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**DECOLONIZING LEGAL INFLUENCE: CHINA'S ROLE  
IN THE CHANGING LANDSCAPE OF THE ETHIOPIAN  
LEGAL PROFESSION, 2000 – 2018**

MEKONNEN AYANO\*

*ABSTRACT*

*Over the last two decades, the legal profession in Ethiopia has changed fundamentally. The government has increased the number of law schools from one in 1993 to more than three dozen by 2021. It has introduced strict licensure rules to formalize and regulate legal services and, more recently, in 2022, it has proclaimed the creation of law firms and an independent bar association. The market for legal services has expanded, allowing lawyers to reach out to clients in the country's peripheries and move onward to attract global clients. These changes are inextricably tied to global currents that have diffused Anglo-American influence on law and the legal professions across the world. In this paper, I consider China's influence in Ethiopia's fast-changing socio-legal landscape. While there is no doubt that Chinese finance and investment over the last two decades have shaped Ethiopia's infrastructure and manufacturing industries, commentators often say that China has neither the intention nor the capability to influence law and the legal profession. Nonetheless, this paper shows that a combined effect of the Ethiopian officials seeking Chinese capital and Chinese entrepreneurs seeking cheap land and labor through local law and lawyers has profoundly changed the profession. The economic nature of this change raises questions about our understanding of foreign influence in terms of colonial experience, which is characterized by a seemingly unified approach, or theory and intentionality by a Western government, to analyze Chinese influence in African law and legal professions.*

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## INTRODUCTION

In April 2008, veteran prosecutor Shamsu Kadir appealed to the Federal Supreme Court of Ethiopia, claiming that the Ministry of Justice had denied him a license to practice law.<sup>1</sup> Kadir had applied to the ministry for the permit in 2008.

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<sup>1</sup> Shamsu Kadir Ahmed v. Federal Democratic Republic of Ethiopia Ministry of Justice, File

Two years before that, he had earned a diploma in law from the Ethiopian Civil Service College of Law—a public service college created in 1993 to train the judges, prosecutors, and civil servants that facilitated the country's transition from a planned economy to a free market.<sup>2</sup> Kadir, and many other lawyers who had practiced law without a formal legal education, had gone back to school after many years of experience in response to the federal government proclamation requiring at least a college diploma in law to practice law.<sup>3</sup> Kadir went back to college after his twelve years of experience as a public prosecutor in one of the districts in Addis Ababa. He applied for his license after earning his two-year diploma, but the ministry rejected Kadir's application. Moving the goalposts, the officials had decided that his twelve years of experience were inadequate for the license. The trial court agreed with the ministry's decision. Kadir eventually appealed to the highest court in the country, arguing that his pre-legal education experience should count. The Supreme Court reversed the ministry's decision, holding that regulators must not apply the law to discount valuable experience in practicing law.<sup>4</sup> At least six more similar disputants have recently litigated for the right to practice law at the Supreme Court Cassation division.<sup>5</sup>

Just two decades ago, no one could have predicted that the stakes in practicing law in Ethiopia could rise to this height—to become a subject of

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Number 37375, Hidar 11 ken 2001 AD [G calendar November 19, 2009).

<sup>2</sup> Ethiopia adopted a structural adjustment program in the 1990s to liberalize the economy, trim the roles of government and privatize state-owned enterprises, cut public spending, deregulate labor market, guarantee judicial reform, and promote independence bar associations. Eshetu Chole, *The Dismal Economy: Current Issues of Economic Reform and Development in Ethiopia*, 2 *ETH. J. ECON.* 37, 40, 48-50 (1993).

<sup>3</sup> Federal Courts Advocates Licensing and Registration Proclamation. Proclamation No. 199, *Negarit Gazeta*, Year 6, No. 27 (2000).

<sup>4</sup> *Shamsu Kedit Ahmed v. Federal Democratic Republic of Ethiopia Ministry of Justice*, የሰ/መ/ቁ. 37375, ኅዲር 11 ቀን 2001 ዓ.ም. [This is Amharic original reference, English translation would be File Number 37375, November 19, 2008]. In another case, a group of lawyers, who received law degrees from the now-banned private law schools, battled for the right to practice. Federal Supreme Court Cassation decision. የሰበር መ/ቁ 25287/ሐምሌ 29 ቀን 2000 ዓ.ም [Cassation File Number 25287, August 5, 2008.]

<sup>5</sup> See *Asfaw v. Tigray Region Bureau of Justice*, Federal Supreme Court Cassation Division, File No 154371 (Dec, 2019); *Endalkachu Yelak v. FDRE Ministry of Justice*, Federal Supreme Court Cassation Division, File No 128466 (July 2017); *Guta Chaka v. Oromia Bureau of Justice*, Federal Supreme Court Cassation Division, File No 110507 (Jan, 2017); *Moges Nadew v. FDRE Ministry of Justice*, Federal Supreme Court Cassation Division, File No 107442 (Mar 2017); *Athunenge Almwaw v. Amhara Bureau of Justice*, Federal Supreme Court Cassation Division, File No 114888 (Nov, 2014); *Teshome Demissie v. FDRE Ministry of Justice*, Federal Supreme Court Cassation Division, File No 67146 (June 2011); *FDRE Ministry of Justice v. Taye Bezabeh Fano*, Federal Supreme Court Cassation Division, File No 59261 (January 2011); *FDRE Ministry of Justice v. Tesfaye Berhe et al.*, Federal Supreme Court Cassation Division, File No 67280 (May 2011).

litigation at the Supreme Court. In 1991, when the government of the Ethiopian People's Revolutionary Democratic Front (EPRDF), a coalition of political parties that ruled the country from 1991 to 2018, declared that Ethiopia was to be a free-market economy and liberal democracy, the country had a population of about 60 million and one law school.<sup>6</sup> By that time, this law school had trained only about 1,867 lawyers since its founding in 1963.<sup>7</sup> Many of its graduates were high-ranking judges, prosecutors, administrators, and in-house counsel for government agencies in the capital.<sup>8</sup> Most lawyers in the country had no legal training. People like Kadir, who had some basic legal training, and scribes who practiced law with no formal training in law, had hitherto supplied legal services. Tom Geraghty notes that a literate man with the time and interest to hang around courthouses long enough to learn to fill out pleading forms and follow court procedures could make a living in this profession, which typically meant transcribing oral stories into legal claims and arguments for a fee.<sup>9</sup> Aside from the scribes, the legal profession did not exist as a distinct social class and the public perceived lawyers as state or government functionaries.<sup>10</sup>

Today, this landscape has radically changed. Undertrained practitioners have been cleared out, the rules for admission to the profession have been formalized, and legal education in the country has expanded. Since the federal parliament formalized advocates' licensure rules and revoked the licenses of those who had been practicing without a certificate of formal legal education in the early 2000s, elite lawyers have become a powerful economic and political class in the country.<sup>11</sup> Legal education expanded exponentially, from one law school in 1991

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<sup>6</sup> See ESHETU CHOLE, UNDERDEVELOPMENT IN ETHIOPIA 195-204 (Organisation for Social Science Research in Eastern and Southern Africa (OSSREA)) (2004).

<sup>7</sup> See THE WORLD BANK, ETHIOPIA LEGAL AND JUDICIAL SECTOR ASSESSMENT, 1, 33 (2004).

<sup>8</sup> Stanley Z. Fisher, 50 Years of Legal Education in Ethiopia: A Memoir, 26 J. ETHIOPIAN L. 191, 191-92, 196 (2014).

<sup>9</sup> Thomas Geraghty, People, Practice, Attitudes and Problems in the Lower Courts of Ethiopia, 6 J. ETHIOPIAN L. 427, 429 (1969).

<sup>10</sup> Rural people expressed this state-lawyers' identity in Amharic as “ሰማይ ኣይታረኽኒ፤ መንግስት ኣይከሰስ”—

“farm not the sky; sue not the state.” A bar association was created in 1965, but operated as a loose club mainly based in the capital with an unremarkable role in the profession or wider society; See *id.* at 455–58 (both scribes and lawyers were represented in unflattering ways in local myths and legends. The generic Amharic term for lawyers is “ጠበቃ” (tebeka), which a class Amharic dictionary defined as “loquacious, cheat, conniving”).

<sup>11</sup> Tameru Wondim Agegnehu, Some Thoughts on the Organization of legal Practice in Ethiopia, 11 MIZAN L. REV. 229, 231 (2017) (“The adoption of more liberalized economic system following the downfall of the Military Regime at the beginning of 1990s came with some hope for the resurgence

to more than thirty-six by 2021. Law graduates increased in number from 1,867 to close to 8,000 by 2020.<sup>12</sup> Most schools now offer a five-year LL.B. degree and some offer LL.M and Ph.D. degrees, often specializing in corporate and commercial law fields.<sup>13</sup>

The everyday work of lawyers has also changed in many ways. University-educated lawyers are now working in far-flung parts of the country as well as in the capital.<sup>14</sup> Many lawyers practice solo, and a steadily growing number of lawyers have founded law offices affiliated to North American, British, and South African law firms and law firm networks.<sup>15</sup> Most lawyers in the capital are former judges or prosecutors. Now, the job market for new law graduates has also changed significantly. Most of the recent law graduates are still employed in the courts and by public prosecutors. But there is evidence that shows private-sector enterprises have become major employers. The private sector has hired about 90% of the new graduates of the Addis Ababa University School of Law over the last few years.<sup>16</sup> Practice area specialization is also appearing, especially among law offices based in the capital. The focus is mainly on transactional, due diligence, and local tax and investment law consultancy services.<sup>17</sup>

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of liberal legal practice in Ethiopia. It, indeed, succeeded in making legal practice more attractive than the judiciary, and helped to significantly raise the number of practicing lawyers at the expense of the Judiciary.”)

<sup>12</sup> See Annex 2. Number of Law Schools and graduates.

<sup>13</sup> See e.g., Addis Ababa University College of Law, <http://www.aau.edu.et/clgs/academics/school-of-law/programs/>.

<sup>14</sup> There are about 8,000 licensed lawyers in the country, of whom 5,000 work in the capital. There are an estimated 20 law offices, all of which are based in the capital. See Annex 1.

<sup>15</sup> Andrew Mizner, BonelliErede’s Ethiopian partner firm gains two commercial lawyers, AFR. L. & BUS. (May 26, 2020), <https://iclg.com/alb/12640-bonellierede-s-ethiopian-partner-firm-gains-two-commercial-lawyers>.

<sup>16</sup> Interview with MD, Advisor, Ministry of Justice, in Addis Ababa, May 31, 2019. In the past, graduates with social or family connections usually went to private-sector jobs, especially Western donor-funded NGOs, which paid more than the public sector. Interviews show that high-paying private-sector jobs are increasingly available to graduates of various economic and social backgrounds. Currently, these jobs pay more than public-sector work, and graduates of law schools outside the capital do not fare well because community and social network related barriers make it difficult for them to enter this market. Addis Ababa University Law School graduates find employment in the private sector, mainly because of the school’s location in the capital and the social advantages connected with the school’s age, prestige, and large alumni network.

<sup>17</sup> Telephone Interview with MG, Advocate and Founder of a Law Office (Aug. 19, 2021). The trends to specialization appear to have mirrored the number of licensed lawyers, which has steadily increased over the last two decades. About 5,000 lawyers hold federal advocate’s licenses, and nearly 2,000 lawyers are licensed to practice outside the capital. Telephone Interview with FT, Official at the Ministry of Justice of the Federal Democratic Republic of Ethiopia (Aug. 22, 2021).

Recently, in 2021, the federal government enacted a law allowing lawyers to create law firms and a bar association with a nearly complete regulatory autonomy.<sup>18</sup> This legislation is a monumental achievement for lawyers who have struggled for decades to achieve it. A thirteen-member council of elite lawyers led the enactment of this proclamation in a process unprecedented in the country's legislative history in terms of lawyers' role in setting a legislative agenda.<sup>19</sup> The timing of this legislation says much about the power and influence lawyers have gained in the country. Even as the civil war raged and the COVID pandemic menaced the economy and society during 2020 and 2021, the lawyers were able to get what they wanted. In January 2022, a statutory bar association was inaugurated by the newly appointed president and vice-president.

These changes raise several, important questions. How and why has the legal profession changed so rapidly in the past two decades? What is unique about the last two decades in the country's long legal history? The obvious answer is globalization: the movement of goods, services, and ideas, including ideologies about rules of law and the free market.<sup>20</sup> Lawyers thrive where the private economy is less regulated and when capital is mobile. Studies of the legal professions in China, India, and Brazil have pointed out that neoliberal globalization—the post-Cold War free movement of capital, goods, ideas, and ideologies across countries—has profoundly reshaped the way that legal professions organize and how lawyers work worldwide.<sup>21</sup> Wilkins, Trubek, and Fong show in a recent paper that disparate modes of legal practice in Brazil, China, and India have evolved in a more or less linear fashion into large, North American-style corporate law firms. Starting in the

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Obviously, the number licensed lawyers hardly adequate for a country of 120 million population and most rural people rarely hire lawyers or continue to rely on scribes. However, remarkable changes have occurred within a decade.

