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Chapter 1 : Introduction to the Ethiopian Legal System and Legal Research - GlobaLex

The functions of family arbitrators under the Ethiopian civil code by Original W/Giorgis., , s.n. edition, in English.

Employment Service Division 2. This Proclamation may be cited as the "Labour Proclamation No. Formation of contract Section 4. Elements of a contract. Unless otherwise provided by law, a contract of employment shall not be subject to any special form. A written contract of employment. Subject to the provisions of the relevant law, a written contract of employment shall specify the following: Contract of employment not made in writing. Failure to comply with the requirements of the provisions of sections 6 or 7 shall not deprive the worker of his rights under this Proclamation. Duration of contract of employment Section 9. Contract for an indefinite period. Any contract of employment shall be deemed to have been concluded for an indefinite period except for those provided for under section 10 hereunder. Contract for definite period or piece work. A contract of employment may be concluded for a definite period or for piece work in the case of: In such a case the probation period shall not exceed 45 consecutive days. Obligations of Parties Section Obligations of an employer. An employer shall in addition to special stipulations in the contract have the following obligations: Obligation of a worker. Every worker shall have the following obligations: Modification of contract of employment Section Conditions of a contract of employment which are not determined under this Proclamation may be modified by: Amalgamation, division and transfer of ownership. Without prejudice to section 15 of this Proclamation amalgamation or division or transfer of ownership of an undertaking shall not have the effect of modifying a contract of employment. Temporary suspension of rights and obligations arising out of contract of employment Section The following shall be valid grounds for the suspension, in accordance with section 17, of rights and obligations arising out of a contract of employment: When rights and obligations arising out of a contract of employment are suspended in accordance with subsection 5 or 6 of section 18, the employer shall inform the Ministry in writing within three days of the occurrence of the ground for suspension. Determination by the Ministry. Effect of confirmation or authorization of suspension. Effects of expiry of the period of suspension. The worker shall report for work on the working day following the date of expiry of suspension; and the employer shall reinstate a worker who so reports for work. Termination of contract of employment by law or by agreement Section A contract of employment shall terminate on the following grounds: Termination at the request of the contracting parties Subdivision i Termination by the employer Section Termination by the worker Section Notice to terminate a contract of employment Section Procedure for giving notice. The notice shall specify the reasons for the termination of the contract and the date on which the termination shall take effect. Where it is not possible to find the worker or he refuses to receive the notice, it shall be affixed on the notice board in the work place of the worker for ten consecutive days. Payment of wages and other payments on termination of contract of employment Section Where a contract of employment is terminated, wages and other payments connected with wages due to the worker shall be paid within seven working day from the date of termination, provided, however, that the time of payment may be extended where the worker delays, because of his own fault, to return property or any sum of money which he received from or is due to the employer. In the event of a dispute as to the amount claimed by the worker the employer shall pay the worker the sum not in dispute within the time-limit specified under section Severance pay and compensation Section Amount of severance pay. The severance pay referred to in section 39 shall be: A worker who terminates his contract of employment in accordance with section 32 1 shall be entitled, in addition to the severance pay referred to in section 39, to a payment of compensation which shall be 30 times his daily wages of the last week of service. This provision shall also apply to a worker covered by the relevant pension law. Effects of unlawful termination Section Where an employer or a worker fails to comply with the requirements laid down in this Proclamation regarding termination, the termination shall be unlawful. Reinstatement or compensation in the case of unlawful termination. Similarly, where a worker who, after obtaining judgement of reinstatement in his favour declines to be reinstated, the labour

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settlement tribunal may order the dismissal of the worker upon payment of full compensation or fair compensation for the inconvenience he incurred having regard to the nature of the work and other circumstances of the case. Notwithstanding the provisions of section 43, non-compliance by the employer with the notice requirements specified under section 35 shall only result in the payment by the employer or wages in lieu of the notice period, in addition to any other compensation provided for under section 40 of this Proclamation. Liability of the worker. Homework contract Section An employer who employs a worker on the basis of a homework contract shall keep a register containing the following and other relevant particulars: Contract of apprenticeship Section Contents of the contract. A contract of apprenticeship shall specify at least the following: Obligations of the parties. The employer shall, upon the termination of the contract of apprenticeship, give to the apprentice a certificate which indicates the occupation he has been trained in, the duration of the training and other similar particulars. Conditions of payment for idle time. Wages shall be paid in cash, provided, however, that where the employer and worker so agree, it may be paid in kind. Wages paid in kind may not exceed the market value in the area of the payment in kind and in no case may then exceed 30 per cent of the wages paid in cash. Unless otherwise provided by law or collective agreement, wages shall be paid directly to the worker or to a person delegated by him. Wages shall be paid at such intervals as are provided for by law or collective agreement or work rules or contract of employment. Normal hours of work Section Maximum daily or weekly hours of work. Reduction of normal hours of work. Arrangement of weekly hours of work. Hours of work shall spread equally over the working days of a week, provided, however, where the nature of the work so requires hours of work in any one of the working days may be shortened and the differences be distributed over the remaining days of the week without extending the daily limits of eight hours by more than two hours. Averaging of normal hours of work. Where the circumstances in which the work has to be carried on are such that normal hours of work cannot be distributed evenly over the individual week, normal hours of work may be calculated as an average over a period longer than one week, provided, however, that the average number of hours over a period shall not exceed eight hours per day or 48 hours per week. Unless otherwise provided in a collective agreement or work rules the provisions of this Proclamation shall not apply to commercial travellers or representatives. Circumstances in which overtime work is permissible. Special weekly rest scheme. Work done on weekly rest days. All public holidays observed under the relevant law shall be paid public holidays. Payment for work on public holidays. Duration of annual leave. Dividing and postponing annual leave. Leave for family events. Leaders of trade unions shall be entitled to leave with pay for the purpose of presenting cases in labour disputes, negotiating collective agreements, attending union meetings, seminars or training courses. The manner of granting such leave may be determined in a collective agreement. Leave for special purposes. A worker wishing to take leave in accordance with the provisions of this Chapter shall notify the employer in advance and present the necessary supporting evidence when the employer requests him. The period of sick leave provided for in section 85 shall be granted in the following manner: If delivery takes place before the 30 days period has elapsed, the post-natal leave under subsection 3 of this section shall commence. Limits of hours of work. Normal hours of work for young workers shall not exceed seven hours a day. Night and overtime work. It is prohibited to employ young workers on: An employer shall take the necessary measures to safeguard adequately the health and safety of the workers; he shall in particular: Obligations of a worker. Liability irrespective of fault. For the purpose of this Proclamation, "employment accident" means any organic injury or functional disorder sustained by a worker as a result of any cause extraneous to the injured worker or any effort he makes during or in connection with the performance of his work and includes: The said schedule shall be revised at least every five years. Degree of disablement Section Permanent partial or total disablement. The board shall determine the extent of the degree of disablement as far as possible within twelve months from the date of injury.

