explanation of the concept of indigenization as it is used in legal, anthropological, and cultural contexts, explains its relevance in the global trading system, and distinguishes it from the related concepts of globalization and localization.

Chapters 3, 4, and 5 explore the process of legal indigenization of WTO law in China, the United States, and the EU respectively. Chapter 3 highlights four aspects of legal indigenization with respect to international trade taking place in China, in WTO negotiations, international trade disputes, domestic

legislation on trade, and domestic adjudication on trade issues. Lijuan argues, for example, that in international trade rulemaking negotiations China shows an emphasis on special and differential treatment for developing countries, an inclination on substantive provisions to vaguely identify issues for improvement or further negotiation without proposing a specific textual resolution, and a contrasting tendency to offer specific suggestions to resolve procedural issues. She argues that these inclinations have deep roots in Chinese legal tradition and culture.

Chapter 4, on the United States, addresses the same four aspects of legal indigenization. With respect to negotiating international trade rulemaking, Lijuan argues that the US manifests cautiousness toward special and differential treatment, confidence in leading reforms of WTO mechanisms, an emphasis on the international rule of law in the trade context, a focus on procedural fairness, and the strategic selection of partners in free trade agreements, and that these tendencies reflect the US's legal tradition and culture.

Lijuan conducts a corresponding analysis of the EU in chapter 5. She observes that while there are multiple legal traditions encompassed by the EU (Roman, German-Austrian, common law, Scandinavian, Eastern European), a unique hybrid legal tradition and culture has developed since its birth, the characteristics of which are largely rooted in civil law. She argues that the activities of the EU in WTO rulemaking negotiations show key characteristics reflecting this tradition, such as an emphasis on the overall goals of pertinent mechanisms, adopting a fixed style of proposals, providing proposed legal texts accompanying discussions, a focus on principles and guidelines, and promoting the use of independent experts in the dispute settlement mechanism.

Chapter 6 concerns the significance of legal indigenization from the perspective of the WTO itself. Lijuan suggests that in the short term, the WTO could expand and use tools such as the Trade Policy Review Mechanism, which serves as a type of external audit of members' trade policies and practices, to monitor and predict legal indigenization. In the long term, Lijuan suggests legal indigenization could be reduced if the multilateral rules could be strengthened to reduce the discretion of members, but she acknowledges there are substantial obstacles to this goal.

Lijuan's book is both a valuable survey of the interplay between the WTO and jurisdictions with diverse legal traditions, and an impressive contribution to the field of comparative international law.

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