<sup>18</sup> Federal Advocacy Service Licensing and Administration Proclamation. Proclamation No. 1249, *Negarit Gazeta*, Year 27, No. 42 (2021) [https://www.law.nyu.edu/sites/default/files/upload\\_documents/Final\\_GFILC\\_pdf](https://www.law.nyu.edu/sites/default/files/upload_documents/Final_GFILC_pdf); see also Haimanot Ashenafi, *Advocates' Licencing Law Alteration to See Inclusion of Law Firms*, 18 *ADDIS FORTUNE* 928 (Feb 4, 2018), <https://addisfortune.net/articles/advocates-licencing-law-alteration-to-see-inclusion-of-law-firms/>.

<sup>19</sup> Tewodros Meheret, *Reform of Regulation of Legal Practice in Ethiopia: Does It Improve Access to Justice?*, 19 *NW. J. HUM. RTS.* 62, 66, 71 (2021)

<sup>20</sup> Duncan Kennedy, *Three Globalizations of Law and Legal Thought: 1850-2000*; see also David Trubek & Alvaro Santos, *THE NEW LAW AND ECONOMIC DEVELOPMENT: A CRITICAL APPRAISAL* 63–71 (2006); Luciana Gross Cunha et al., *GLOBALIZATION, LAWYERS, AND EMERGING ECONOMIES: THE BRAZILIAN LEGAL PROFESSION IN THE AGE OF GLOBALIZATION: THE RISE OF THE CORPORATE LEGAL SECTOR AND ITS IMPACT ON LAWYERS AND SOCIETY* at 5, 10 (2018).

<sup>21</sup> See Center on the Legal Profession, *Globalization, Lawyers, and Emerging Economies (GLEE)*, <https://clp.law.harvard.edu/clp-research/globalization/>.

early 1990s, according to this study, multinational companies originating in the United States globalized law firm and in-house counsel models because of their convenience. However, the study shows the United States models have not entirely replaced existing interests and structures because path-dependent local pressures have refracted the global models, producing global models imbued with national characteristics.<sup>22</sup> Hence, in China, the study found a combination of the influence of global currents and the legacies of a robust, domestic, state regulation played a vital role in shaping its new corporate legal practice.<sup>23</sup> In India, family and social structures led to shaping the new corporate legal practice toward familial arrangements embedded in local social structures.<sup>24</sup> African legal professions have not attracted as much attention in literature as those in China and India. Nonetheless, recent studies show that African lawyers have also captured the opportunities presented by neoliberal globalization to carve out a niche in the corporate legal world, albeit at a slow pace and in a fragmented way.<sup>25</sup>

In Ethiopia, as in many other settings elsewhere, globalization offered handsome opportunities to lawyers. Nonetheless, to get where they are today, Ethiopian lawyers navigated a complex path that cannot be explained by the now-established theory of Western influence traveling through law firms and multinational companies. Ethiopian lawyers faced dangers that emerged from conflicts inherent in the twin visions of globalization—entrenching the rule of law for global free trade and investment on the one hand and protecting democracy and human rights on the other hand—and domestic political orderings, especially the EPRDF's commitment to ethnic federalism and developmental state policies.<sup>26</sup> The transition to a free market economy in 1991 in Ethiopia signaled an active role for

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<sup>22</sup> David B. Wilkins et al., *Globalization, Lawyers, and Emerging Economies: The Rise, Transformation, and Significance of the New Corporate Legal Ecosystem in India, Brazil, and China*, 61 *HARV. INT'L L. J.* 281, 343-44 (Sept. 14, 2019); see e.g., HLS Center on the Legal Profession Research Paper No. 2019-1, Univ. of Wisconsin Legal Studies Research Paper No. 1486, available at SSRN: <https://ssrn.com/abstract=3453908> or <http://dx.doi.org/10.2139/ssrn.3453908>.

<sup>23</sup> Sida Liu, *Globalization as Boundary-Blurring: International and Local Law Firms in China's Corporate Law Market*, 42 *L. & SOC'Y REV.* 4, 771, 773, 775 (2008).

<sup>24</sup> David B. Wilkins et al., *THE INDIAN LEGAL PROFESSION IN THE AGE OF GLOBALIZATION: THE RISE OF THE CORPORATE LEGAL SECTOR AND ITS IMPACT ON LAWYERS AND SOCIETY* (2017); see also Cunha, *supra* note 20.

<sup>25</sup> Jonathan Klaaren, *African corporate lawyering and globalization*, 22 *INT'L J. LEGAL PRO.* 2, 226-42 (2015); see also J. Jarpa Dawuni, *The Legal Profession in Ghana: From Indigenization to Globalization*, 29 *INT'L J. LEGAL PRO.* 1, 1, 4-5 (2021), <https://doi.org/10.1080/09695958.2021.1992283>.

<sup>26</sup> See Yves Dezalay & Bryant G. Garth, *Corporate Law Firms, NGOs, and Issues of Legitimacy for a Global Legal Order*, 80 *FORDHAM L. REV.* 2309, 2309, 2312, 2315 (2012).



lawyers in the growing private market and the enforcement of human rights and political accountability. At the beginning of the transition, no rift between these two visions was apparent. The government actively supported development of legal profession and lawyers who worked for human rights non-governmental organizations (NGOs), as well as private sector clients. But a contradiction became apparent when EPRDF perceived lawyers as serious political threats. Lawyering for liberal political rights turned out to be a precarious method, creating a sharp divide between elite lawyers and the EPRDF government authorities. This divide entangled the legal profession in a fatal crisis, especially during the national election in 2005. The political contest following the election created further entanglement when government officials jailed many prominent lawyers and deregistered the Ethiopian Bar Association by creating a competing, pro-government bar.

This paper is about how the legal profession recovered from that crisis and how Chinese finance and investment played a vital role in a process that enabled lawyers to acquire considerable professional organization, economic power, and political influence in the country. This paper shows that Chinese finance and investment played a vital role in this process when relations between lawyers and the government worsened by creating the economic conditions that allowed some lawyers to dissociate themselves from political considerations and cultivate their image as transactional, economic, and developmental lawyers. I use the term “legal profession” here narrowly, meaning trained and licensed lawyers providing legal services for clients. Ethiopian laws use the term “advocates” to describe such lawyers. But much of what I describe in this paper can apply, at least indirectly, to judges, prosecutors, and law students who plan to practice law in either private or public sectors.<sup>27</sup>

Research on globalization and legal professions looking at China’s role in law and legal profession in Ethiopia could be an interesting case to understand China’s steadily growing global power and influence in the global South. China has pursued a distinctly economy-centered approach in Ethiopia.<sup>28</sup> Commentators often say that this approach, in contrast to the Western states’ predominantly law-based approaches, represents a reciprocal transaction based on “equality and mutual

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<sup>27</sup> See Richard Abel, *AMERICAN LAWYERS* 14–15 (1989) (describing the legal profession in general).

<sup>28</sup> See David H. Shinn & Joshua Eisenman, *China and Africa: A Century of Engagement*, 249, 270–275 (2012); see Peter Lehman, *China-Africa Relations, Political Conditions, and Ngūgĩ wa Thiong’o’s Wizard of the Crow*, 45 *ARIEL: A REV. OF INT’L ENG. LITERATURE* 131, 138 (2014).

benefits.”<sup>29</sup> *China, Law and Development* (CLD), an emerging body of research examining China’s fast-growing influence on global law and governance, claims that China has relied on informal networks and existing international structures rather than engaging in legal reforms to protect its interests in countries that receive its capital.<sup>30</sup> Confirming the CLD claims, Ethiopian lawyers and academics generally believe that China has not exported its vision of law and legality to Ethiopia—at least, not the kinds of law and development doctrines exported by the West. They point out that China neither funded a law reform program nor sent its legal experts to Ethiopia. Most agree that Chinese state-owned and private enterprise in Ethiopia employ the largest number of local lawyers; yet, they believe that China has not influenced the development of the Ethiopian legal profession.

This paper tries to dispel the myth that has masked the existence of Chinese influence on the Ethiopian legal profession by showing that legal influence may travel through economic arteries. It shows that China has a vital, albeit unintentional, role in the fundamentally changed Ethiopian legal profession. This is because of a combined effect of the Ethiopian officials seeking Chinese capital and Chinese entrepreneurs seeking cheap land and labor through local law. Lawyers drove the changes. To understand this form of Chinese influence, we do not have to observe a grand agenda of Chinese legal reform in action, nor is the presence of Chinese legal experts necessary for China to make its mark on the legal profession in Ethiopia. By looking at the market in legal services—who hires and who pays for lawyers—we can see how the rise of the power and prestige of the legal profession in the country tracks the rise of Chinese influence in the economy over the last two decades.

This paper shows that China has transformed not only Ethiopia’s roads, highways, railways, and buildings; it has also dramatically changed the legal

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<sup>29</sup> See Matthew C. Stephenson, *A Trojan Horse behind Chinese Walls? Problems and Prospects of U.S.- Sponsored “Rule of Law” Reform Projects in the People's Republic of China*, 18 *UCLA PAC. BASIN L. J.* 64, 74, 77 (2000); See Gedion G. Jalata and Kuruvilla Mathews, *ETHIOPIA AND CHINA: CHANGING RELATIONS: IN THE HORN OF AFRICA SINCE THE 1960S*, 73-87 (Aleksi Ylönen, Jan Záhorka eds., 2017).

<sup>30</sup> See Matthew S. Erie, *The Soft Power of Chinese Law*, *COLUM. J. TRANSNAT’L L.* (May 27, 2022), Forthcoming, available at SSRN: <https://ssrn.com/abstract=4121560> or <http://dx.doi.org/10.2139/ssrn.4121560>; see also Matthew S. Erie, *Chinese Law and Development*, 62 *HARV. INT’L L. J.* 52, 54 (2021); Christopher Tung, *The Influence of Chinese Climate Policy & Law on Africa*, 2010 *CARBON & CLIMATE L. REV.* 334 (2010); China, *Africa Boost Legal Ties: S. African Lawyer*, *People’s Daily Online* (Dec 25, 2009), <http://en.people.cn/90001/90776/90883/6852048.html>.

profession through its business transactions. This paper is not meant to suggest that Chinese influence is qualitatively different from Western influence. Although some lawyers are learning the Chinese language and frequently traveling to China to share experience with Chinese lawyers, the mode of legal practice and professional organization is probably consistent with what the Western influence would have produced. The goal is to show that by hiring locally connected lawyers to represent Chinese businesses in land and labor disputes, engaging law offices for big corporate transactions, and connecting local lawyers with global clients and law firms, they have opened the doors to a profession that has been struggling in a post-communist setting to the peripheries of global capitalism. The biographies of local lawyers and law offices discussed toward the end of this paper demonstrate their inextricable link to Chinese companies.

## I. METHOD

This paper draws on interviews and discussions with sixteen Ethiopian lawyers who have had various career trajectories. Most have worked for a Chinese state enterprise or Chinese private entrepreneurs. One of my interlocutors is a recent law school graduate who leads the legal department of a utility company after having worked as an in-house counsel for a Chinese energy company for three years. Another is a former colleague who recently started her own law office after working as an associate for a prestigious law office that frequently worked for Chinese clients. Others include an associate at one of the top law offices who recently returned to Addis Ababa after earning an LL.M. degree from a United States law school; an academic at Addis Ababa University who advises global clients in the fields of commercial transactions; a founder of one of the top law offices in the country; and an associate at one of the leading law offices. I also interviewed a former minister of finance, three officials at the Ministry of Justice, a manager of a Chinese firm, and an official at the Chinese Chamber of Commerce in Addis Ababa. The aim was to understand how participants in the legal world of Ethiopia–China relations conceive of and interpret the relationship and its influence. The interviews and discussions lasted three years, starting in June 2019 and ending in October 2021. I conducted the early interviews in person, frequently at my interlocutors' offices and in coffee shops in Addis Ababa. When I visited a law office for an interview, I was given a specific time, in minutes, and an office number. When I arrived, a secretary was waiting for me with exact information about me and my purpose for a visit. She received me through an electronically locked door, offered me a seat in a waiting room with shiny glass windows, an antique coffee table, a menu of international magazines, and an exquisite cup of macchiato. She ushered me into a conference room with a magnificent round table and eight chairs. The experience was nothing like a typical business office in Addis Ababa. Time management, perks,

and office styles were as good, if not better than, the ones one may see in Western metropolitan law firms. But I learned that only a few law offices had achieved such standards. I conducted the later interviews and discussions (February 2020–October 2021) on Zoom from Columbia, MO, and Buffalo, NY. A virtual meeting was willingly agreed upon by my interlocutors, as the COVID-19 pandemic made it a routine way of business communication.

This paper is structured as follows. Part III describes the central role that China is playing in the Ethiopian economy. It examines how this economic influence has impacted the legal profession by connecting the case of Ethiopia with the literature on globalization and China's influence on the law and legal professions. Part IV presents an abbreviated history of the evolution of the Ethiopian legal profession, starting with the earliest documented foreign influence. It has been subjected to show how the profession was created by the state and external agencies and, yet, has evolved in uneven steps away from mere loyalty to the state to a market for legal services that is rapidly changing and has become more formalized, specialized, and globally connected. Part V uses interview materials that show how deeply connected the transformation of the legal profession is to Chinese finance and investment in the country.

