

LAW IN THE SERVICE OF HUMAN DIGNITY ESSAYS IN HONOR OF JUSTICE FLORENTINO FELICIANO

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Law in the Service of Human Dignity tells the story of a multi-faceted person, Justice Florentino P. Feliciano – a jurist, teacher, scholar, lawyer and loyal citizen of his beloved country, the Philippines. The book seeks to honor a remarkable Renaissance man, who radically influenced the fate of the World Trade Organization (WTO) and its Appellate Body. It is a collection of the essays and testimonies of Feliciano's former colleagues in the Appellate body and 20 other notable international jurists, lawyers and scholars honoring Feliciano and his contributions and influences to the WTO and international law.

Justice Feliciano is one of the original seven members of the WTO Appellate Body. His appointment paved the way to the realization of his vision of a law in the service of human dignity, a vision he would later advance through his creative words and felicitous pen. In the 6 years that Justice Feliciano served on the Appellate Body, the world saw the unfolding of a rich jurisprudence which ushered in legislative reforms.

In its often-poetic narrations, the book highlights the birth of WTO dispute settlement system, which seeks to resolve disputes between states through multilateral proceedings and the development of environmental law as a new branch of international law. The WTO dispute settlement process entails 4 major steps: consultation, the panel pro-

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ceedings, appellate review proceedings, and implementation and enforcement of the recommendations and rulings. It provides the reader with precious insights and ruminations regarding the different aspects of the Appellate Body, its history, the trends of its decisions and the current issues it faces.

Law in the Service of Human Dignity discussed landmark cases decided by the Appellate Body affecting the issues on clean air and endangered species. Among the environmental cases cited in the book are the *United States – Standards for Reformulated and Conventional Gasoline, 1996*; *United States – Import Prohibition of Certain Shrimp and Shrimp Products, 1998*. Justice Feliciano was a Division member in the six cases mentioned in the book and the Presiding Member in four.

The *US-Gasoline* and *US-Shrimp* are relevant not only for the environmental policies of the WTO but also because of the constitutional issues they cover.

In *US-Gasoline* the Appellate Body declared that the US Government environmental regulations concerning the composition of gasoline treated imports less favorably than domestic products. In deciding the issue, the Appellate Body made it clear that the general international law is relevant for the Appellate Body and advanced that the WTO jurisprudence is part of that general international law.

In the *US-Shrimp* it held that the US Government regulations (but not the statute) restricting imports of shrimp that the sellers could demonstrate had been harvested in a manner that would not kill turtles, were inconsistent with the WTO requirement. The US redid the regulations to take into account the Appellate Body report requirements, to attempt multilateral negotiated solutions, and to give exporting nations a fair chance to comment and obtain changes in the regulations. It enunciated that the WTO can even take into account the fundamental policy goals that were not just trade-related goals, thus opening a constitutional door for approaches that require a broader perspective than just the four corners of the very extensive GATT/WTO treaty language.

¹ *Oposa v. Factoran*, 224 SCRA 792 (1993).

The crusade of Justice Feliciano for the protection of the environment is also revealed in his concurring opinion in *Oposa v. Factoran*,¹ decided by the Supreme Court of the Philippines. Barabara Kwiatkwska, one of the contributors to the book, says the fight of Justice Feliciano for the protection of the environment and his promotion of other principles of modern environmental law as codified and progressively developed by the judgments of the Appellate Body, have had an illuminating impact upon the development of environmental law.

Although not commonly called a 'court' or 'tribunal,' the Appellate Body nevertheless has many characteristics of a juridical body. Its proceedings have led critics to worry about the 'judicialization' or 'legalization' of the WTO. The Appellate Body being the highest judicial organ, can uphold, modify or reverse the legal findings and conclusions of the WTO's lower dispute settlement body.

The essays in the book are arranged to emphasize the impeccable character of Justice Feliciano and his invaluable contributions to the development of international trade law and jurisprudence. It is particularly helpful to students of law and neophyte lawyers not only for the insights generated from the seasoned international scholars and legal practitioners but also for the rich text it provides on the history of the principles that mould WTO and international law.