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Chapter 2 : Mediation - Wikipedia

Family arbitration as one method is established in modern way in Ethiopian since when the civil code came into force for facilitating settlement of family disputes by identifying the chronic problems and helping the couples to communicate, and the arbitrators may indeed help save the marriage.

In most cases contractual relationship is subject to private law and courts that deal with these issues Most PPP arrangements e. It is important to seek local legal advice to check whether these rules apply in a particular civil system. It is also important to note that in a civil law jurisdiction, unless the contract specifies that the parties have agreed to arbitration, the contract will be enforced by the administrative courts. Some of the key administrative rules that apply to delegated management arrangements are listed below. Governments may wish to include these rules in the arrangement, and when they are part of the underlying law it may not be necessary to repeat them in the contract. But relying on just the underlying law is problematic because the rules are sometimes ambiguous. A contract that takes a background administrative law principle and spells out exactly how it is to be applied will generally be effective. But, changing or overriding an administrative law principle may or may not be legally possible—that would need to be checked. For example, it may not be possible to completely remove the ability of a contracting authority to unilaterally change service standards. Some civil law codes also contain mandatory notice periods before termination for breach of contract that cannot be avoided or overridden. Rights of contracting authority that may override contractual provisions

Right of unilateral modification The contracting authority may, as in France, have the right to modify aspects of the contract unilaterally when it deems the change to be in the public interest.

Right of unilateral cancellation The contracting authority has the right to cancel the contract early although it must compensate the operator.

Right to continuity of service The operator in an administrative contract may not suspend the execution of its obligations under the contract, even if the contracting authority breaches the contract. Under a concession or affermage-lease, the operator is deemed to assume duties relating to operating a public service, even beyond those included in the contract such as investing to address increasing demand or adapting to new technologies. For example, when the contracting authority imposes a unilateral modification, it must also adjust the financial terms of the arrangement so that the operator is not worse off for example, if the contracting authority required higher service standards, it might also have to allow a higher tariff.

Relief under fait du prince requires the following conditions: The operator is entitled to compensation for financial difficulties arising from large and unforeseen changes in economic conditions that render execution of the agreement financially hazardous. The adverse economic impact of these events must not only be exceptional but beyond all limits foreseen by the contract.

Force majeure Unpredictable and uncontrollable events that render the performance of the contract materially impossible exonerate the operator from its obligations. For example, a spill from a chemical factory causing permanent pollution of the only water source would be considered force majeure. Natural phenomena such as hurricanes and droughts may also be considered force majeure. Similar concepts exist in Mali, Tunisia and Algeria, for example.

Gross-up clauses Under the French tax code article quarter gross-up clauses related to indemnification of withholding taxes on interest are not to be binding on French tax administration when the debtor is a French entity.

Bankruptcy In Common law jurisdictions, such as England and the US, the emphasis when a business gets into financial trouble is on seeking a reorganization rather than a liquidation to keep the business as a going concern eg US, Chapter 11, UK administration. In Civil law jurisdictions the process focuses on liquidation although reform of some bankruptcy laws such as France and OHADA countries is now permitting reorganizations of debtors before they become insolvent.

Security interests and syndicated loans Common law systems have greater flexibility in granting different types of security over assets - an important feature of PPP arrangements involving commercial funding such as BOTs. They also have the concept of trusts, which enable security interests to be held by a trustee for lenders in a syndicated loan situation without the need for formal transfer or re-registering

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of security interests in names of new lenders. Civil law does not have such a concept and so security interests generally required to be re-registered in the name of the new lender involving additional registration costs and notarial fees. France is in the process of introducing a trust law which will resolve a number of these issues. In OHADA countries, however, filings involving public notary are required for formalizing security interests.

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Chapter 3 : Islamic Family Law » Ethiopia, Federal Democratic Republic of

Thus, the rules of examinations of witnesses under civil procedural code are applicable under arbitration through the commutative reading of all the above articles of civil code, civil procedure code and the rules under arbitration.

The members of the HPR are elected by a plurality of the votes cast in general elections every five years. However, the FDRE Constitution does not define these groups, save that it declares that particulars shall be determined by law. The most important function of the HPR is to enact laws on matters assigned to federal jurisdiction and ratify national policy standards. In conventional federal systems, the second chamber serves as the representative institution for the regional units. Additionally, the population number of each nation or nationality is taken into consideration by giving one representative extra for each million of its population. The Prime Minister has the following powers and functions: The Council of Ministers has the following powers and functions: The State constitutions provide the details of the legislative, executive and judicial branch of State administration. The State Council represents the highest level of state authority, and has the power of legislation on all matters falling under state jurisdiction. Most States have only a single parliamentary Council that both enacts laws and decides State constitutional issues. In at least two States, however, second legislative houses have been established to decide State constitutional issues, similar to the role of the Federal House of Federation. The Chief Administrator is elected among members of the State Council by a political party or coalition of political parties that constitutes a majority in the State Council. The Chief Administrator establishes the State executive council and nominates its members. The members of the State executive council the Chief Administrator, Deputy Administrator and the heads of the various regional bureaus need to be confirmed by the State Council. State executive councils have the power to implement laws and policies enacted by the State Council and the federal legislature. The State executive structure is replicated in lower State administration levels such as Zones and Weredas districts. Judicial powers, both at Federal and State levels, are vested in the courts. The FDRE Constitution states that supreme federal judicial authority is vested in the Federal Supreme Court and empowers the HPR to decide by a two-third-majority vote to establish subordinate federal courts, as it deems necessary, nationwide or in some parts of the country. In recent years, Federal High Courts have been established in five States. The Federal Supreme Court includes a cassation division with the power to review and overturn decisions issued by lower federal courts and State Supreme Courts containing fundamental errors of law. Besides, judicial decisions of the Cassation Division of the Federal Supreme Court on the interpretation of laws are binding on Federal as well as State courts. Article 4 of the Federal Courts Proclamation bestows upon federal courts criminal jurisdiction over: Important cases are selected and compiled by the Federal Supreme Court. These compilations are in Amharic the national working language and are sold by the Federal Supreme Court. Otherwise copies of cases can be acquired from the registrar of the court where they are finally settled. The Federal Judicial Administration Commission is a nine-member body comprising of six Federal judges and three members of the House of Representatives. The Federal Judicial Administration Commission has the following powers and duties: The day-to-day operations of the Federal Courts in Ethiopia are supervised and managed by court presidents, who therefore act both as judges and administrators with responsibilities and obligations towards the President of the Supreme Court. The State governments have also established Judicial Administration Commissions with a view to safeguarding the independence and accountability of State Courts. Similar guarantees of tenure of judges exist in State Judicial Administration Commissions. First Instance and Appellate Courts. Cassation review of the Appellate Court decisions can be brought before the Federal Supreme Court, which also decides jurisdictional conflicts between the city and federal courts. Article 34 5 of the FDRE provides that: Particulars shall be determined by law. To date, Sharia Courts that apply Islamic law are the only religious courts that have been officially established both at the federal and state levels. Sharia Courts apply only Islamic law and have their own appellate system. They are required, however to follow the procedural rules of ordinary courts and