## II. CHINESE INFLUENCE ON ETHIOPIAN ECONOMY AND SOCIETY

Having given out about 150 billion US dollars of officially documented loans, China is the largest single creditor on the African continent.<sup>31</sup> In terms of trade and foreign direct investment, China's share in the continent has increased sharply over the last two decades. Trade volumes have increased from less than \$10 billion in 2002 to more than \$200 billion in 2019.<sup>32</sup> Chinese foreign direct investment in Africa has also risen from \$75 million in 2003 to \$2.7 billion in 2019.<sup>33</sup> Ethiopia ranks among the top four African countries in terms of their loans, finance, investment, and trade ties with China. Owing to its location in the Horn of Africa,<sup>34</sup> together with its political significance as host of the headquarters of the

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<sup>31</sup> Jonathan Wheatley & Joseph Cotterill, African Debt to China: "A Major Drain on the Poorest Countries," *FIN. TIMES*, Oct. 26, 2020, <https://www.ft.com/content/bd73a115-1988-43aa-8b2b-40a449da1235>. Other sources indicate China's loan to Ethiopia exceeds the official figures. Chris Alden & Lu Jiang, *Brave New World: Debt, Industrialization and Security in China–Africa Relations*, 95 *INT'L AFFAIRS* 3, 641–657, (2019), <https://doi.org/10.1093/ia/iiz083>.

<sup>32</sup> Peter Stein and Emily Uddhammar, *China in Africa: The Role of Trade, Investments, and Loans Amidst Shifting Geopolitical Ambitions* (ORF Occasional Paper No. 327, August 2021).

<sup>33</sup> Chinese Investment in Africa, China Africa Research Initiative, <http://www.sais-cari.org/chinese-investment-in-africa>.

<sup>34</sup> Because of instability in the region and its proximity to Somalia and South Sudan, countries widely considered to pose regional and global security threats, Ethiopia has been considered a key lever to influence the Horn and the continent more generally. For further discussion, see Seifudein

African Union, Ethiopia has received a considerable share of China's economic ties with Africa.<sup>36</sup> China is its largest single creditor, officially making it second only to Angola among the top recipients of Chinese loans in Africa.<sup>35</sup> Other sources indicate the amount Ethiopia owes China is much higher. According to Aaron Tesfaye, China has financed roads, railways, telecommunication, and other infrastructural projects in Ethiopia through loans of over \$20.6 billion dollars, much of which has been in the form of concessional loans since 2005.<sup>36</sup> Almost all new roads, railways, and high-rise buildings, including the gigantic African Union headquarters, bear China's fingerprint.<sup>37</sup> Chinese language and cultural centers offer vibrant language training programs for upper-class and middle-class Ethiopians.

As in many other settings, the level of Chinese economic influence has been met with different reactions among Ethiopians, including excitement, suspicion, and anxiety, often based on individuals' economic class or ideological persuasion. The consensus among the middle class is that China is an ally and an alternative to the West.<sup>38</sup> They believe that Chinese investment in infrastructure has transformed the economy and benefited the country. Further, they argue, the transformation has accelerated the country's policy toward deregulating the economy and attracting local and foreign investment to a wide range of sectors.<sup>39</sup> Government officials and elite entrepreneurs who rely on Chinese loans, technologies, and labor praise China for its solidarity as a partner. The Ethiopian minister of foreign affairs recently described China as "the most-trusted economic and political partner."<sup>40</sup>

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Adem, China in Ethiopia: Diplomacy and Economics of Sino-optimism, 55 *AFRICAN STUDIES REV.* 1, 143-60 (2012); Fantu Cheru, Emerging Southern Powers and New Forms of South-South Cooperation: Ethiopia's Strategic Engagement with China and India, 37 *THIRD WORLD QUARTERLY* 4, 592-610 (2016).

<sup>35</sup> Zeng Aiping & Shu Zhan, Origin, Achievements, and Prospects of the Forum on China-Africa Cooperation, *China International Studies* (October 2018), [http://www.focac.org/eng/lhyj\\_1/yjcg/P020181026382446204313.pdf](http://www.focac.org/eng/lhyj_1/yjcg/P020181026382446204313.pdf).

<sup>36</sup> Jevans Nyabiage, Can China keep investment strategy on track as Ethiopian railways hit buffers?, *South China Morning Post* (Mar. 8, 2021), <https://www.scmp.com/news/china/diplomacy/article/3124301/can-china-keep-investment-strategy-track-ethiopian-railways>.

<sup>37</sup> Aaron Tesfaye, *CHINA IN ETHIOPIA: THE LONG-TERM PERSPECTIVE* 30 (State University of New York Press, 2020).

<sup>38</sup> Yunnan Chen, Laying the Tracks: The Political Economy of Railway Development in Ethiopia's Railway Sector and Implications for Technology Transfer, 43 *CHINA AFRICA RESEARCH INITIATIVE, SCHOOL OF ADVANCED INTERNATIONAL STUDIES, JHU*.

<sup>39</sup> Bill Donahue, *China is Turning Ethiopia into a Giant Fast-Fashion Factory*, *BLOOMBERG BUSINESSWEEK* (Mar. 2, 2018, 4:00 AM), <https://www.bloomberg.com/news/features/2018-03-02/china-is-turning-ethiopia-into-a-giant-fast-fashion-factory>.

<sup>40</sup> Huaxia, Roundup: China, Ethiopia Eye Further Augmenting Investment, Trade Cooperation,

Local businesspeople who import consumer commodities from China celebrate the Chinese finance and markets that enable them to import industrial consumer goods and export raw materials.<sup>41</sup> Any suspicion that these groups may have about China's role in the country focuses on the lack of ethical scruples of some Chinese entrepreneurs. Some elite lawyers believe that Chinese private entrepreneurs bypass official rules and procedures to obtain business permits and evade the country's regulations.

But not everyone is happy with the influence that China has had on the Ethiopian economy.<sup>42</sup> Smallholders decry the expropriation of their land by Chinese factories and the Chinese-built roads and highways that separate them from their farm plots and grazing fields without giving them appropriate compensation.<sup>43</sup> Pastoralists complain about the new highways and railways that traverse their grazing pastures, disrupting their camel and livestock routes.<sup>44</sup> In the latter case, the former prime minister himself has criticized Chinese and highland engineers for being "insensitive" to local needs and desires in their design of the rail tracks.<sup>45</sup> Sometimes, local communities even react with violence against Chinese activities in the country.<sup>45</sup>

Among the working class, the presence of Chinese workers competing for local jobs has stirred acute concern. Even those who work for Chinese infrastructural projects are not always happy with their conditions. Employment at a Chinese enterprise does not come with a significant income or a special status because they do not offer the wages and benefits normally associated with working for international employers.<sup>46</sup> A job at a typical Western non-governmental organization (NGO) or a private business enterprise usually comes with a highly prized status and benefits. An engineer working for a government agency, for example, is likely to envy someone working as a bus driver for a Western NGO. In this respect, Chinese employers are not significantly different from local employers

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XINHUA (May 13, 2022), <https://english.news.cn/20220513/aa5b95648a81481d9d9cc37c35841332/c.html>.

<sup>41</sup> Maria Repnikova, *China in Ethiopia: Between a Savior and an Exploiter?*, GLOBAL VOICES (Sep. 24, 2021), <https://globalvoices.org/2021/09/24/china-in-ethiopia-between-a-savior-and-an-exploiter>.

<sup>42</sup> See Jenni Marsh, *Employed by China*, CNN, (Aug. 2018), <https://www.cnn.com/interactive/2018/08/world/china-africa-ethiopia-manufacturing-jobs-intl/>; *Id.*

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> Anita Powell, *Ethnic Somali Rebels Kill 74 at Chinese Oilfield in Ethiopia*, THE GUARDIAN (Apr. 24, 2007), <https://www.theguardian.com/world/2007/apr/25/ethiopia>.

<sup>46</sup> Miriam Driessen, *Laughing about Corruption in Ethiopian-Chinese Encounters*, 121(4) AM. ANTHROPOLOGIST 911–22 (2019).

and the wages and benefits of unskilled workers in a typical Chinese textile or construction company are not substantially higher than those offered by a local employer.<sup>47</sup>

#### A. CHINESE INFLUENCE IN THE LEGAL PROFESSION

China's influence in the legal profession rarely arouses hostility and suspicions among Ethiopian lawyers. Of the sixteen lawyers I interviewed, only one thought the profession would not have increased in numbers and importance without the Chinese effect.<sup>48</sup> Participants in China–Ethiopia relations—lawyers and officials—believe that the legal face of the ties depicts a symmetrical and egalitarian partnership. In the words of one of my interlocutors:

Chinese clients and lawyers act from a position of equality. They do not claim authority. When we negotiate, we use the English language, their negotiators take a common name like John or James, and there is no hierarchy. They work within our legal resources, without influencing our legal system.<sup>49</sup>

There has been no formal Chinese impact on the legal profession to match its impact on the economy and politics in the country. The legal profession could be influenced through law, legal education, or personnel. Many Ethiopians have traveled to China for graduate legal studies. But Ethiopian lawyers point out that China rarely sends legal advisors to Ethiopia; it funds no visible projects for law reform; and it has frequently stood up for Ethiopian sovereignty when questions of human rights that challenge Ethiopia's vision of sovereignty arise at the United Nations Security Council.<sup>50</sup> Some Ethiopian intelligentsia believe that China

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<sup>47</sup> Ethiopia had legal minimum wage and workers' wage is one of the lowest in the world. See Paul M. Barrett & Dorothée Baumann-Pauly, *Made in Ethiopia: Challenges in the Garment Industry's New Frontier*, NYU STERN, CTR. BUS. & HUM. RTS. (May 2019), [https://issuu.com/nyusterncenterforbusinessandhumanri/docs/nyu\\_ethiopia\\_final\\_online?e=31640827/69644612](https://issuu.com/nyusterncenterforbusinessandhumanri/docs/nyu_ethiopia_final_online?e=31640827/69644612); Aisha Salaudeen, *Ethiopia's Garment Workers Make Clothes for Some of the World's Largest Clothing Brands but Get Paid the Lowest*, CNN (May 13, 2019), <https://www.cnn.com/2019/05/11/africa/ethiopia-garment-workers-lowest-paid-intl/index.html>

<sup>48</sup> Telephone Interview with TW, Associate Professor of Law and Consultant, Addis Ababa (Feb. 21, 2022).

<sup>49</sup> Interview with GB, Advocate and Founder of a Law Office, Addis Ababa (June 26, 2019).

<sup>50</sup> Jevans Nyabiage, *China Votes 'No' on Tigray Abuses Probe by UN Team, Calls it Interference in Ethiopia's Affairs*, S. CHINA MORNING POST (Dec. 19, 2021), <https://www.scmp.com/news/china/diplomacy/article/3160246/china-votes-no-tigray-abuses-probe-un-team-calls-it>; Ted Piccone, *China's Long Game on Human Rights at the United Nations*, FOREIGN POLICY AT BROOKINGS (Sept. 2018), <https://www.brookings.edu/wp->

supports the decolonization, anticolonialism, anti-imperialism, and Bandung spirit by positioning itself as an ally of Ethiopia's postcolonial sovereignty against Western political morality and imperial interventions.<sup>51</sup>

The literature on China's influence in its partners' legal system is thin, with the notable exception of the CLD project.<sup>52</sup> CLD deals with a key issue in the political sociologies of twenty-first century globalization: how China's rise as a global superpower is reshaping the global order. Noting that China has injected massive capital across the global South, transforming economies and societies with unprecedented speed, CLD investigates Chinese influence in global law and development. This research is important for understanding postcolonial law and development in Africa because China is arguably the major power in these economies. Without examining China's influence, one cannot fully understand Africa's current employment and migration patterns, urbanizations, infrastructural developments, and markets. Its capital, goods, and services have penetrated remote rural corners as well as metropolises.<sup>53</sup> Its finance and investment in roads, railways, and telecommunication have powered economies across the continent,<sup>54</sup> so that these countries have been able to attract more investment from various kinds of multinational corporations, mainly in the land-and-labor intensive global value chains.<sup>55</sup>

Further, as CLD research shows, China's influence in global law and development practice is obscured by its reluctance to export an overarching version of law and legality.<sup>56</sup> China insists it does not intervene in the internal affairs of its partners; it upholds a non-interventionist philosophy. Its capital is thus seemingly dissociated from a specific vision of law. Rather than promoting the rule of law, judicial independence, and a transparent public service, China's approach is centered on "mutual respect for each other's sovereignty and territorial integrity,

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content/uploads/2018/09/FP\_20181009\_china\_human\_rights.pdf.

<sup>51</sup> See e.g., Arkebe Oqubay & Justin Yifu Lin, INTRODUCTION TO CHINA-AFRICA AND AN ECONOMIC TRANSFORMATION, IN CHINA-AFRICA AND AN ECONOMIC TRANSFORMATION 2, 1–18 (Arkebe Oqubay &

Justin Yifu Lin, eds., 2019).

<sup>52</sup> Erie, *supra* note 31, at 11.

<sup>53</sup> *Id.*

<sup>54</sup> Miriam Driessen, *Tales of Hope, Tales of Bitterness: Chinese Road Builders in Ethiopia* (2019).

<sup>55</sup> Erie, *supra* note 30, at 51.

