

Shadow Courts: The Tribunals That Rule Global Trade

In the realm of international trade, there exists a secretive network of tribunals that wields immense power over the global economy. These tribunals, known as "investor-state dispute settlement" (ISDS) mechanisms, operate in the shadows, adjudicating disputes between multinational corporations and governments.



Shadow Courts: The Tribunals that Rule Global Trade

by Haley Sweetland Edwards

★★★★☆ 4.7 out of 5

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In this groundbreaking book, *Shadow Courts*, legal scholar Anu Bradford unveils the inner workings of these tribunals, revealing their profound impact on our lives. Through meticulous research and vivid case studies, Bradford exposes the hidden power dynamics that shape ISDS decisions, often to the detriment of the public interest.

The Rise of ISDS Tribunals

The origins of ISDS tribunals can be traced back to the 1950s, when developing countries sought to attract foreign investment. To entice investors, governments agreed to include ISDS provisions in bilateral and multilateral trade agreements. These provisions allowed foreign investors to bypass domestic courts and directly challenge government actions that they claimed violated their rights.

Initially, ISDS tribunals were used sparingly. However, in recent decades, their use has exploded. Today, there are over 3,000 bilateral and multilateral trade agreements in force, and most of them contain ISDS provisions. As a result, ISDS tribunals have become the primary forum for resolving international trade disputes.

The Secrecy and Power of ISDS Tribunals

One of the most striking features of ISDS tribunals is their secrecy. Proceedings are typically closed to the public, and the tribunals' decisions are not binding on other tribunals. This lack of transparency has led to concerns about the tribunals' accountability and legitimacy.

Moreover, ISDS tribunals have been granted broad powers. They can force governments to pay compensation to foreign investors, even if the government's actions were taken in the public interest. This has led to fears that ISDS tribunals are undermining the sovereignty of governments and empowering multinational corporations.

Case Studies: The Real-World Impact of ISDS Tribunals

To illustrate the profound impact of ISDS tribunals, Bradford presents several case studies in *Shadow Courts*. One such case is the dispute between Chevron and Ecuador. In 1993, Chevron began drilling for oil in

the Our Book Library rainforest, causing widespread environmental damage. The government of Ecuador sued Chevron in Ecuadorian courts, but Chevron refused to recognize the jurisdiction of those courts.

Instead, Chevron initiated an ISDS arbitration against Ecuador. In 2018, the tribunal ruled that Ecuador had violated Chevron's rights under a bilateral investment treaty. The tribunal Free Downloaded Ecuador to pay Chevron \$9.5 billion in damages, one of the largest ISDS awards ever.

The Chevron-Ecuador case is just one example of how ISDS tribunals can be used to undermine environmental and public health protections. In another case, a tribunal ruled that Australia had violated its obligations under a trade agreement by enacting legislation to reduce greenhouse gas emissions.

Reforming ISDS Tribunals

In light of the growing concerns about ISDS tribunals, there have been calls for reform. Bradford proposes several reforms in *Shadow Courts*, including:

- Increasing transparency and accountability
- Limiting the powers of tribunals
- Providing for appellate review of tribunal decisions

These reforms are essential to ensure that ISDS tribunals operate in the public interest and that they do not undermine the sovereignty of governments.

Shadow Courts is a timely and important book that shines a light on the shadowy world of international trade tribunals. Bradford's meticulous

research and powerful case studies reveal the immense power of these tribunals and the urgent need for reform.

By understanding the inner workings of ISDS tribunals, we can take steps to ensure that they are accountable to the public and that they do not undermine our democracy or our planet.





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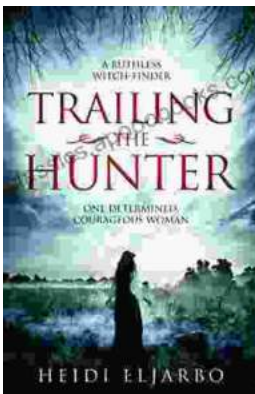
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