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receive their budgets from the state. Parties must voluntarily submit to the jurisdiction of these courts, or the dispute should be redirected to the regular courts. The Sharia Courts at the federal level have been reconstituted in to a three-level judicial structure, distinct from the regular federal judicial structure. Like the federal state judicial organs, all the federal Sharia courts have been made accountable to the Federal Judicial Administration Commission. All of the State Councils have also given official recognition to Sharia Courts within their respective jurisdictions. Article 4 1 of Proclamation No. Pursuant to Article 5 2 of Proclamation No. Thus, the suit will be heard ex parte. Article 5 3 of the same provides that in the absence of clear consent of the parties for the case to be adjudicated by the court of Sharia before which the case is brought, such court shall transfer the case to the regular federal court having jurisdiction. Moreover, once a choice of forum has been made by the plaintiff and the defendant has consented to the jurisdiction of such a forum, under no circumstance can either party have their case transferred to a regular court. They are only recognized, not created, by law. The authority of these courts stems from tradition and local customs. These courts have evolved from traditional elder councils, which do not have legal authority, but carry moral force and still operate widely as primary decision-makers in rural areas throughout Ethiopia. To name but a few of the customary courts: In addition, the choice whether to take a dispute to regular courts or to one of those non-official forums is entirely left to the parties.

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found: The functions of family arbitrators under the Ethiopian civil code, t.p. (Original W/Giorgis) leaf i (Original Wolde Giorgis).

Civil Code passed in governs civil, religious and customary law marriages. Armed movement for Eritrean independence began in All religions, including Ethiopian Orthodox Christianity, officially placed on equal footing under new regime. Federal Democratic Republic of Ethiopia established in August Other major religion is Ethiopian Orthodox or Monophysite Christianity. Small Jewish and Animist minority communities. Article 11 adopts no official state religions and affirms separation of religion and state. Article 34 on Marital, Personal and Family Rights , section 5 states: Court System Regular courts at four levels: Supreme Court in Addis Ababa; High Court sits in all provincial capitals; awraja courts at next administrative subdivision; and woreda courts at district level. Civil Code sets minimum marriage age at 18 for males and 15 for females, regardless of whether marriage is civil, religious or customary; Family Law may have changed the age to 18 for both males and femalesMarriage Guardianship: Civil Code does not refer to support payments to former spouse; Penal Code does make it an offence to refuse maintenance for existing or former spouse; support payments often granted to wife during course of divorce litigation and deducted from her share of communal property once it is divided Child Custody and Guardianship: Ethiopia was occupied by Italy from to , although Eritrea came under Italian rule from to The movement for Eritrean independence developed into an armed struggle in A Civil Code passed in governs civil, religious and customary law marriages. Emperor Haile Selassie I r. Mengistu Haile Mariam became the head of state and the government was oriented towards Marxism. All religions, including Ethiopian Orthodox Christianity, were officially placed on equal footing under new regime. From to a Transitional Government, a coalition of 27 political parties, ruled Ethiopia. A referendum in Eritrea resulted in a massive vote for independence. The other major religion is Ethiopian Orthodox or Monophysite Christianity. There are also small Jewish and Animist minority communities. Constitutional Status of Islamic Law: The current Constitution was adopted in Regular courts are organised at four levels. The Supreme Court has appellate jurisdiction and sits in Addis Ababa. The High Courts sits in the 14 provincial capitals have original and appellate jurisdiction. The awraja courts are convened in each of the administrative subdivisions. Woreda courts are established in each of the districts. The Civil Code sets the minimum marriage age at 18 years for males and 15 for females, regardless of whether the marriage is contracted under civil, religious or customary law, though the new Family Law may have changed the minimum age to 18 for both males and females. Polygamy is abolished, backed by sanctions provided in the Penal Code. A marriage contract may be written settling the financial effects of marriage, as well as other reciprocal rights and duties, but cannot change any mandatory legal provisions and has no effect unless approved by family arbitrators or by courts. Under the Civil Code, all divorce law is uniform regardless of whether the marriage was contracted under civil, religious or customary law. The Civil Code does not refer to support payments to former spouses. The Penal Code does make it an offence to refuse maintenance for either an existing or former spouse. Support payments are often granted to the wife during the course of divorce litigation and deducted from her share of communal property once it is divided. The Civil Code provides that child custody and maintenance arrangements are to be made only with consideration for the interests of the ward. Law reporting is through the Federal Negarit Gazeta. International Conventions with Relevant Reservations: Ethiopia acceded to the CRC in , without reservations.

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Chapter 5 : Arbitration procedures and practice in United Arab Emirates: overview | Practical Law

The Ethiopian Civil Code (Civil Code) (A) Conciliation The Civil Code Title XX, Chapter 1, Section 2, Article (1) defines conciliation as a process 'where parties may entrust a third party with the mission of bringing them together and, if possible, negotiating a settlement between them'.

National Labour Law Profile: Federal Democratic Republic of Ethiopia Federal Democratic Republic of Ethiopia Contributed by: Sommer, April Updated by: Unlike most other African countries, apart from a brief Italian occupation it was never occupied by an European power. Emperor Menelik II, who reigned from to , is often considered as the founder of the Ethiopian nation as it exists today. He successfully united what were previously several disparate regions and peoples, and started the modernization of the country. His successor Haile Selassie I who reigned from to , continued this modernization. He revised the Constitution and sought to bring Ethiopia closer to a European type of government, introducing various welfare programs and outlawing slavery. Ethiopia joined the League of Nations in The constitution was suspended and the parliament was dissolved. The monarchy was replaced by a Provisional Military Administrative Council, called the Dergue, which soon diverted from its announced socialist cause. In addition to the suppression of personal liberties, this regime aggravated the economy and domestic difficulties ethnic tensions, droughts and famine, widespread flights to Djibouti, Somalia and Sudan. In , a new Marxist-based constitution was approved. With the fall of Communism and Soviet support, a coalition of rebel organizations led by Meles Zenawi, was able to conduct a revolution in The transitional government of Meles Zenawi sought to stabilize and strengthen Ethiopia, although certain human rights abuses continued imprisonment of political opponents, journalists and trade union leaders. Eritrea established its own provisional government in and became an independent nation in A new Ethiopian constitution, drafted by an elected constituent assembly and approved in , set up a bicameral legislature and a judicial system, as well as it guaranteed equal rights and freedom of expression to all Ethiopian citizens. Parliamentary national multiparty elections were held again in May A border war between Ethiopia and Eritrea broke out in when Eritrean forces occupied disputed territory. A cease-fire agreement was signed in June , and a treaty was ratified in December The border was established by the Hague Permanent Court of Arbitration in April , but Ethiopian rejection of the ruling has delayed finalization of the border, prolonging the war between the two countries, and with it, the flow of refugees. Under this constitution, Ethiopia is a federation governed by two federal assemblies: First elections for fourteen newly created regional assemblies were held in July The number of regions was subsequently reduced; there are now nine autonomous regional state councils municipal councils for Addis Ababa and Dire Dawa. The regional boundaries redraw the previous provincial divisions through which the highly centralized governments administered the country for much of the 20th century. The new regions are distinguished primarily along linguistic lines, with five ethnic groups Oromo, Amhara, Tigrayan, Somali and Afar having designated regional states. The boundaries of sub-regional units, *woreda* , remain largely unaltered. The regional authorities have, in theory at least, wide-ranging economic powers. In this case, the previous governing party or coalition continues as a caretaker government, with limited powers. It draws up the annual budget, which shall then be approved by the same House. The President The President of the F. The term of his or her office is six years and cannot be elected for more than two terms. The President has limited powers. Upon recommendation of the Prime Minister, he or she appoints ambassadors and grants high military titles Article Legislative power The Constitution establishes two Federal Houses: Tenure of the House is five years. However, special representation is provided on the basis of nationalities, i. Laws deliberated upon and passed in this way are submitted to the President for signature. If the President does not sign the law within fifteen days after it is submitted to him, the law takes effect without his signature Articles 57 and 59 of the Constitution. The members of the House of the Federation are elected by their respective State Councils. Their mandate is five years. The House of the Federation has the power to interpret the Constitution Article It deals