<sup>56</sup> Matthew Erie & Ha Hai Do, Law and Development Minus Legal Transplants: The Example of China in Vietnam, *ASIAN J. L. & SOC.* (April 21, 2020), Available at SSRN: <https://ssrn.com/abstract=3581475>.



mutual nonaggression, mutual non-interference in each other's internal affairs, equality and mutual benefit, and peaceful coexistence."<sup>57</sup>

Matthew Erie and Do Hai Ha characterize China's reluctance to export a grand vision of law in structural and strategic terms. Structurally, they argue, China lacks a body of domestic law and regulatory corpus that is prestigious enough to be exported as a model abroad. Further, they note, it faces linguistic and capacity obstacles to offering something that parallels Western influence in the global geopolitical scene.<sup>58</sup> Strategically, China has valorized sovereignty to veil its internal vulnerabilities and has thus chosen to present an appealing alternative to an audience in the global South fatigued by the West's paternalist promotions of liberal law and the market.<sup>59</sup> China does not need to impose a vision of law abroad because the neoliberal global orderings perfectly promote and protect its interests.<sup>60</sup> Even the Belt and Road Initiative, China's grand, most recent foreign policy agenda, explicitly declares that:

[t]he Initiative follows market operation. It will abide by market rules and international norms, give play to the decisive role of the market in resource allocation and the primary role of enterprises, and let the governments perform their due functions ....The world economic integration is accelerating and regional cooperation is on the upswing. China will take full advantage of the existing bilateral and multilateral cooperation mechanisms to push forward the building of the Belt and Road and to promote the development of regional cooperation.<sup>61</sup>

CLD research shows that Chinese legal influence occurs mainly through the reception it has received in its host countries rather than through the direct external influence by China in the form of a foreign policy agenda. Many developing countries have imported specific rules and procedures from China to attract capital and technology and emulate the Chinese development model to alleviate poverty. Using a recent Vietnamese case study of special economic zone legislation, Erie

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<sup>57</sup> Action Plan on the Road and Belt Initiative, THE STATE COUNCIL: THE PEOPLE'S REPUBLIC OF CHINA (Mar. 30, 2015), [http://english.www.gov.cn/archive/publications/2015/03/30/content\\_281475080249035.htm](http://english.www.gov.cn/archive/publications/2015/03/30/content_281475080249035.htm).

<sup>58</sup> Erie, *supra* note 30 at 19.

<sup>59</sup> *Id.*

<sup>60</sup> Thierry Pairault, *China's Heavy-Infrastructure Model for African Growth is Failing*, THE DIPLOMAT (Jul. 30, 2020), <https://thediplomat.com/2020/07/chinas-infrastructure-heavy-model-for-african-growth-is-failing/>.

<sup>61</sup> The State Council, *supra* note 57.

and Ha document the way Vietnamese policymakers have imported rules and organizational procedures from China to shape and restructure their industrial manufacturing sector.<sup>62</sup> The Vietnamese experience appears to be typical of the experiences of other countries.<sup>63</sup>

The Chinese influence on Ethiopian law is obvious in similar ways. They include the new railway laws, toll road laws, a special economic zone laws, judicial assistance treaty, and many other laws that have been directly or indirectly influenced by China.<sup>64</sup> Nonetheless, such laws rarely register as forms of influence on the profession. One of my interlocutors, a graduate of one of the top United States law schools and now an associate at a prestigious law office in Ethiopia, noted:

I would be interested to know if there is something called the Chinese influence in our law or the legal profession. They don't even rely on the legal profession, yet, they exert some influence on the Investment Commission and perhaps also through the upper government echelons.<sup>65</sup>

The lawyer characterized Chinese influence as private influence, which occurs transactionally in a specialized area of interest. That means Chinese influence would be moreso an equivalent of Monsanto's role in the making of the recent Seed Proclamation than the USAID's role in the land formalization agenda or the American Bar Association funding projects at the Ethiopian Lawyers Association. Private influence is believed to be transactional rather than systemic; it is believed to be insignificant in the broad scheme of the law and the legal profession.

Why do knowledgeable and well-positioned lawyers believe that Chinese economic power is being maintained without influencing the country's legal

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<sup>62</sup> Erie, *supra* note 58, at 19.

<sup>63</sup> Erie, *supra* note 31, at 11.

<sup>64</sup> Railway Transport Administration Proclamation No. 1048/2017, Federal Negarit Gazette of The Federal Democratic Republic of Ethiopia (Jul. 26, 2017). See also the judicial assistance treaties that China has signed with Ethiopia and many other countries to facilitate the enforcement of judgements across jurisdictions. Meng Yu, *List of China's Bilateral Treaties on Judicial Assistance* (2020),

<https://www.chinajusticeobserver.com/a/list-of-chinas-bilateral-treaties-on-judicial-assistance-in-civil-and-commercial-matters> influence it. But I can imagine one scenario. Chinese investment is high in this country. They have a Chinese investors' association [i.e., the Chinese Chamber of Commerce in Addis Ababa]. They demand rights and benefits collectively through this association.

<sup>65</sup> Telephone Interview with MTW, Senior Associate (July 17, 2021).

structures? Does a superpower state like China indeed act like a private corporation dealing with a developing country? Is our understanding of foreign influence in Ethiopian law determined by colonial experience, which is characterized by a seemingly unified approach, or theory and intentionality by a Western government? The next part considers these questions.

*B. THE COLONIAL DETERMINANTS OF HOW WE UNDERSTAND LEGAL INFLUENCE*

In one interpretation, China is thought to rely on existing Western/neoliberal legal structures to advance its interests, which means that China does not need to promote a new vision of law and legality because the neoliberal global legal order is well suited to meet the interests of a capital-exporting country.<sup>66</sup> The CLD research advanced this interpretation. Another interpretation, which needs further explanation, is our colonially determined conception of influence in law and legal professions. The West has always approached development and underdevelopment with philosophies informed by a sense of legal crisis, frequently interpreting the lack of Western-style rule of law in a country as a cause for poor social and economic conditions.<sup>67</sup> In the 1940s, after fascist Italy's occupation ended, Britain exported laws, judges, and legal advisors to Ethiopia,<sup>68</sup> while simultaneously dismantling Ethiopian manufacturing industries and transferring the facilities away to other colonies.<sup>69</sup> Rather than supplying necessary technical skills to operate the industries, British colonial officials charged with administering Ethiopia expelled the Italian operators and de-industrialized the country on the ground that it "had been highly, and artificially, industrialized."<sup>70</sup> They believed British law and legal sensibility should precede economic industries in Ethiopia. More recently, the World Bank and the International Monetary Fund conditioned

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<sup>66</sup> See Won Kidane, *China's Bilateral Investment Treaties with African States in Comparative Context*, 49 CORNELL INT'L L. J. 141 (2016); Uche E. Ofodile, *Africa-China Bilateral Investment Treaties: A Critique*, 35 MICH. J. INT'L L. 131 (2013).

<sup>67</sup> For general discussion on the centrality of law and legality in the Western colonial vision and the struggles against it, see John L. Comaroff, *Symposium Introduction: Colonialism, Culture, and the Law: A Foreword*, 26 LAW & SOC. INQUIRY, 305–14, (2001).

<sup>68</sup> Hailegabriel G. Feyissa, *European Extraterritoriality in Semicolonial Ethiopia*, 17 MELB. J. INT'L L. 1 at 7, 19–26 (2016).

<sup>69</sup> Arkebe Oqubay, *Industrial Policy and Late Industrialization in Ethiopia*, African Development Bank

Working Paper No 303, 4 (2018), <https://www.tralac.org/images/docs/13204/industrial-policy-and-late-industrialisation-in-ethiopia-afdb-wps-303-june-2018.pdf>.

<sup>70</sup> According to Richard Pankhurst, the British officials held that "the country's industrial potential was furthermore far in excess of what befitted an independent, or 'native' state, inhabited mainly by 'natives.'"; Richard Pankhurst, *Post-World War II Ethiopia: British Military Policy and Action for the Dismantling and Acquisition of Italian Factories and Other Assets 1941-2*, 29 J. ETH. STUD. 1, 41 (1996).

Ethiopia's access to Western financial resources on specific law and policy reform, prescribing particular visions of Western law and legality.<sup>71</sup> On the other hand, China has focused on expanding trade with Ethiopia and financing infrastructure and manufacturing projects, consciously avoiding, at least in theory, conditionality in the areas they consider a matter of Ethiopia's internal law and policy affairs.<sup>72</sup>

Indeed, one reason we could not see Chinese influence on the Ethiopian legal profession is because we are used to interrogating foreign influence in Ethiopian law based on colonial and postcolonial histories and the West's unabashed, often coercive influence in these histories.<sup>73</sup> To identify and explain colonial and postcolonial legal influence, all we need to do is to look at court decisions, statutes, doctrines, official statements, policy memoranda, economic development policy prescriptions conditioned on legal reform, and reformers shaping law and development. We pay attention to intentionality, symbols, practices, and practitioners, rather than to distribution of income, wealth, power, and prestige within Ethiopia. And for this reason, we do not find evidence of Chinese influence when we look in these directions.

When I started this research, I usually asked my interlocutors a simple question: Has China's steadily intensifying economic influence changed the Ethiopian legal profession? Most immediately began to respond by sharing their thoughts. I did not need to explain what I meant by "Chinese influence" to them because we have a widely shared understanding on foreign influence in the Ethiopian legal system. Anyone who has gone to a law school in Ethiopia would have read Jacques Vanderlinden's "*Civil Law and Common Law Influence on Ethiopian Legal Modernization*" article,<sup>74</sup> Rene David's "*Civil Code for Ethiopia: Considerations on the Codification of Civil Law in African Country*,"<sup>75</sup> and Abera Jember's "*An Introduction to the Legal History of Ethiopia 1434–1974*."<sup>76</sup> These works are required readings for a first-year course in legal history and together they frame Ethiopian legal system primarily as a product of modernization projects and

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<sup>71</sup> Joseph Stiglitz, *Globalization and Its Discontents*, 25–52 (2003); Robert Hunter Wade, *Capital and Revenge: The IMF and Ethiopia*, 44 *CHALLENGE* 5, 67–75 (2001).

<sup>72</sup> See David H. Shinn and Joshua Eisenman, *Evolving Principles and Guiding Concepts: How China Gains African Support for its Core National Interests*, 64 *ORBIS* 2, 271–88 (2020).

<sup>73</sup> See Comaroff, *supra* note 69.

<sup>74</sup> Jacques Vanderlinden, *Civil Law and Common Law Influences on the Developing Law of Ethiopia*, 16 *BUFF. L. REV.* 250 (1966).

<sup>75</sup> Rene David, *Civil Code for Ethiopia: Considerations on the Codification of the Civil Law in African Countries*, 37 *TUL. L. REV.* 187 (1962).

<sup>76</sup> ABERRA JEMBERE, *AN INTRODUCTION TO THE LEGAL HISTORY OF ETHIOPIA, 1434–1974*. LIT VERLAG (2000).

foreign influence. Many of the American expatriate academics who taught at Addis Ababa University Faculty of Law have also written numerous law review articles and monographs demonstrating how thoughts on civil law and common law have influenced the modernization of Ethiopian laws and the legal profession.<sup>77</sup> Influence in this context is understood to be training of judges and lawyers and spreading laws and legal thoughts via colonialism, capitulation, soft-power, reception of foreign legal materials, and law and development reforms.<sup>78</sup> In each of these forms, the influence is intentional and flows from the powerful to the less powerful. As a country's global legal influence is deeply associated with its economic and political power, we reflexively assume that powerful countries export their vision of law and legality along with their economic influence. It is impossible to identify the flow of legal influence from an African country or legal profession to the West.

Thus, if I were asking about Western influence, the answer would be straightforward. That is not only because the ideas, vocabularies, ways of arguing and reasoning, rules and principles, and modes of organizing the justice sector in the country revolve around Euro-American legal cultures.<sup>79</sup> It is also because the intention to change the culture of law and legality in the country has been at the front and center of the law and development agenda of the West. Statutes, rules, and principles symbolizing Western legal thought are common. Modernist law reforms practices funded or carried out by Western agencies are ubiquitous. The American Bar Association funds the Ethiopian Lawyers Association to develop continuing legal education programs and other professional developments. The United States Agency for International Development funds a series of law and policy reforms in fields ranging from land rights to women's entrepreneurship. Dutch and Canadian governments fund justice sector reforms encompassing every aspect of the country's law. Through its international development agency, Germany works to integrate informal institutions into the formal structures. American law schools support clinics and legal aid efforts in local Ethiopian law schools.<sup>80</sup> In short, the country's current legal structures and methods are

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<sup>77</sup> John H. Beckstrom, *Transplantation of Legal Systems: An Early Report on the Reception of Western Laws in Ethiopia*, 21 AM. J. COMPAR. L. 557-558 (1973).

<sup>78</sup> Duncan Kennedy, *Three Globalizations of Law and Legal Thought: 1850-2000*, in *The New Law And*

*Economic Development: A Critical Appraisal* 63 (David M. Trubek & Alvaro Santos eds., 2006).

<sup>79</sup> THE WORLD BANK & NORWEGIAN MINISTRY OF FOREIGN AFFAIRS, *USES AND USERS OF JUSTICE IN AFRICA: THE CASE OF ETHIOPIA'S FEDERAL COURTS* (2010).

