

INTERPRETATION OF CONTRACTS UNDER ETHIOPIAN CIVIL CODE: SUBJECTIVE OR OBJECTIVE METHOD?

Hussein Ahmed Tura[♣]

Introduction

Formation and interpretation of contracts are influenced by the objective and subjective theories of contracts. Objective theory of contracts gives emphasis to the contractual assent that is “determined by analyzing external evidence” rather than the subjective or internal intention of the contracting parties.¹ This theory regards contract formation on the basis of communication, and not cognition. On the other hand, the subjective theory of contract holds the view that “subjective assent has little to do with external perceptions, but rather is concerned with whether the parties each subjectively intended to make the contract.”²

Interpretation of contacts plays a crucial role in the domestic and international business transactions. However, the legislatures, courts, and the legal academies of different countries of the world present considerably diverging views on the issue of the intent of the parties in the process of interpretation. For instance, in the European Union, the courts in the common law countries (the UK, Ireland) have voiced a preference for relying on objective manifestations of the parties’ intentions (objective method of interpretation); while in the other Member States (Germany, Austria, France, Italy) the doctrine of the subjective interpretation takes precedence.

The Ethiopian legal system is characterized by its reception of substantial elements from continental law and common law legal systems. Though there are many concepts from the common law legal system particularly incorporated in the procedural laws, it has been pictured for its zealness to the

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¹ Wayne Barnes, *The French Subjective Theory of Contract: Separating Rhetoric from Reality*, (Works-in-progress presentation, Texas Wesleyan University School of Law, August 26, 2008), p.5

² Ibid

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International Commercial Arbitration Seyoum Yohannes Tesfay, 2021-02-18 This book is the first ever to explore commercial arbitration in the Ethiopian context Alternative conflict resolution mechanisms are nothing new to the country arbitration as a dispute settlement mechanism by which a third party issues a binding decision on a dispute between two or more parties by exercising the jurisdictional mandate conferred on it by the parties themselves was established with the adoption of the Civil Code in 1960 This pioneering book evaluates the extent to which Ethiopia's laws and institutions allow disputing parties to effectively reap the benefits of international commercial arbitration It interprets the relevant legislation and attempts to bridge the gaps in it in order to help lawyers arbitrators arbitral institutions academics and judges to understand and apply it It also helps parties seeking to complete international transactions pertaining to Ethiopia make the right choice regarding conflict resolution

Prosecution of Core Crimes in Ethiopia Tadesse Simie Metekia, 2021-03-08 Tadesse Simie Metekia's *Prosecution of Core Crimes in Ethiopia* offers an in depth analysis of core crimes trials in Ethiopia within the broader frame of international criminal law This book is a result of an unprecedented data collection a meticulous exploration of relevant national and international norms and case laws as well as a full engagement with the existing literature on the domestic application of international criminal law A comparative examination of the actual trials and the manner in which Ethiopia set prosecutions of core crimes in motion Metekia's book is a significant achievement in terms of furthering academic knowledge and of contributing to the wider policy debates on international criminal justice and on the role of states in prosecuting atrocities

Ethiopian Civil Procedure Robert Allen Sedler, 1968 **Blood, Land, and Sex** Lyda Favali, Roy Pateman, 2003-06-18 In Eritrea state traditional and religious laws equally prevail but any of these legal systems may be put into play depending upon the individual or individuals involved in a legal dispute Because of conflicting laws it has been difficult for Eritreans to come to a consensus on what constitutes their legal system In *Blood Land and Sex* Lyda Favali and Roy Pateman examine the roles of the state ethnic groups religious groups and the international community in several key areas of Eritrean law blood feud or murder land tenure gender relations marriage prostitution rape and female genital surgery Favali and Pateman explore the intersections of the various laws and discuss how change can be brought to communities where legal ambiguity prevails often to the grave harm of women and other powerless individuals This significant book focuses on how Eritrea and other newly emerging democracies might build pluralist legal systems that will be acceptable to an ethnically and religiously diverse population

Ethiopian Constitutional and Legal Development Heinrich Scholler, 2005 *Handbook on Legal Cultures* Sören Koch, Marius Mikkel Kjølstad, 2023-05-30 Cooperation across borders requires both knowledge of and understanding of different cultures This is especially true when it comes to the law This handbook is the first to comprehensively present selected legal cultures based on a very specific set of structural elements which can be found in all such cultures Legal cultures are a product of and impacted by certain fundamental and

commonly shared ideas on and expectations of the law In all modern societies these ideas are to a certain degree institutionalized or at least embedded in institutionalized practices These practices determine the way lawyers are educated and apply the law how they engage with the ongoing internationalization of law and what kind of values they adhere to Looking at these elements separately enables the reader to identify similarities and differences and to explain them contextually Understanding these general features of legal cultures can help avoid misunderstandings or misinterpretations of foreign law and its application Accordingly this handbook is a necessary starting point for all kinds of legal comparative studies conducted by academics students judges and other legal practitioners Consolidated Laws of Ethiopia

Ethiopia,1972 **Land Rights and Expropriation in Ethiopia** Daniel W. Ambaye,2015-02-13 This thesis provides a new approach to the Ethiopian Land Law debate The basic argument made in this thesis is that even if the Ethiopian Constitution provides and guarantees common ownership of land together with the state to the people this right has not been fully realized whether in terms of land accessibility enjoyability and payment of fair compensation in the event of expropriation Expropriation is an inherent power of the state to acquire land for public purpose activities It is an important development tool in a country such as Ethiopia where expropriation remains the only method to acquire land Furthermore the two preconditions of payment of fair compensation and existence of public purpose justifications are not strictly followed in Ethiopia The state remains the sole beneficiary of the process by capturing the full profit of land value while paying inadequate compensation to those who cede their land by expropriation Secondly the broader public purpose power of the state in expropriating the land for unlimited activities puts the property owners under imminent risk of expropriation

Ethiopian Constitutional Development James C. N. Paul,Christopher S. Clapham,1967 *Ethiopian Studies at the End of the Second Millennium: Law and politics, education, linguistics and philology, and literature* ,2002

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