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with matters relating to the right of peoples to self-determination, and secession issues. The Judiciary The federal constitution provides for an independent judiciary. A notable feature of the Constitution of the Federal Democratic Republic of Ethiopia is that it accords a dignified and crucial position to the Judiciary. However, most judges serving under the Dergue were dismissed and, though in theory the regions have extensive judicial powers, devolution has tended to weaken judicial autonomy. Ethiopia has a dual system of courts - a Federal Judiciary with the Supreme Court at the top along with a separate and parallel judicial system in each Regional State. Likewise, there is a similar court structure in each Regional State that has jurisdiction over all regional matters. The Judiciary has to dispense justice not only between individuals, but also between the state and the citizens. Independence of the Judiciary is enshrined in the Constitution for the first time Article 78 1 of the Constitution , which has been considered a historic landmark. Once appointed, the judges hold office until they reach pension age, which is sixty years according to the law. A special procedure has been laid down for removal of judges on the grounds of incompetence, inefficiency or misbehaviour. The Federal Judicial Administration Commission decides the transfer, salary, allowance and other benefits of federal judges.

Labour rights in the Constitution The Constitution of Ethiopia contains a full chapter Chapter 3 on fundamental rights and freedoms. The Constitution guarantees rights and freedoms, inter alia equality before the law, equal protection under the law, freedom of speech and expression, freedom of religion, belief and opinion, freedom of assembly and association, freedom of person, freedom against jeopardy and ex post facto laws, the right to property. Among these fundamental rights, a whole range of general principles of labour rights are firmly anchored in the constitution. The constitution provides for principles such as the right of the security of the person Article 16 of the Constitution , the prohibition against inhuman treatment and the abolishment of slavery and servitude Article 18 2 and forced and compulsory labour Article 18 3 and 4 of the Constitution. The Right to Strike is explicitly mentioned in Article 42 1 b of the Constitution. This article, in its paragraph 2, also lays down the right to reasonable limitation of working hours, to rest, to paid leave and to healthy and safe working environment. Article 35 of the Constitution deals with the rights of women, such as equality with men Article 35 1 , in particular in employment, promotion, pay and the transfer of pension entitlements Article 35 7 , and 42 1 d. The Constitution grants the right to maternity leave with full pay, as well as prenatal leave with full pay, in accordance with the provisions of the law Article 35 4 a and b.

Labour regulation The evolution of Labour Law in Ethiopia Talking about Labour Law in Ethiopia means to basically review the history of the last years. Nevertheless, only the post war years allowed the further development of individual and social rights in line with the attempt to economical development. This proclamation recognized the rights of associations of employers and workers, as well as a system of collective bargaining, and it set up machinery for the settlement of trade disputes – the Labour Relation Board. However, individual labour relations were treated exclusively like any other service contract according to the regulations of the Civil Code. During the Dergue period as part of the socialist order of state and society, labour law was based on the public ownership of the means of production and was subject to central planning and central management. The Labour Proclamation No. There was no autonomy with regard to the conclusion of collective agreements as a form of independent control over working life exercised by freely constituted trade unions. This text repealed Labour Proclamation No. It has become the principal source of labour law in Ethiopia. So far the Committee of Experts has not published its comments on the new law. The new statute represents an important tool for unions and employers to participate in all labour matters. The innovation concerns the right of workers, without distinction whatsoever, to form organizations of their own choosing and the right of these organizations to organize their activities without interference by the public authorities and not to be dissolved by administrative authority Article 1 , 2 and 7. Other sources of labour regulation The major sources of labour law are federal regulations, above all the new Labour Proclamation No. However, as Article 3 2 of the Labour Proclamation excludes certain groups of workers from the application of the Proclamation, the following Acts may be considered, too: Contract of employment Permanent and fixed-term contracts of employment As a rule, the contract of employment is concluded for an unlimited period Article 9, Labour Proclamation, No. The

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duration of a fixed-term contract must be set according to objective conditions such as a specific end date, the completion of a specific task, or the occurrence of a specific event. It must also in principle be based on the justification, which are specified under Article 10 1 to 7 , which comprises among others motives like the temporary replacement of a permanent worker, urgent and abnormal pressure of work, or seasonal work. If the employee wants to claim the ineffectiveness of a limitation, he or she must take legal action within three weeks after the agreed ending of the employment contract. An employee who is employed for a fixed-term must be given treatment equal to that given to full-time employees employed to do similar work Articles 4 2 and 3 2. Any contract of employment shall meet the requirements of Article 4 1 to 5 , namely it shall be clear, specifying the type of employment, the rate of payment and the duration of the contract. The contract shall not lay down less favorable conditions for the employee than those provided by law, collective agreements or work rules. There is no specific form requirement, but where the contract of employment is not made in a written form, the employer shall issue a written contract within fifteen days Article 7 1. Special Contracts of employment Article 46 defines the home work contract, and entitles the Minister to give further directives. These directives are not yet proclaimed and in force. Contracts of apprenticeship, or vocational training, which primarily intend to train young people in a profession, are considered as special contracts of employment. Articles 46 to 51 of the Proclamation not only define the nature of these contracts, but poses a special obligation on the parties related to the nature of this contract, and specifies the grounds for termination. Under Article 3 1 , the Labour Proclamation is applicable to employment relations based on a contract of employment that exists between a worker and an employer. However, notwithstanding this general definition, Article 3 2 of the Labour Proclamation excludes certain special groups from the application of the Proclamation, in particular: The Council of Ministers is also given power to determine the applicability of this legislation to workers employed in foreign diplomatic missions and international organizations within the territory of Ethiopia as well as those employed in religious and charitable organizations Article 3 3. The general exclusion of these different types of contracts surely is quite problematic in the light of the ratified ILO-Conventions. Probation When concluding a contract of employment the parties may agree on a probationary period for the purpose of evaluating his or her suitability to the job Article 11 1. Such an agreement needs to be done in writing and shall not exceed forty-five consecutive days Article 11 3. During this period, the employee enjoys the same rights and obligations that the other workers have as defined in Articles 12 to 14 , but termination is possible without notice, if he or she fails to meet the requirements Article 11 6. Severance pay or compensation is not to be paid Article 11 5. Suspension of the contract of employment The temporary suspension of a contract of employment is regulated under Articles 17 to 21 of the Labour Proclamation. During Suspension the mutual duties under the contract of employment are suspended, so that the employee does not have to work and the employer is not obliged to pay wages, allowances and other benefits Article 17 2. Article 18 defines the following grounds for suspension:

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Chapter 6 : Divorce and Its Effects Under Ethiopian Family Law | calendrierdelascience.com

According to the legal provisions under article 85 to 93 of the Revised Family Code of Ethiopia. The law is the final resort as regards pecuniary liquidation and divisions and spouses are.

Use of arbitration and recent trends 1. How is commercial arbitration used and what are the recent trends? Use of commercial arbitration Commercial arbitration has become fairly popular in India, particularly in relation to large commercial contracts. A large number of arbitrations in India relate to infrastructure and construction contracts, particularly those with government entities, including public sector undertakings. Arbitrations are also conducted in relation to admiralty law, import-export transactions, and so on. In some circumstances arbitration may be provided for under statute. Certain bodies, such as the stock exchanges, also provide for arbitrations. Although many international arbitrations adopt institutional arbitrations, the majority of arbitrations in India still have provision for ad hoc arbitration. Recent trends Although a large number of commercial disputes are settled through arbitration, the arbitration process in India has historically been unsatisfactory. In particular, arbitrations were seen to take inordinately long to conclude and proceeded much like a civil suit. In addition, institutional arbitrations have not become as popular as in many other countries. To deal with many of the problems in the arbitration law, the Arbitration and Conciliation Act, Arbitration Act was recently amended. The amendment contains a number of far-reaching changes which are yet to be considered in the courts see Question As such, arbitration is considered a better method to resolve such disputes. Arbitrations are also considered useful in technical matters where expert arbitrators are required. In complex construction matters, arbitration is the preferred choice. Although arbitration is popular, some basic difficulties remain. Arbitrations have also become time consuming and expensive and, even after an arbitral award, one party or the other tends to challenge the award in court. This is particularly true when the unsuccessful party is a government entity. In many states, the process of challenging the award itself takes a long period of time, defeating the purpose of arbitration, although some courts in India do decide such challenges quickly. Legislative framework Applicable legislation 2. What legislation applies to arbitration? The Arbitration Act governs Arbitration in India, including, typically, statutory arbitrations. However, the recent amendment to the Arbitration Act departs from UNCITRAL Model Law and is an attempt to deal with some of the lacunae which were found in the operation of the law see Certain other laws, such as the Electricity Act, contain mandatory provisions for arbitration. In all other cases, arbitration agreements must be entered into by the parties. Mandatory legislative provisions 3. Are there any mandatory legislative provisions? What is their effect? In the interests of public policy, the Arbitration Act contains a number of mandatory provisions, including in relation to: Limitation periods see Question 5. The form of the arbitration agreement see Question 8. An arbitrator being ineligible for appointment see Question 17 The court being required to refer parties to arbitration if the dispute is subject to an arbitration agreement see Question Does the law prohibit any types of disputes from being resolved via arbitration? Only commercial disputes can be subject to arbitration. Issues relating to criminal law, rent control or taxation, which have their own dispute resolution mechanisms, cannot be the subject matter of an arbitration. Does the law of limitation apply to arbitration proceedings? The same limitation period that applies to a civil suit also applies to an arbitration. Therefore, the limitation period under the Limitation Act for a civil suit is also applied by arbitrators. The period of limitation varies from one to three years, depending on the nature of the dispute. The limitation period is normally calculated from the date the cause of action arose. Which arbitration organisations are commonly used to resolve large commercial disputes? Arbitrations in India are either: Large commercial disputes in India are normally settled by ad hoc arbitrations with the Arbitration Act as the governing legislation. Some parties also opt for dispute resolution under the rules of a particular arbitration institution. Some of the popular arbitration institutions include the: Indian arbitration organisations include the: Delhi International Arbitration Centre. See box, Main arbitration organisations. What remedies are available where

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one party denies that the tribunal has jurisdiction to determine the dispute s? Does your jurisdiction recognise the concept of kompetenz-kompetenz? Does the tribunal or the local court determine issues of jurisdiction? The Arbitration Act recognises the concept of kompetenz-kompetenz. Under section 16 of the Act, the arbitral tribunal is competent to rule on its own jurisdiction, including with respect to the validity and existence of the arbitration agreement. If the arbitral tribunal rules that it has the jurisdiction under section 16 5 , that decision is not appealable and the arbitral proceeding must continue. The only remedy available to an aggrieved party is to challenge the award under section However, if the arbitral tribunal rules that it does not have jurisdiction, then that decision can be appealed before a court under section 37 2. What are the requirements for an arbitration agreement to be enforceable? The parties may either have an arbitration agreement in the form of an arbitration clause in a contract or in the form of a separate agreement. The arbitration agreement must be in writing, and is considered to be in writing if it is: Contained in a document signed by the parties. In the form of exchange of letters, telex, telegram or other means of telecommunication which provides a record of the agreement. In the form of an exchange of statement of claim and defence in which the existence if the agreement is alleged by one party and not denied by the other. Separate arbitration agreement Parties may either have a separate arbitration agreement or a clause in the contract, and either of the two is sufficient under section 7 2 the Arbitration Act. An arbitration clause in the contract is considered as an independent arbitration agreement by the courts. Under section 7 5 of the Act, a reference in a contract to a document containing an arbitration clause constitutes an arbitration agreement if the contract is in writing and the reference is such as to make that arbitration clause part of the contract. Unilateral or optional clauses 9. Are unilateral or optional clauses, where one party has the right to choose arbitration, enforceable? Indian law does not contemplate an arbitration agreement which is conditional or confers an option to arbitrate. For an arbitration agreement to be valid, both parties must promise in writing to submit differences to arbitration. As there is a similar promise on each side, the contract is bilateral. However, many contracts have arbitration clauses which only permit certain kinds of disputes to be sent to arbitration. In what circumstances can a third party that did not sign the contract incorporating the arbitral clause in question be compelled to arbitrate disputes relating to the contract in question? The Arbitration Act does not grant powers to join a third party to pending arbitration proceedings. Non-signatories to the arbitration agreement can only be bound to the arbitration agreement under the "groups of companies" doctrine, where a clear intention to bind such non-signatories can be established. There are a few judgments in which arbitrations among such different parties have been combined, while there are also few judgments which hold that if some parties or issues are not part of the arbitration, only a civil suit can be filed with respect to such disputes. In what circumstances is a third party that did not sign the contract incorporating the arbitral clause in question entitled to compel a party that did sign the contract to arbitrate disputes relating to the contract? A non-signatory third party cannot compel a party signing a contract to arbitrate disputes relating to the contract. Does the applicable law recognise the separability of arbitration agreements? Indian law recognises the separability of an arbitration agreement. An arbitration clause contained in a contract is considered as an independent agreement in itself. Under section 16 of the Arbitration Act, the arbitral tribunal can rule on the existence or validity of the arbitration agreement, and for that purpose an arbitration clause which forms part of a contract is treated as independent of the other terms of the contract. Breach of an arbitration agreement What remedies are available where a party starts court proceedings in breach of an arbitration agreement or initiates arbitration in breach of a valid jurisdiction clause? Court proceedings in breach of an arbitration agreement If one of the parties to an arbitration agreement initiates court proceedings in contravention of the arbitration clause, the other party can and should object to the proceedings on the ground that there is an arbitration agreement between the parties. The court must refer the parties to arbitration under section 8 of the Arbitration Act. However, any objection to such proceedings must be dealt with before filing the first statement. If the opposite party does not raise any such objection, the proceedings in the civil court proceed. Arbitration in breach of a valid jurisdiction clause If arbitration is invoked where there is either no arbitration clause or where the dispute is not arbitrable, the other side can