<sup>80</sup> Getachew Assefa Woldemariam, *Legal Pluralism and Clinical Legal Education in Ethiopia: The Contribution of Legal Aid Clinics in Realizing Access to Justice*, in *THINKING ABOUT CLINICAL*

inextricably tied to Euro-American legal traditions and every field of legal life is touched by the funds and expertise of a Western agency. A combination of local and Western agencies has shaped official laws and legal professions in post-Cold War Africa. In this North–South relation, altruistic as well as self-interested influences in law reforms across the continent are not difficult to identify.

China does not have anything that remotely resembles a Western-style law reform program in Ethiopia. Thus, if we examine Chinese influence through a colonial/postcolonial lens, China indeed does not influence Ethiopian law and its legal profession. However, once we turn away from the traditional lens, the ubiquity of China's influence, traveling as it does through economic arteries, becomes obvious. This influence is hidden behind the conceptual effect of the West's outsized claim to be the fount of the rule of law and liberal political morality. What the West says also outshines what it actually does in promoting law and lawyers abroad in practical economic terms. China on its part says that it does not want to influence laws and policies abroad, hence the conviction among Ethiopian lawyers that China is committed to working within local laws without intending to change them. Because Chinese influence is not steered by Chinese legal experts or by a blueprint, its intentionality is obscured. In short, Western colonial and postcolonial law and development history render Chinese influence in Ethiopia today invisible.

However, there is evidence from Ethiopia that shows that China has influenced the Ethiopian legal profession much more than what many may believe.

The next part of this paper shows how the rise of lawyers' power and prestige tracks the arrival and expansion of Chinese economic influence in the country. This demonstrates that Chinese influence has traveled through its economic influence. Unlike the Western ideological propagation of theories and doctrines of the rule of law, Chinese influence can be seen in terms of its impact in driving the Ethiopian economy toward capitalist production and class differentiation; developments that have nourished lawyers and the elite professions. The most interesting aspect of the development of Ethiopian legal profession over the last two decades is the way that the lawyers have been able to navigate complex political conflicts. This history of the profession shows how economic rationales saved it when prominent lawyers were entangled in political conflicts. Once we recognize the key role that state, economic, and political forces have played in shaping the profession, China's influence in the contemporary Ethiopian legal profession becomes apparent. The absence of intentionality on the part of the Chinese government played a minor role in the fate of this institution.

### III. THE STATE'S ROLE IN CREATING THE LEGAL PROFESSION IN ETHIOPIA

Ethiopian legal history is often seen as an exception to the colonial experience because the country was not physically occupied by a European power for a sustained length of time. Other than the brief Italian occupation (1935–1941) and de facto dominance by the British (circa 1941–1950),<sup>81</sup> no European force has directly administered the country. Because of this unique history, its laws developed in ways that might appear different from experiences in other African settings. However, as Keller notes, Ethiopia was beset by many of the economic and political issues that characterized colonized Black Africa.<sup>82</sup> Ethiopian laws evolved from eclectic Western legal materials and heavy external influences. National governments and international agencies curated the Ethiopian legal profession over a long period in a process that began with institutions, such as courts, parliaments, law schools, and procedures laid down from above. Law schools were not created by lawyers; the state (Emperor Haile Selassie's government) created a law school with the support of Ford Foundation and other Western organizations.<sup>83</sup> A formal court system staffed by professionals separate from the administrative structure was created by Emperor Haile Selassie in 1942, using British aid and influence.<sup>84</sup> Institutional forms came first, often with support or demand of Western governments, and then attempts were made to fill them with personnel. Thus, to understand the evolution of the legal profession in the country, and its present form and conditions, one must consider external influences as well as the vital roles of the state in shaping the bureaucracy, legal education, lawyers, courts, laws, and legal thought. The Ethiopian state shaped the law and lawyers, and it was itself shaped by them as well as by global colonial and postcolonial forces.

Starting with an account of the early modern projects in the twentieth century, I explain in the next section how law and lawyers evolved in the country,

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<sup>81</sup> See Richard Pankhurst, *Italian Fascist War Crimes in Ethiopia: A History of Their Discussion, from the League of Nations to the United Nations (1936–1949)*, 6 NE. AFR. STUD. 1, 83–140 (1999); Richard Pankhurst, *Post-World War II Ethiopia: British Military Policy and Action for the Dismantling and Acquisition of Italian Factories and Other Assets, 1941–2*, 29 J. ETH. STUD. 1, 35–77 (1996); Richard Pankhurst, *Education in Ethiopia During the Italian Fascist Occupation (1936–1941)*, 5 INT'L J. AFR. HIST. STUD. 3, 361–396, (1972); GUFU OBA, *NOMADS IN THE SHADOWS OF EMPIRES* 231–54 (2013).

<sup>82</sup> EDMOND J. KELLER, *REVOLUTIONARY ETHIOPIA: FROM EMPIRE TO PEOPLE'S REPUBLIC*, 83 (1988); S. D. ROSS, *A Comparative Study of the Legal Profession in East Africa*, 17 J. AFR. L. 3, 279–99 (1973).

<sup>83</sup> Kaius Tuori, *Legal Pluralism and Modernization: American Law Professors in Ethiopia and the Downfall of the Restatements of African Customary Law*, 42 J. LEGAL PLURALISM & UNOFFICIAL L. 43 (2010).

<sup>84</sup> See Thomas Geraghty, *People, Practice, Attitudes and Problems in the Lower Courts of Ethiopia*, 6 J. ETH. L. 427, 435–48 (1969).

closely linked to parallel global political and ideological currents.<sup>85</sup> Much of what we see as the external influence in this evolution, however, has no parallel in today's China-Ethiopia relations.

*A. FIRST PHASE: MODERNIZING A TRADITIONAL LEGAL PROFESSION*

For much of the country's long history, clergy, chiefs, governors, and emperors served as judges, prosecutors, and advocates. Legal services were ancillary functions of these authorities.<sup>86</sup> The absence of lawyers as a professional class is not surprising because, as Larson has observed, lawyers become a professional class when they have a theoretical base—a specialized domain of legal knowledge, skills, and authority—and a market in which to sell their skills.<sup>87</sup> Neither a theoretical base nor a market for legal services existed until the second half of the twentieth century to support a professional class of lawyers in Ethiopia. The legal profession started to be provided with a theoretical base in the capitalist sense in the 1960s, when Emperor Haile Selassie adopted six codes, opened a law school, and modernized the judiciary and other public service agencies.<sup>88</sup> It was also in the 1960s that the legal service market began to emerge.

What is unique about this process is the vital role played by the state authorities and their conception of the legal profession both as a means and an end of their development vision. They envisioned development as the formation of a uniform law, language, culture, economy, and government. During Haile Selassie's government, the economy was based entirely on smallholder and pastoralist agriculture, in a production system that many observers described as "feudal." Even today, the country's economy is mainly agricultural, and more than 80 percent of the population is smallholder and pastoralist. Changing these social and economic conditions has always been a major goal of legal reforms. Haile Selassie's governments crafted laws and development policies to promote the legal profession as a means of implementing national development programs, but they also saw lawyers as a constitutive element of the modern society they envisioned.

Foreign influence (mostly Western Europeans and North Americans) in Ethiopian law reforms during this era had three characteristics: it was intentional, it was supported by memos and documentation, and it was implemented by

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<sup>85</sup> Norman J. Singer, *A Traditional Legal Institution in a Modern Legal Setting: The Atbia Dagnia of Ethiopia*, 18 UCLA L. REV. 308, 308 (1970).

<sup>86</sup> Aberra Jembere, *An Introduction to the Legal History of Ethiopia, 1434–1974*, LIT (2000), and Margery Freda Perham, *The Government of Ethiopia* (1948).

<sup>87</sup> See Magali Sarfatii Larson, *The Rise of Professionalism: A Sociological Analysis* 40-51(1977).

<sup>88</sup> Norman J. Singer, *Modernization of Law in Ethiopia: A Study in Process and Personal Values*, 11 HARV. INT'L. L. J. 73, 86-87 (1970).



practitioners (advisors and consultants) and academics. European advisors, legal drafters, and American academics who founded and taught at Addis Ababa University Faculty Law have documented the first modernization process in the literature.<sup>89</sup> Written in the first-wave tradition of law and development, they focused on the new laws, the courts, and the existence of legal education to evaluate how well the modern project had fared.<sup>90</sup> One common element in this literature is how the writers characterize local agency. They emphasize Ethiopia's receptivity to law rather than its imposition by an outside agency to highlight, as if it were a fact, the idea that, unlike many other countries in the continent, Ethiopia had not been colonized. For instance, Jacque Vanderlinden, a Belgian academic who taught at Addis Ababa University Faculty of Law, started his account of the foreign influence in the country with the *Fetha Negast* ("Law of the Kings"), an unofficial compilation of canonical rules and principles introduced in the country sometime between the fourteenth and the first half of the sixteenth century and delivered from Islamic or Byzantine sources.<sup>91</sup> *Fetha Negast* was rarely applied beyond religious courts and the emperors' "*Zufan Chilot*" because copies of it were not widely available, literacy in the country was very low, and people in most parts of the country lived according to local tradition.<sup>92</sup>

Most agree foreign influence in the country's law and legal profession occurred toward the end of the nineteenth century, during the reign of Emperor Menelik II.<sup>93</sup> Menelik employed European legal advisors, adopted proclamations declaring the application of the Napoleonic Civil Code in Addis Ababa, and concluded a treaty, known as the Klobukowski Agreement of 1908, with France to create a mixed court for disputes involving foreign nationals.<sup>94</sup> This treaty was not

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<sup>89</sup> For a complete bibliography of the works, see Peter H. Sand and Muradu Abdo, *A Bibliography on Ethiopian Law*, 23 J. ETH. L. 2, 204–44 (2009).

<sup>90</sup> John H. Beckstrom, *Transplantation of Legal Systems: An Early Report on the Reception of Western Laws in Ethiopia*, 21 AM. J. COMPAR. L. 3 (1973). For a discussion of the law and development, see David

M. Trubek, *Law and Development: Forty Years After 'Scholars in Self-Estrangement'*, 66 U. TORONTO L. J. 3, 301–29 (2016).

<sup>91</sup> Peter H. Sand, *Roman law in Ethiopia: Traces of a Seventeenth Century Transplant*, 8 COMPAR. LEGAL HIST. 2, 116–43 (2020).

<sup>92</sup> J. Vanderlinden, *Civil Law and Common Law Influences in the Developing Law of Ethiopia*, 14 BUFF. L. REV. 250, 251 (1966).

<sup>93</sup> Norman J. Singer, *Modernization of Law in Ethiopia: A Study in Process and Personal Values*, 11 HARV. INT'L. L. J. 73, 75–78 (1970).

<sup>94</sup> Vanderlinden, *supra* note 94 at 252-253; see also Hailegabriel G. Feyissa, *European Extraterritoriality in Semicolonial Ethiopia*, 17 MELB. J. INT'L L. 107, 108-109, 113 (2016) (arguing that the 1941–1965 period of modernization was a form of colonial influence).

as effective as the Europeans wanted it to be, because Ethiopian judges routinely boycotted the tribunal.<sup>95</sup> Nevertheless, the imperial mandates to record legislation, case-law methods, and customary practices inspired by European advisors were tangible steps toward instituting a modern bureaucracy.<sup>96</sup> The methods and procedures of governance endured far longer than the substantive rules imported at that time.

Close observers of Ethiopian legal history began the story in the 1930s. That was when Emperor Haile Selassie adopted a collection of laws, including a constitution, a penal code, a company law, a citizenship law, and many other piecemeal bits of legislation in the 1930s.<sup>97</sup> Though each piece of legislation was based on foreign models, the Emperor apparently initiated the process to fulfill his commitments to the League of Nations and to consolidate his authority over the internal provincial, feudal principalities that controlled local authorities opposing his centralist modernization vision. Legal education during this early stage was limited to the Ethiopian Orthodox Church schools.<sup>98</sup> Though some Ethiopians had traveled abroad, mainly to France, to study law, these individuals ended up serving in high political positions rather than practicing law when they returned to the country.<sup>99</sup>

Numerous historians show Ethiopian government's agency was at its weakest during the decade when the British government exercised strong authority following the liberation of the country.<sup>100</sup> The 1940s decade's reform started with the creation of an official law Gazette followed by a court system and the appointment of British judges and legal advisors. However, the Emperor hired Scandinavian jurists and used office rivalries to create divisions among the British expatriates, eventually forcing them to resign, or to remain embroiled in conflicts that left them without any real influence in the country's policy. Only those judges and advisors who shared the Emperor's political desires, with an apparent

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<sup>95</sup> Vanderlinden, *supra* note 94 at 253; Peter H. Sand, *Roman law in Ethiopia: traces of a seventeenth century transplant*, 8 COMPAR. LEGAL HIST. 116, 140 (2020).

<sup>96</sup> Sand, *supra* note 97, at 137-38.

<sup>97</sup> Norman Bentwich, *Private International Law in Ethiopia*, 4 THE INT'L LAW Q. 111, 114 (1951).

<sup>98</sup> Vanderlinden, *supra* note 94 at 253-254.

<sup>99</sup> Norman Bentwich, *Law and Justice in Ethiopia*, 165 THE CONTEMP. REV. 267-268 (1944); Anglo-Ethiopian Agreement, U.K-Eth., Feb. 3, 1942, Hansard 377 § 1052-1054 ("I should like here to pay a tribute to the fine sense of statesmanship shown by the Emperor. This has been abundantly evident during the trying period of the readjustment of his country from the chaos of war to independent administration.").

<sup>100</sup> *Id.*

commitment to an anti-imperialist agenda in an empire struggling on peripheries of the colonial world order, stayed for a sustained tenure.<sup>101</sup>

In the 1960s, Haile Selassie's government accelerated legal reform by adopting a grand modernization program that resulted in six monumental codes and the complete restructuring of the bureaucracy, education, and the court system.<sup>102</sup> The reform had two major objectives: to minimize British influence in the country and to modernize its economy and society. As John H. Spencer's memoir *Ethiopia at Bay* shows, the Emperor hired Europeans and Americans selectively, with strategies largely informed by the costs and benefits of hiring a particular jurist in Ethiopia's struggle against Western imperialism.<sup>103</sup> Thus, in the 1930s, a young Iowan jurist in Europe was recruited by the Emperor because his American nationality, his training in French and the civil law legal culture, and his relative invisibility among the diplomatic actors made him suitable for the Emperor's desire to mount a legal struggle against Italian occupation.<sup>104</sup> Haile Selassie hired French, Swiss, and other civil law jurists to disconnect the Ethiopian legal system from the British one. The government authorities also thought that civil law legal cultures were more suitable than common law to industrialize rapidly this predominantly agricultural society.<sup>105</sup>

In 1963, Haile Selassie's government opened the first law school in the country with the support of the Ford Foundation and law schools in the United States that provided most of the faculties.<sup>106</sup> By this time, the United States was a rising power that presented itself as a loyal ally of the colonies, and a growing group of Europeans was committed to assisting the independence and development of the colonies. The United States had had a long relationship with Ethiopia, and since early 1940 it was vying, very much like China today, to acquire economic ties with Ethiopia by extending lines of credit through its Export-Import (EXIM) bank in exchange for the purchase of American arms and industrial consumer products by

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<sup>101</sup> Esubalew Belay Fanta, *The British on Ethiopian Bench: 1942–1944*, 16 NE. AFR. STUD., no. 2, 2016, at 67, 68, 70, 78-79, 83.

<sup>102</sup> Vanderlinden *supra* note 94 at 250, 255-257.

<sup>103</sup> John H. Spencer, *Ethiopia at Bay: A Personal Account of the Haile Sellassie Years 5-9* (1984).

<sup>104</sup> *Id.* at 3–14.

<sup>105</sup> Rene David, *Civil Code for Ethiopia: Considerations on the Codification of the Civil Law in African Countries*, 37 TUL. L. REV. 2, 187, 190, 192 (1962-1963).

<sup>106</sup> Jayanth K. Krishnan, *Academic SAILERS: The Ford Foundation and the Efforts to Shape Legal Education in Africa, 1957–1977*, 52 AM. J. LEGAL HIST. 261, 293 (2012).

Ethiopia. One of the United States EXIM bank lines of credit to Ethiopia was extended in 1944 to support recovery projects after the second World War.<sup>107</sup>

The law reforms during this first phase, designed by the Ethiopian state and Western agencies, laid down a solid conceptual base for the legal profession, but the profession itself had yet to distinguish itself from the political and administrative functions of the government in parts of the country outside the capital, where a small number of essentially expatriate lawyers served the nascent urban and commercial segment of economic entities. There was no market to sustain lawyers to supply professional services. Toward the end of the 1960s, a few lawyers for an association started to cater to foreign companies that worked in the capital, Addis Ababa.<sup>108</sup> To be sure Western influence did not stem from one single theory or a uniform political agenda, advisors had different visions of what modern Ethiopian law should be. Academics had different theories about the modernization program. Some were critical of the modernization program and others were less so. Examining reports of the European jurists who drafted the civil and commercial codes, the late professor Paul Brietzke, for instance, argued that the drafters had overstated domestic agency and the outcomes of their work. He believed that Ethiopia's legal modernization project did not differ from the typical experience of colonial settings elsewhere in Africa. In his words, "the statements of the drafters of the Civil Code and Commercial Code (respectively, David and Escarra) are revealing examples of an approach to law similar to that found in colonial legal thinking: 'good law in one place is good law any place else.'" <sup>110</sup>

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<sup>107</sup> Export-Import Bank of the United States, Financial Support for Buyers in Sub-Saharan Africa: What We Do, <https://www.exim.gov/about/special-initiatives/africa>.

<sup>108</sup> According to Wondim Agegnehu, the major and perhaps only prominent professional lawyers in country

at the time were "*Scot and Scot* ran by American Lawyers which also co-opted the services of the famous Asefa Dula...; *Vosikis* Law office ran by an Italian Lawyer where the late Alemayehu Eshete was also associated; *Hamawi* Law office ran by a Lebanese lawyer- where the late Atnafu Tsehai was a prominent associate; *Teferi & Bekele* Law offices ran by two Ethiopian foreign-trained lawyers where the late Girma Tadesse was a prominent associate; A Law Office Organized by the association of Selamu Bekele, Tadesse Dilnessahu, Ken'a Guma, and Daniel Zeleke; *Gilla Michael Bahita* Law office, Where lawyers like Kebede Fiseha served as associates; *Getahun Hunegnaw* Law offices; and *Fiseha & Tadesse* Law firm." See Tameru Wondim Agegnehu, *Some Thoughts on the Organization of legal Practice in Ethiopia*, 11 MIZAN L. REV. 229, 230 (2017).

Ethiopia's legal modernization project did not differ from the typical experience of colonial settings elsewhere in Africa. In his words, the statements of the drafters of the Civil Code and Commercial Code (respectively, David and Escarra), "are revealing examples of an approach to law similar to that found in colonial legal thinking: 'good law in one place is good law any place else.'"<sup>109</sup>

The 1960s reforms did not transform the agrarian economy and society as well as Haile Selassie's government envisioned. Entrenched social hierarchies and structures subverted progressive reforms. Because Ethiopia at the time was a deeply unequal country divided by class between landlords and landless peasants, most Ethiopians had no access to the modern, urban way of life,<sup>110</sup> and the benefits of modernization, which led to the modernization of the legal services, did not reach majority of the country's population. Also, because the class division had an ethnic face—the landlords were largely Amharic speakers, the "national" language of the country until 1991, after which it was relegated to "official" (working) rather than "national" status, the newly introduced legal practices had ethnic implications. Thus, however vibrant the bar itself was, its work was limited to the capital city and to a specific ethnic and social class. The great majority of Ethiopians had no direct experience of formally trained lawyers and their services. In fact, during the 1940s and 1950s, courtroom procedures were conducted in English and Amharic translations, even though fewer than one percent of the population spoke the English language and less than half spoke Amharic. After the 1960s modernization, legal procedures were conducted in Amharic although a majority of the country's population does not speak the language. This changed in 1991, when the country transitioned to a multicultural model of governance.<sup>111</sup>

#### *B. SECOND PHASE: 1974-1991*

Social inequality, drought, and economic hardships in the early 1970s led to protests by students, taxi drivers, and labor unions chanting, "land to the tiller"

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<sup>109</sup> Paul Brietzke, *Private Law in Ethiopia*, 18 J. AFR. L. 149, 150-51 (1974).

<sup>110</sup> Prior to the promulgation of the Codes, Ethiopia's traditional laws were seldom distinct from a defined and formal private law. The introduction of the Codes has, unfortunately, created distinct traditional and formal legal systems roughly analogous to those which evolved in former British African colonies. The desire to avoid fragmented legal systems has, temporarily at least, created additional fragmentation, and the failure to attain a greater measure of national legal uniformity raises the spectre of class legislation. There is no equal protection of laws when only the educated urbanized elite is able to take full advantage of Code provisions. David admits that this tendency was introduced intentionally: Ethiopia's Codes were drafted for the "more developed" plateau population, and their application elsewhere in the near future is unlikely. *See Id.* at 156; Donald Crummey, *Abyssinian Feudalism*, 89 PAST & PRESENT 115 (1980).

<sup>111</sup> *See* Fasil Nahum, *Constitution for A Nation of Nations: The Ethiopian Prospect* (1996).

and “equality for nations and nationalities”.<sup>112</sup> The demonstrations gradually transformed into a mass revolution and eventually led to the fall of Haile Selassie’s government. A military group later joined the movement, killing Haile Selassie and sixty top officials in 1974. The military established new law, property, and social structures along socialist lines and nationalized private enterprises, the private ownership of land, and “the means of production.”<sup>113</sup> The military despised the Western-style rule of law, private property, and social inequality. This was an era when contradictory visions of the fundamental meanings of economies and societies were globalized. Trade unions, peasant associations, and women’s and youth associations took center stage in state law and policies, marginalizing the legal and other elite professional classes. Expatriate lawyers and businesspersons were expelled from the country. American and European academics alike left the country, and the legal education curriculum was changed to align with the new policies and doctrines. Private job markets disappeared, and a planning agency assigned university graduates to jobs when they graduated. In the late 1970 and the 1980s, a devastating civil war, together with famine and Cold War geopolitics in the region, led the country into existential crises. The legal profession was so comatose that the military government did not even need to change the laws about the licensing and regulation of the legal profession enacted by Haile Selassie’s government. Law graduates worked as judges, prosecutors, administrators, and counsels and organizers for trade unions.<sup>114</sup>

By the end of the 1980s, the private sector economy was practically nonexistent, and the bar association that had been established in 1960 nearly disappeared. Ethiopians who had been trained at Addis Ababa University Faculty of Law took over teaching responsibilities along with a few remaining expatriates, such as George Krzczunowicz, a Polish national. Given its extremely limited resources,<sup>115</sup> the law school could neither increase the student intake nor expand research activities until the 1990s, when the entire legal landscape of the country radically changed once again.

In this second phase, foreign influence was ideological. No communist country had its own legal advisors on the ground. Ethiopian leaders often debated

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<sup>112</sup> See Patrick Gilkes, *Ethiopia—A Real Revolution?*, 31 THE WORLD TODAY 15 (1974).

<sup>113</sup> Paul Brietzke, *Land Reform in Revolutionary Ethiopia*, 14 J. MOD. AFR. STUD. 637 (1976); Daniel Haile, *Rural Women’s Legal Status in Ethiopia*, 17 VERFASSUNG UND RECHT IN ÜBERSEE L. & POL. IN AFR., ASIA & LAT. AM. 289 (1984).

<sup>114</sup> Shiferaw Wolde Michael, *Tewodross II and the Regime of the Lawmaking Process in Ethiopia: post- 1974: Part One*, 14 J. ETH. L. 122 (1989).

<sup>115</sup> Stanley Z. Fisher, *50 Years of Legal Education in Ethiopia: A Memoir*, 26 J. ETH. L. 191 (2014).

whether communism could be implemented in an agrarian economy but usually fought over who should lead the country. Of course, these debates and conflicts occurred within and as part of the global Cold War and the geopolitics in the Horn of Africa.

The military regime fell in 1991 and its leader, Colonel Mengistu Haile Mariam, fled to Zimbabwe. A group of rebels overthrew the military with the help of Western governments and organized themselves into the EPRDF. While the Eritrean People's Liberation Front (EPLF) had played a leading role among the rebels during the civil war, the Tigrayan People's Liberation Front gained dominance in Ethiopia during the transition as the EPLF was preparing to break Eritrea away from Ethiopia. Later in the 1990s the EPRDF coalition instated a federal system of government, a free market economic system, and a nominally multiparty election system.

*C. THIRD PHASE: LAWYERS IN EXPORT-LED INDUSTRIALIZATION POLICY, 1991-PRESENT*

The new economy came with solid theoretical base—structural adjustment and rule of law reforms in the early 1990s that promoted privatization of state-owned enterprises and deregulation of various economic sectors,<sup>116</sup> followed by good governance reforms that specifically focused on corporate governance and industrial policy,<sup>117</sup> and the justice sector to advance judicial independence and the independence of the bar.<sup>118</sup> These reforms provided a favorable environment in which the legal profession could flourish. Starting with a transitional charter in 1991, later in the 1995 Constitution the EPRDF government laid out a liberal Bill

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<sup>116</sup> Steve Onyeiwu, *The Nexus of Structural Adjustment, Economic Growth and Sustainability: The Case of Ethiopia*, in FINANCIAL CRISES, POVERTY AND ENVIRONMENTAL SUSTAINABILITY: CHALLENGES IN THE CONTEXT OF THE SDGS AND COVID-19 RECOVERY 107-120 (Antoniades, A., Antonarakis, A.S., Kempf, I. eds., 2022).

<sup>117</sup> See ARKEBE OQUBAY, MADE IN AFRICA: INDUSTRIAL POLICY IN ETHIOPIA 60–104 (2015) (Arkebe does

not emphasize Chinese role in Ethiopia's industrial policy and development, but other sources indicate that Chinese finance and investment played a vital role); See e.g., Deborah Brautigam et al., *Latent Advantage, Complex Challenges: Industrial Policy and Chinese Linkages in Ethiopia's Leather Sector*, 48 CHINA ECON. REV., 158, 164–65 (2018).