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make a preliminary objection to the validity of the arbitration. There can be no arbitration in breach of a valid jurisdiction clause. Will the local courts grant an injunction to restrain proceedings started overseas in breach of an arbitration agreement? There have been cases where courts have granted injunctions restraining proceedings started overseas in breach of an arbitration agreement and there is at least one Supreme Court judgment which confirms such a right. However, courts in India do not have jurisdiction under the Arbitration Act to restrain arbitration proceedings where the seat of arbitration is outside India Joinder of third parties In what circumstances can a third party be joined to an arbitration or otherwise be bound by an arbitration award? Third parties cannot be joined to an arbitration or be bound by an arbitration award unless they specifically agree to become a party or be so bound. Must an arbitrator be a national of, or licensed to practice in, your jurisdiction in order to serve as an arbitrator there? The parties are free to agree on the number of arbitrators, although there must be an odd number. If the parties fail to determine the number of arbitrators, then a tribunal will consist of a sole arbitrator. The Arbitration Act does not contain any requirement for a licence to practice in India. Arbitrators are appointed as agreed by the parties and the parties are free to determine their qualifications and nationality.

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Chapter 7 : The functions of family arbitrators under the Ethiopian civil code (edition) | Open Library

has its basis and major guidelines under Article of the Revised Family Code. The matter of Custody shall be considered and decided by the court, taking into account the best interests of the child.

In Ethiopia, there are three forms of marriage. Civil, Customary And Religious Marriages. But the effect of dissolution of all forms of marriage is the same. Death of one of the spouses or declaration of absence, by the court, of one of the spouses, when one of the essential conditions of marriage is violated Divorce How can marriage be dissolved by divorce? Marriage can dissolve by divorce, when the spouses have agreed to divorce by mutual consent and such agreement is accepted by the court; or The spouses or one of them made a petition, for divorce, to the court. When the spouses have agreed to divorce by mutual consent, such agreement, which also should regulate the consequences of the divorce, must be submitted in writing to the court for approval. However, the spouses whose marriage lasted for less than six months shall not be permitted to divorce by mutual consent. In their petition the spouses are not obliged to state the reason of the divorce. The court may not necessarily approve divorce immediately. The Ethiopian family law empowers family courts with the right to discuss with the spouses separately or jointly and counsel them to renounce their intention to divorce. Further the court is entitled to grant a cooling period, not exceeding three months, to the spouses. If the spouses did not change their intention they can reapply to the court for approval of the divorce within six months from the last date of cooling period. But nothing shall prevent the spouses from submitting a new petition for divorce. If the agreement to divorce is the true expression of the intention and free consent of the spouses and is not contrary to law and morality the court shall approve the divorce. When the court approves the divorce it shall also approve the conditions of the divorce agreed between the spouses. In so deciding the interest and wellbeing of a child is strictly considered by the court. The two spouses conjointly or separately can make a petition for divorce to the court. They can include the reasons for divorce in the petition. The court shall speak to the spouses separately or conjointly with a view of persuading them renounce their petition for divorce and try to solve their dispute amicably. If this attempt fails, the court may direct the spouses to settle their dispute through arbitrators of their own choice. When this did not work the court may dismiss the spouses by giving them a cooling period of up to three months. Where all the efforts made before, have failed, the court shall pronounce divorce within one month from the receipt of the reports of arbitrators or the end of the cooling period, as the case maybe. From the time the petition for divorce is brought before it, the court shall forthwith give appropriate order regarding the custody maintenance of their children, the maintenance of the spouses and the management of their property. Sometimes circumstances may force one of the spouses to leave their common abode. During such case, the court shall take into consideration the interest of children and the condition of the spouse who may be affected more by leaving their common abode, when giving the above order. When divorce is made by petition, the court shall request the spouses to agree on the conditions of divorce. When they are not willing to agree the court shall, by itself, or through arbitrators, or experts appointed by it, or by another means it thinks appropriate, decide on the conditions of divorce. The conditions of marriage agreed by the spouses or decided by arbitrators or experts shall be submitted to the court for approval. The court may postpone the judgment on the conditions of the divorce for not more than six moths after deciding on the divorce. When justice so requires and when the cause of the divorce is imputable to one of the spouses, the court may order such spouse to make good the damage sustained by the other spouse. The Two Common Effects of Divorce The two common effects of marriage are its pecuniary effect and its effect on children. Pecuniary Effects Of Divorce It is good to note that the pecuniary effect of divorce is the most sensitive area that usually results in countless court litigations. So here are the pecuniary effects of marriage. If the spouses have an agreement in their contract of marriage the pecuniary relation shall be liquidated according to this agreement. If not, each spouse is entitled to retake his personal property at first and common property shall be divided equally between the spouses. But here the Reader may raise one