<sup>118</sup> See The World Bank, *Ethiopia: Legal and Judicial Sector Assessment* (2004), <https://openknowledge.worldbank.org/bitstream/handle/10986/14866/313850Ethiopia1L1JSA1Final.pdf?sequence=1&isAllowed=y>; Prabhakar Reddy Tada, *Economic Reforms and Structural Changes in Ethiopia since 1992: An Inquiry*, *International Conference on African Development Archives* (2001). [https://scholarworks.wmich.edu/africancenter\\_icad\\_archive/18](https://scholarworks.wmich.edu/africancenter_icad_archive/18).

of Rights, affirmed judicial independence, and established a legal framework for the professions.<sup>119</sup> The Constitution guaranteed the right of lawyers to form professional associations to represent their collective interests.<sup>120</sup> However, from early on, economy and politics fed into the EPRDF's ambivalent policies toward the elite professions, preventing the profession from asserting its autonomy from the government and blocking its ability to control the legal market. Despite the constitutional commitment to Western-style liberalism, the EPRDF government developed practical rules and policies hindering professions from asserting their autonomy from the state and party.<sup>121</sup> Top party leaders circulated policy papers characterizing the elites as "cowardly opportunists" who might sabotage the party, betray the poor, and impair the development of the country. Their guaranteed constitutional freedom of association proved to be little more than a symbolic gesture toward the development of a politically engaged, liberal legal profession. Even if the political conditions had been favorable, the profession had no particularly remarkable corpus of work ahead other than with human rights NGOs because the economy was still recovering from the ruins of the civil war.

In this post-military phase, the legal profession's fate hinged on economic imperatives of the new government's economic policy in a world that had been increasingly globalizing. The rapid travel of global capital and goods, when combined with international trade orders, presented local opportunities for economic investment and growth. To exploit this opportunity, the EPRDF declared that agricultural development-led industrialization (ADLI) was to be the national economic policy. This policy was followed by a series of structural adjustment reform programs consisting of privatizations and opening up the economy to foreign investors. ADLI resulted from the EPRDF officials' view that the country had a comparative advantage in its endowments of land and unskilled labor that would allow it to find a place in the globalizing economy. Its key focus was to promote national development by exporting domestically produced goods by

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<sup>119</sup> The laws resonated with the consensus formulated in the United Nations' 1991 Principles on the Role of Lawyers, providing for lawyers' freedom to associate and rights to self-government, "Lawyers shall be entitled to form and join self-governing professional associations to represent their interests, promote their continuing education and training and protect their professional integrity. The executive body of the professional associations shall be elected by its members and shall exercise its functions without external interference." United Nations Congress on the Prevention of Crime and the Treatment of Offenders, Basic Principles on the Role of Lawyers, 24 (Sept. 7, 1990).

<sup>120</sup> ETH. CONST., arts. 31, 37, 38.2.

<sup>121</sup> See Axel Borchgrevink, *Limits to Donor Influence: Ethiopia, Aid and Conditionality*, 35 FORUM FOR DEV. STUDIES, 195 (2011).



linking domestic production to global value chains. The World Bank and other international financial institutions prescribed such export-oriented policies across the global South.

In 1996, the EPRDF officials began to align regulations on labor, land, investment, tax, business registration, and many other laws with the demands of private capital. They deregulated land, labor, and businesses to promote private capital. They designed a package of tax holidays, duty-free import and export incentives, beneficial loans, credit lines, and other incentives that promised to produce exports.<sup>122</sup> At the same time, realizing that they needed complex laws and sophisticated lawyers to execute their economic desires effectively, the EPRDF government allowed lawyers to play a more significant role in the economy and so lawyers began to thrive and grow as a professional class. In 1995, the EPRDF government created a college to train civil servants and party members to deal with market laws and the party's political agenda.<sup>123</sup> The parliament affirmed this economic vision for the profession in a statute enacted in 2000:

[A]dvocacy is a profession wherein a person trained and experienced in law, fully aware of judicial proceedings and dictated by the spirit of loyalty, sincerity and genuineness [sic] and works in cooperation with the judicial organs for the rule of law and prevalence of justice; ... [thus] it is deemed essential to regulate, exhaustively, the licensing and registration of advocates practicing before federal courts; ... it has become necessary to upgrade the criteria required for practicing advocacy with a view of harmonizing the professional competence of advocates with the services they

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<sup>122</sup> See Kasper Vrolijk, *Industrial Policy and Structural Transformation: Insights from Ethiopian Manufacturing*, 39 DEV. POL'Y REV. 250. (discussing the evolution of country's industrial policy toward pro-investment and market objectives); Expatriate employees working for companies categorized as foreign investors are exempt from income tax for five years. A recent report says, "Hawassa [one of the special economic zones (Industrial Parks) in the country], which cost \$300 million to build, is an eco-friendly facility with a reliable power supply, streamlined on-site visa and banking services and – as in many other Ethiopian industrial parks – amazing tax breaks: companies enjoy a 10-year tax holiday, expatriate staff pay no income tax for five years and exports are duty free." Jenni Marsh, *Employed by China*, CNN (Aug. 2018), <https://www.cnn.com/interactive/2018/08/world/china-africa-ethiopia-manufacturing-jobs-intl/>.

<sup>123</sup> The Ethiopian Civil Service College Establishment Council of Ministers Regulations No. 3 (1996). The official policy of was to enhance the socioeconomic development of the Ethiopian people, especially to create conditions under which civil servants who were working in the regions served the people by training them in various skills and professions, and "to give special emphasis to women and backward regions in admission students" but the college's admissions practices were geared toward party membership, though women and civil servants from marginalized communities did indeed find it easier to gain access to higher education at this college than anywhere else.

render.<sup>124</sup>

This statute radically restructured the licensing and regulation of lawyers and established a code of ethics for legal professionals. It also banned those who lacked a formal legal education from practicing. Furthermore, it allowed lawyers to establish law firms, although these did not materialize until only recently because the Ministry of Justice refused to enact a regulation to implement the statute. As Tamiru Wondim Agegnehu reports, the executive ministries denied that the parliament had authorized this, but lawyers could do nothing about it until the recent change of government.<sup>125</sup> Even if law firms did not materialize, the law achieved much in terms of coordinating training, qualifications, and the competences required, together with the neoliberal market ideology, into structuring and regulating the profession. However, these legislative and structural changes did not produce any practical changes in terms of smoothening relations between elite lawyers and the government official or the political self-positioning of the profession in relation to the EPRDF political visions. Even if the EPRDF had wanted to train and promote lawyers with technical expertise, the profession was dominated by traditional lawyers closely associated with Amharic culture and ideology and who were opposed to what they pejoratively call “ethnic federalism.” The fact that the EPRDF arrangement mandated the use of local languages in courts and government services forced those lawyers to entrench themselves in the capital, from where they could erect their discursive and ideological obstacles to the EPRDF reforms.

#### IV. THE RISE OF CHINESE ECONOMIC INFLUENCE AND HOW IT HAS SHAPED THE ETHIOPIAN LEGAL PROFESSION

Nothing from the first and second modernization phases has repeated itself today in China– Ethiopia relations. Western influence in Ethiopian law has been intentional, it has been supported by memos and documentations, it has been implemented by practitioners (advisors and consultants), and it has always been connected to some overarching academic theory or doctrine. None of the elements are conspicuously present in the China-Ethiopia relations. Nonetheless, China presented a lifeline for the Addis Ababa lawyers who had carefully navigated the complex challenges induced by the chasm between the economic and political roles of lawyers inherent in the new globalization and policies of the EPRDF government.

The EPRDF was ambivalent in its relationship toward elite, liberal lawyers from the start. On the one hand, it wanted to promote a legal profession that could

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<sup>124</sup> Federal Courts Advocates’ Licensing and Registration Proclamation No. 199 (2000).

<sup>125</sup> Wondim Agegnehu, *supra* note 109, at 35.

handle complex transactions to attract foreign capital and technology. It had committed itself to implementing the Structural Adjustment Program in the early 1990s and later to the International Financial Institutions' justice sector reform focused on the courts and legal education, and indirectly, the profession itself to accomplish its economic goals.<sup>126</sup> These commitments required promoting the rule of law and a free market economy and giving lawyers a greater role in the economy and politics. Because law was supposed to take the centerstage in this vision of the society, lawyers were meant to actively function in political as well as economic roles. Accordingly, the EPRDF government supported private colleges to offer degrees in legal education which by 2000 produced about twenty private colleges offering law degrees.<sup>127</sup> In 2006, it launched a massive legal reform program that also tangentially included the legal profession.<sup>128</sup> However, when relations between the EPRDF government and elite lawyers soured, as further discussed below, the government banned legal education in private institutions and shutdown the colleges that had offered law degrees.<sup>129</sup>

The EPRDF officials harbored a deep suspicion of the elite lawyers for political and ideological reasons.<sup>130</sup> The EPRDF represented historically marginalized cultural constituencies, while the elite lawyers predominantly represented the historically dominant urban groups. In ideological terms, the EPRDF espoused a vague, progressive, pro-poor agenda while some prominent lawyers advocated a laissez-faire economic and political approach. These political and ideological divisions also mirrored ethnic cleavages in the country, lending an ethnic aspect to the struggle between the elite lawyers and the EPRDF officials.

The tension between these two groups unfolded in the public arena in 2005, when the EPRDF government jailed opposition party leaders and supporters in connection with contested outcomes of national elections.<sup>131</sup> One of the opposition

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<sup>126</sup> Henok G. Gabisa, 'Justice System Reform Programme' in Ethiopia: Is Rule of Law Lost in Translation?, 23 AFR. J. INT'L & COMPAR. L. 291 (2015).

<sup>127</sup> The Comprehensive Justice System Reform Program Baseline Study Report, Ministry of Capacity Building, Justice System Reform Program Office, (Feb. 2005).

<sup>128</sup> Thomas F. Geraghty & Emmanuel K. Quansah, *Reform of Legal Education in Ethiopia: The Ethiopian Experience in the Context of History, the Present, and the Future*, 22 J. ETH. L. 49, 67 (2008).

<sup>129</sup> *Ethiopia Bans Distance Education, Cracks Down on Private Universities*, VOICE OF AMERICA (Aug. 30, 2010), <https://www.voanews.com/a/ethiopia-bans-distance-education-cracks-down-on-private-universities101882818/159961.html>.

<sup>130</sup> *Neither a Sprint nor a Marathon*, THE ECONOMIST (May 30, 2015), <https://www.economist.com/middle-east-and-africa/2015/05/30/neither-a-sprint-nor-a-marathon>.

<sup>131</sup> *Looking East: Meles Zanawi's New Best Pal*, 397 THE ECONOMIST, October 2010, at 58.

parties—the Coalition for Unity and Democracy (CUD), which had been established by prominent Ethiopians, many of whom had Ph.D. credentials, had particularly strong support among the elite lawyers. Critiques of the CUD magnified the perception that some of its members had been officials in the previous military government and that most had an Amhara ethnic background, with access to considerable funding by the mostly Amhara diaspora in Europe and North America.<sup>132</sup> Indeed, the party had massive support in Addis Ababa and other towns where Amharic is the dominant language. Though this was neither the first such mass arrest and nor the worst political violence in the country, the arrested CUD leaders gained unprecedented support from the lawyers, who waged an international campaign to mobilize law and courts in the struggles. As a newspaper at the time reported:

Seventy veteran and young lawyers have got together to provide pro bono defense services to opposition politicians and other citizens who have been jailed in relation to the violence that has been going on for the past few days. Ethiopians in the Diaspora are also said to have raised 20,000 dollars to help cover the expenses of the defense. The disagreement between the EPRDF-led government and the Coalition for Unity and Democracy (CUD) over the official results of the national election, as announced by the National Electoral Board of Ethiopia, led to clashes between their supporters and government forces since Tuesday, November 1, 2005.<sup>133</sup>

Seeing that the lawyers were ranged on the side of the opposition, the government officials branded them “neoliberals” and raised a series of threatening proclamations against them. They jailed prominent lawyers and undermined the Ethiopian Lawyers Association by promoting a pro- government group.<sup>134</sup> Since the EPRDF was dominated by the Tigray People’s Liberation Front (TPLF), a party representing a minority ethnic group and espoused a progressive political agenda, the elite, Amharic-speaking lawyers’ urban orientation was hardly mistakable. People who live in cities, even those who vehemently denounced “ethnic politics,” aligned by default with the majority ethnicity of the city in which they lived. Thus,

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<sup>132</sup> See Leonardo R. Arriola, *Ethnicity, Economic Conditions, and Opposition Support: Evidence from Ethiopia’s 2005 Elections*, 10 NE. AFR. STUD. 115, 120–121 (2008).

<sup>133</sup> Issayas Mekuria, *Ethiopia: Lawyers Come to the Defense of CUD Leaders*, ALL AFRICA (Nov. 6, 2005), <https://allafrica.com/stories/200511080038.html>.

<sup>134</sup> Chi Mgbako Sarah Braasch et al., *Teramed Tezera Silencing the Ethiopian Courts: Non-Judicial Constitutional Review and its Impact on Human Rights*, 33 FORDHAM INT’L L. J. 2, 258, 268–69 (2008).

the struggle between the EPRDF and the lawyers was part of the broader social conflict.