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question. Which property is personal and which one is the common? That is good question. The property which the spouses acquired on and after the day of their marriage by succession or donation shall remain their personal property. Property acquired by onerous title, by one of the spouses after marriage shall also be personal property where such acquisition has been made by exchange for property owned personally, or with monies owned personally or derived from sale of property owned personally. But this applies when the court, at the request of one of the spouses, has decided that the property thus acquired shall be owned personally by such spouse. All properties which are not personal shall be common property even if it is an income derived from personal property. The spouse may regulate their personal and common property by their contract of marriage, if any. If one of the spouses proves that any of his personal property has been alienated and that the price thereof has fallen in the common property he has the right to withdraw, beforehand, money or things of value corresponding to such price, where both spouses have such right, each of them shall take their respective share from the common property in proportion to their contribution. If there is a debt incurred by either spouse or both spouses conjointly, and such debt is confirmed by judicial decision, or acknowledged by the spouses, such debt shall be paid before the division of property. Each spouse shall receive equal share of the property from the common property. If it is not possible to divide equally the inequality of shares in kind shall be set off by the payment of sums of money. While doing this, utmost care should be taken to give each spouse things which are most useful to him. If they do not agree on the condition of sale and if one of them requires, the sale shall be made by auction. If a debt to be paid from the common property becomes due after the dissolution of the marriage and after the partition of the property, each spouse shall be liable in proportion to his share. But if the debt concerns one of the spouses, only such spouse shall pay it. Effect of Divorce on Children Dissolution of marriage will have effects on the children. The Ethiopian family law takes the matter of children seriously and tries to protect their best interest. The court when deciding the divorce, also decide, as to which spouses shall have custody of the children, care of their education, health, maintenance and the rights of the parents and the children to visit each other, The court shall take into account the income, age, health and condition of living of the spouses as well as the age and interest of the children. The court can, on application and taking into account the change of circumstances revise or reverse its decision requiring the custody and maintenance of the children.

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Chapter 8 : FINRA Arbitration Guide For Employment Lawyers: Part 1 - Law

The Ethiopian Civil Code of was adopted from European countries (David, ; Krzeczunowicz, ; Beckstrom,), and the provisions of the family law were similar in content with the traditional laws of Europe and the United States.

If the 15th day falls on a weekend or FINRA holiday, the day period will expire the next business day. As noted above, statutory employment discrimination claims, such as claims under Title VII of the Civil Rights Act of , can be arbitrated before FINRA only if the parties agree to arbitrate these claims either before or after the dispute arose. FINRA arbitration features a streamlined discovery process, which is often much faster from inception to verdict than a case in federal or state court. You cannot move to dismiss or for summary judgment in FINRA arbitrations, and the summary adjudication procedures are less favorable to employers than in federal and state court. You may request relief in many forms, including monetary damages, interest, expungement and specific performance. You may also include any additional documentation supporting the statement of claim. Once you file a statement of claim, the director will serve the respondent unless your statement of claim is deficient. You do not pay all required filing fees, unless the director defers the fees. The claim does not comply with the restrictions on filings with personal confidential information pursuant to FINRA Rule d 1. If your claim is dismissed due to the six-year time limitation, you may pursue the claim in court if that claim is timely. As discussed below, the grounds for filing a motion to dismiss are very limited and there is no summary judgment process in FINRA arbitrations. The statement of claim, therefore, is often the only written document that the claimant provides to the panel prior to the hearing. Although in some cases the parties will submit prehearing briefs. For this reason, consider drafting your statement of claim in a persuasive manner and include background facts that allow the panel to understand the issues, even though such facts may not be technically necessary to state a claim. Associated persons can request that the panel expunge information from the U5 as a form of relief. Be aware that the standards for expungement of customer dispute information under FINRA Rules and differ from the standards for expunging employment information from the Form U5. FINRA has said that the information disclosures on the Form U5, some of which FINRA makes publicly available via its BrokerCheck website , are of critical importance to the investing public, and expungement is an extraordinary remedy that should be recommended only under appropriate circumstances.

Key Steps for Respondent to Respond to a Statement of Claim

The Statement of Answer If you are the respondent in an arbitration proceeding, then, once served with a statement of claim, you must file a statement of answer and submission agreement with the director and serve a copy on every other party.

Time Limits and Fees You must file the statement of answer within 45 days of receiving the statement of claim. Similarly, you may be barred from raising defenses or presenting relevant facts if you file an untimely statement of answer or fail to present those defenses or facts in your original answer. If the statement of answer asserts any counterclaims, cross-claims or third-party claims, you must pay all required filing fees. This is true regardless of the format of the statement of claim. The statement of answer should include a statement of facts and legal argument section, in which you should explain the controlling law and apply it to the facts of the case. It also should include any affirmative defenses. Regarding the legal claims, ensure that you specifically address and thoughtfully present each claim. You should explain the controlling law and how it applies to the facts to foreclose attempts to circumvent the law. For example, you should argue that the at-will employment doctrine forecloses claims of wrongful termination and the claimant cannot establish any of the very narrow exceptions based on public policy. New York and California, however, provide for an absolute privilege from money damages arising from U5s. FINRA Case Administration sends the parties a letter that describes the process and encloses a list of arbitrator candidates and background information on each candidate. The parties then have approximately three weeks to conduct background research and submit their rankings to FINRA. The parties must strike four candidates from each list of 10 and then rank the remaining six arbitrators indicating their order of preference. Arbitrators are eligible to serve as

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chairpersons of panels submitted for arbitration under the industry code if they have completed FINRA chairperson training, and: Have a law degree and are a member of a bar of at least one jurisdiction and have served as an arbitrator through award on at least one arbitration administered by a self-regulatory organization in which hearings were held; or Have served as an arbitrator through award on at least three arbitrations administered by a self-regulatory agency in which hearings were held. In general, a nonpublic arbitrator also known as an industry arbitrator is an arbitrator who is, or was, associated with including registered through, under, or with any of the following: A broker or dealer. A mutual fund or hedge fund. Unless the parties agree otherwise, the following rules apply: Conduct as much research as you can to ensure informed decision-making. Contact members of your firm and others with experience litigating employment cases before FINRA for first-hand opinions of arbitrator candidates. You may find out that an award that appears unfavorable was actually a positive result for that party because of the facts of the case. First-hand experience with the arbitrator candidate is the best source of information for your case. You should consider whether your case is factually or legally driven and adjust your preferences accordingly. An industry arbitrator with experience as in-house counsel or in compliance or risk functions may bring a particular mindset to an arbitration panel. Be sure to file your arbitrator ranking list on time. Arbitrator Selection Recommendations , which covers both customer and industry arbitrations. For more information on Lexis Practice Advisor or to sign up for a free trial, please click here. The opinions expressed are those of the author s and do not necessarily reflect the views of the university or Portfolio Media Inc. This article is for general information purposes and is not intended to be and should not be taken as legal advice.

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Chapter 9 : 29 CFR - Powers and duties of the arbitrator. | US Law | LII / Legal Information Institute

] DEPARTURE OF ETHIOPIAN FAMILY LAWS 83 Civil Code, the Federal Revised Family Code [RFC here after], states' family laws and constitutions are briefly discussed. Section IV through V of the Article appraise selected family institutions in line with the prevailing custom and norms of the society.

Some third parties simply maintain a list of approved individuals, while others train mediators. Lists may be "open" any person willing and suitably qualified can join or a "closed" panel invitation only. Alternatively, private panels co-exist and compete for appointments e. For example, a mediator could be liable for misleading the parties or for even inadvertently breaching confidentiality. Despite such risks, follow-on court action is quite uncommon. Only one case reached that stage in Australia as of Damage awards are generally compensatory in nature. Liability in Contract arises if a mediator breaches written or verbal contract with one or more parties. The two forms of breach are failure to perform and anticipatory breach. Limitations on liability include the requirement to show actual causation. Liability in Tort arises if a mediator influences a party in any way compromising the integrity of the decision , defames a party, breaches confidentiality, or most commonly, is negligent. Liability for Breach of Fiduciary Obligations can occur if parties misconceive their relationship with a mediator as something other than neutrality. Since such liability relies on a misconception, court action is unlikely to succeed. The case involved two sisters who settled an estate via mediation. Only one sister attended the mediation in person: An agreement was executed. At the time it was orally expressed that before the final settlement, taxation advice should be sought as such a large transfer of property would trigger capital gains taxes. One year later, when Tapoohi realized that taxes were owed, she sued her sister, lawyers and the mediator based on the fact that the agreement was subject to further taxation advice. The original agreement was verbal, without any formal agreement. Tapoohi, a lawyer herself, alleged that the mediator breached his contractual duty, given the lack of any formal agreement; and further alleged tortious breaches of his duty of care. Although the court dismissed the summary judgment request, the case established that mediators owe a duty of care to parties and that parties can hold them liable for breaching that duty of care. Habersberger J held it "not beyond argument" that the mediator could be in breach of contractual and tortious duties. Such claims were required to be assessed at a trial court hearing. United States[edit] Within the United States, the laws governing mediation vary by state. Some states have clear expectations for certification, ethical standards and confidentiality. However, such laws only cover activity within the court system. Community and commercial mediators practising outside the court system may not have such legal protections. State laws regarding lawyers may differ widely from those that cover mediators. Professional mediators often consider the option of liability insurance. Evaluative mediation[edit] Evaluative mediation is focused on providing the parties with an evaluation of their case and directing them toward settlement. During an evaluative mediation process, when the parties agree that the mediator should do so, the mediator will express a view on what might be a fair or reasonable settlement. Facilitative and transformative mediators do not evaluate arguments or direct the parties to a particular settlement. In Germany, due to national regulation "evaluative mediation" is seen as an oxymoron and not allowed by the German mediation Act. Therefore, in Germany mediation is purely facilitative. Instead, the Facilitative mediator facilitates the conversation. These mediators act as guardian of the process, not the content or the outcome. During a facilitative mediation session the parties in dispute control both what will be discussed and how their issues will be resolved. Unlike the transformative mediator, the facilitative mediator is focused on helping the parties find a resolution to their dispute and to that end, the facilitative mediator provides a structure and agenda for the discussion. Transformative mediation Transformative mediation looks at conflict as a crisis in communication. Success is not measured by settlement but by the parties shifts toward a personal strength, b interpersonal responsiveness, c constructive interaction, d new understandings of themselves and their situation, e critically examining the possibilities, f feeling better about each other, and g making their own decisions. Those decisions can include

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settlement agreements or not. Transformative mediation practice is focused on supporting empowerment and recognition shifts, by allowing and encouraging deliberation, decision-making, and perspective-taking.

Narrative mediation[edit] The narrative approach to mediation shares with narrative therapy an emphasis on constructing stories as a basic human activity in understanding our lives and conflict. In objectifying the conflict narrative, participants become less attached to the problem and more creative in seeking solutions. The process begins as a standard mediation, but if mediation fails, the mediator becomes an arbiter. This process is more appropriate in civil matters where rules of evidence or jurisdiction are not in dispute. The parties awareness that the mediator might later act in the role of judge could distort the process. Using a different individual as the arbiter addresses this concern.

Online dispute resolution Online mediation employs online technology to provide disputants access to mediators and each other despite geographic distance, disability or other barriers to direct meeting. Online approaches also facilitate mediation when the value of the dispute does not justify the cost of face-to-face contact.

Biased mediation[edit] Neutral mediators enter into a conflict with the main intention in ending a conflict. This goal tends to hasten a mediator to reach a conclusion. Biased mediators enter into a conflict with specific biases in favor of one party or another. Biased mediators look to protect their parties interest thus leading to a better, more lasting resolution. It differs from adversarial resolution processes by virtue of its simplicity, informality, flexibility, and economy. Mediation provides the opportunity for parties to agree terms and resolve issues by themselves, without the need for legal representation or court hearings. Success is unlikely unless: All or no parties have legal representation. Mediation includes no right to legal counsel. All parties are of legal age although see peer mediation and are legally competent to make decisions.

Conciliation[edit] Conciliation sometimes serves as an umbrella-term that covers mediation and facilitative and advisory dispute-resolution processes. For example, both processes involve a neutral third-party who has no enforcing powers. One significant difference between conciliation and mediation lies in the fact that conciliators possess expert knowledge of the domain in which they conciliate. The conciliator can make suggestions for settlement terms and can give advice on the subject-matter. Conciliators may also use their role to actively encourage the parties to come to a resolution. In certain types of dispute the conciliator has a duty to provide legal information. This helps ensure that agreements comply with relevant statutory frameworks. Therefore, conciliation may include an advisory aspect. Mediation is purely facilitative: Instead, a mediator seeks to help parties to develop a shared understanding of the conflict and to work toward building a practical and lasting resolution. They both offer relatively flexible processes. Any settlement reached generally must have the agreement of all parties. This contrasts with litigation , which normally settles the dispute in favour of the party with the strongest legal argument. In-between the two operates collaborative law , which uses a facilitative process where each party has counsel.

Counselling[edit] A counsellor generally uses therapeutic techniques. Some“such as a particular line of questioning”may be useful in mediation. But the role of the counsellor differs from the role of the mediator. The list below is not exhaustive but it gives an indication of important distinctions: A mediator aims for clear agreement between the participants as to how they will deal with specific issues. A counsellor is more concerned with the parties gaining a better self-understanding of their individual behaviour. A counsellor is fundamentally concerned about how people feel about a range of relevant experiences. A counsellor may find it necessary to explore the past in detail to expose the origins and patterns of beliefs and behaviour. A mediator controls the process but does not overtly try to influence the participants or the actual outcome. A counsellor often takes an intentional role in the process, seeking to influence the parties to move in a particular direction or consider specific issues. A mediator relies on all parties being present to negotiate, usually face-to-face. A counsellor does not necessarily see all parties at the same time. A mediator is required to be neutral. A counsellor may play a more supportive role, where appropriate. Mediation requires both parties to be willing to negotiate. Counselling may work with one party even if the other is not ready or willing to participate. Mediation is a structured process that typically completes in one or a few sessions. Early neutral evaluation[edit].