The elite lawyers had started organizing as NGOs in the early 1990s. One of those organizations was Ethiopian Women Lawyers Association (EWLA), which was established in 1996 as a civil society association.<sup>135</sup> Working within a global network of human rights and gender justice agencies, it had litigated high-profile cases, launched media campaigns, including one on the Hollywood drama *Difret*,<sup>136</sup> influenced lawmaking, especially the adoption of new family codes,<sup>137</sup> and established itself as a powerful voice in Ethiopia. Another loosely related group of prominent lawyers, including a former public prosecutor, created a non-profit organization.<sup>138</sup> Many other lawyers gained influential positions in transnational humanitarian and human rights agencies such as Oxfam and ActionAid.<sup>139</sup> At that time, the EPRDF government was not hostile against the lawyers because it had to depend on them in the early days of the transition. Tolerating civil rights lawyers boosted its credentials as a liberal, democratic government. More importantly, the lawyers did not pose a serious threat to its political authority at that time anyway.

However, by the early 2000s, a segment of human rights activists and prominent lawyers coalesced into well-defined interest groups and promoted political programs revolving around individualism and private property. These

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<sup>135</sup> Ethiopian Women Lawyers Association, <https://ewla-et.org/about-us> (last visited Sep. 13, 2022).

<sup>136</sup> *Difret* (Haile Addis Pictures 2015).

<sup>137</sup> Logan Cochrane & Betel Bekel Birhanu, *Pathways of Legal Advocacy for Change: Ethiopian Women Lawyers Association*, FORUM FOR DEVELOPMENT STUDIES (2018), <https://doi.org/10.1080/08039410.2018.1534752>.

<sup>138</sup> Devex, <https://www.devex.com/organizations/action-professionals-association-for-the-people-apap-52081> (last visited Sep. 13, 2022) (“Action Professionals’ Association for the People (APAP) is a not-for-profit, non-partisan and indigenous non-governmental organization established by legal and other professionals in 1993. APAP is currently engaged in the facilitation of basic socioeconomic services to the poor and marginalized through CBOs and other pertinent stakeholders. Action Professionals’ Association for the People (APAP) is a not-for-profit, non-partisan and indigenous non-governmental organization established in 1993 with the main objective of providing legal services to the marginalized or otherwise disadvantaged sections of Ethiopian society. It also aims at accessing information on the human rights of citizens guaranteed under international, regional and national human rights instruments so as to enable these groups bring about an attitudinal change and become informed and active participants in the overall development process. Hence, ever since its establishment APAP has been designing and implementing projects and programs for the promotion and protection of the human rights of the marginalized and otherwise disadvantaged sections of the Ethiopian society.”)

<sup>139</sup> *ActionAid appeals for release of two anti-poverty campaigners detained in Ethiopia*, Actionaid (Dec. 16, 2005), <https://reliefweb.int/report/ethiopia/actionaid-appeals-release-two-anti-poverty-campaigners-detained-ethiopia>.

lawyers often expressed a subtle hostility toward legal cultural rights, which raised tensions with the government, who interpreted this hostility as a threat to its policies promoting cultural rights, local self-government, and formal limits to the sale and private ownership of land.<sup>140</sup> These lawyers' interests and ideology collided with those of the EPRDF. The symbiotic relationship between the lawyers and government that emerged in the 1990s had thus changed into a competitive one that sometimes included open hostility toward the other party.

After the 2005 election crisis and subsequent conflict, the EPRDF announced the "2009 Ethiopian Charities and Societies Law", banning EWLA and all other politically significant NGOs.<sup>141</sup> They dismantled the Ethiopian Bar Association on the basis of its failure to follow obscure registration procedures. The Association's trade name was given away to a competing group, who were informally called "developmental lawyers," and who allied with the government's agenda, which was to implement aggressive economic development programs while ensuring that the party retained its grip on power. Lawyers who had actively participated in the election and post-election turmoil on the side of the opposition political parties were jailed.<sup>142</sup> All these developments jeopardized the political and institutional ambitions of the profession.

A few years after the 2005 debacle, the profession began to rise again when some lawyers consciously decided to avoid taking political sides. This happened precisely at the time when Chinese trade and investment began to grow significantly.<sup>143</sup> The arrival of China resuscitated the profession in two ways. First, the EPRDF turned to China for finance and investment because Western donors

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<sup>140</sup> See Tilahun Teshome, *Rule of Law and Development in Ethiopia: Now and Twenty Years from Now*, 6 ECON. FOCUS 4, (2004), <https://www.africaportal.org/publications/rule-of-law-and-development-in-ethiopia-now-and-twenty-years-from-now/>. (The government's hesitation toward the elite legal profession was evident from the start. While the 2000 statute granted the right to establish law firms, in practice the Ministry of Justice emptied out the statute by refusing to make a directive that would have laid out the practical processes required. Applications to open a law firm were denied pending the directive that was never enacted. The Ethiopian Economists Association also supported the lawyers and invited activist lawyers to their annual meetings).

<sup>141</sup> *ActionAid appeals for release of two anti-poverty campaigners detained in Ethiopia*, *supra* note 140, at 47.

<sup>142</sup> See Giulia Paravicini, *Ethiopian Human Rights Boss Battles Scant Resources*, REUTERS (Nov. 17, 2019), <https://www.reuters.com/article/us-ethiopia-rights/ethiopian-human-rights-boss-battles-scant-resources-idUSKBN1XR0GB> (One of the jailed lawyers, Daniel Bekele, who spent more than a decade in exile working for international human rights in the United States, returned to Ethiopia following the change of government in 2018 to head Ethiopia's Human Rights Commission).

<sup>143</sup> See David Shinn, *Ethiopia and China, Two Former Empires Connect in the 20<sup>th</sup> Century*, 8 INT'L J. ETH. STUD. 149–164 (2014), <https://www.jstor.org/stable/10.2307/26554822>.

and international financial agencies had suspended their input after the arrest of CUD leaders and the subsequent violence. Second, Chinese trade and investment revitalized the economy by injecting huge loans into it. These factors encouraged the EPRDF to support, or at least tolerate, the lawyers, who refrained from politics to work with Chinese companies, and later, other multinational companies.

Meanwhile, the lawyers who had avoided overt political engagement while cultivating a neutral image, technical skills, and links with transnational clients began to thrive in the corporate and commercial sectors.<sup>144</sup> These lawyers influenced government policies to their own and their clients' advantage, mainly by using well-crafted arguments. They spread ideas in support of the autonomy and public prominence of the profession in workshops, conferences, research, and publications.

In this way, some members of the Ethiopian Bar Association, which became the Ethiopian Lawyers Association when the Bar Association was later dismantled, played a key role by deploying international networks and resources to spread the idea that an independent and competent legal profession was indispensable in building the rules of a market economy.<sup>145</sup> The bar advanced government policies that would liberalize the economy further and promote the independence of the legal profession. Often, the arguments were couched and orchestrated using the vocabulary and goals found in government policy. To highlight how the profession spread favorable ideas using high-profile international figures, I quote from the Bar's published minutes of its Golden Jubilee Conference held in Addis Ababa:

Mr. Robert Millard [former co-Chair of the International Bar Association] ... started the presentation by asking the question: what kind of law firms does Ethiopia need to be a sustainable middle income earning country by 2025? .... Mr. Millard gave an example of the UK where in value of legal profession to UK's economy for every pound spent on legal services 2.49 pounds is generated for the economy. He stated this was a direct effect of legal spending for the economy of the state. ... [He] pointed out that 0.41 pounds is generated to the economy due to purchase of goods and services by employees of the firms. The induced effect ... due to demand from increased household expenditure is 0.98 pounds. ... [J]obs [are]

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<sup>144</sup> See Mesfin Tafesse & Associates, <https://www.mtalawoffice.com/mesfin-tafesse> (last visited Sep. 13, 2022).

<sup>145</sup> See THE WORLD BANK LEGAL VICE PRESIDENCY, ETHIOPIA: LEGAL AND JUDICIAL SECTOR ASSESSMENT (2004).

created due to the existence of law firms in the UK economy. ... [F]or every 100 jobs created in the legal sector 167 jobs are created in the wider economy. Mr. Millard noted that the strong legal sector in the UK is responsible for London being one of the top three global financial centers in the world today. He pointed out that the UK is the fourth largest recipient of FDI (foreign direct investment) in which the strong law firms are responsible for advising investors. ...[the] UK [is] eighth in the world for ease of doing business as opposed to Ethiopia who is eighth from last...

The moderator Ato Mehretab [founder of the local affiliate of DLA Piper] added that from his personal experience he has noted a demand for law firms. Multinational companies and investors give lawyers tax, labour, contract and other similar legal assignments and it is impossible for an individual lawyer to deal with these efficiently. In addition, ... these foreign investors do not rely on individual lawyers and ask what if something happens to the individual lawyer. This is a valid reason because if they are working with an individual lawyer and [if] something happens to him there might be an instance where they might not even be able to recover their files.

Drawing from his own experience with the African Development Bank, he recalled that a bank official told him that the bank will not retain Ethiopian lawyers as they are only individual lawyers which they do not have confidence in.

Going back to the question and comment section, the third participant remarked that the Ethiopian government is trying to bring about economic development and the movement is somehow successful, however, he stated, the development needs to be parallel with the development of the legal profession as well. He concluded such growth requires establishment of law firms that are capable of providing quality service to investors and multinational companies.

The fourth participant remarked that [the] foreign companies he tries to work with always ask him if there exist law firms in the country and to put them at ease, he tells them that he has partners he works with and a number of associates that work for .... He also stated, when he is working with other foreign law firms they want to know his area of specialization so that he can give them reliable advice. Therefore, he concluded these instances are proof enough for a demand for law firms and their establishment is vital for the



development of the country and its legal system.<sup>146</sup>

In this excerpt and the rest of the minutes, the lawyers avoided mentioning the political questions in the country. Calls for a law to allow law firms to operate in the country are couched in apolitical, economic terms. Statistics are aptly deployed to prove an immediate need for law firms. Mentioning civil liberties or justice would not have helped them convince the government about the need for law firms or for the autonomy in the profession from the state. The rhetoric was well planned to meet receptive ears. In the newsletter *Temuagach* (“the litigant”) that the Association issued immediately after the conference, the Association makes twelve points, which include the following:

1. The legal profession can make a powerful contribution to realize Ethiopia’s plan to become a middle economy by the year 2025.
2. The Ethiopian economy can effectively achieve its development goals if the rule of law is gradually secured. In addition, the legal services offered have to be improved has to be improved. Solo attorney-based services have to be transformed and organized into groups.
3. The Ethiopian Lawyers’ Association must conduct research about the prevailing and prospective role of the legal profession for the national economy.
4. The concerned organ (the Ministry of Justice) has to consider the contribution that law firms can make the growth of the legal service and the economy.... The Ethiopian Lawyers’ Association and lawyers should involve in the legislative process.<sup>147</sup>

As early as 2010, Ethiopia was being hailed as one of the “top five” or “top ten” fastest growing economies in the world. The World Bank described Ethiopia’s economic growth during 2004– 2014 as “Ethiopia’s Great Run.”<sup>148</sup> The World

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<sup>146</sup> The Ethiopian Lawyers’ Association, *Proceedings of the Two Days Conference Held to Mark the 50th Anniversary of The Ethiopian Lawyers’ Association Desalegn Hotel July 31st and August 1st, 2015*, (Jul. 31-Aug. 1, 2015), [https://www.ethiopianbar.org/index.php?option=com\\_docman&task=doc\\_view&gid=34&Itemid=109](https://www.ethiopianbar.org/index.php?option=com_docman&task=doc_view&gid=34&Itemid=109).

<sup>147</sup> *The Ethiopian Lawyers Association Held a Half day Conference at Hawassa; The Free Legal Aid Center Visited*, 8 TEMUAGACH 2 (Oct. 2015), [https://www.ethiopianbar.org/index.php?option=com\\_docman&task=doc\\_view&gid=30&Itemid=108](https://www.ethiopianbar.org/index.php?option=com_docman&task=doc_view&gid=30&Itemid=108).

<sup>148</sup> THE WORLD BANK GROUP, ETHIOPIA’S GREAT RUN: THE GROWTH ACCELERATION AND HOW TO PACE IT (2016).

Economic Forum described it as “Africa’s new growth engine.”<sup>149</sup> Many such reports agree that China was the major financier, contractor, investor, and lodestar in that success story. Thus, from the EPRDF standpoint, there was no way to keep the promise and prospect of economic growth and the march toward capitalism without promoting transactional lawyers. This outcome was created by China’s economic influence, without it having a grand law reform agenda.

By 2018, the profession’s landscape had radically changed. Lawyers became a prestigious professional class and had a powerful political voice because Chinese economic influence had created—directly and indirectly—a vibrant legal service market on which domestic and foreign capital depended. Lawyers’ power and prestige gained more momentum when the EPRDF collapsed because of nationwide protest and violence, fed by grievance over land and ethnic discrimination.<sup>150</sup> Following the resignation of Prime Minister Hailemariam Desalegn in 2018, a new prime minister reshuffled the government cabinet and promised more privatization and deregulation of the economy. The new prime minister appointed to key positions lawyers whom the EPRDF had persecuted or had pushed away from the scene. The founder of EWLA, who had been a prominent civil society leader until she was demoted from public space following the 2005 election crisis, is now the Chief Justice of the Federal Supreme Court. A convicted former CUD leader now heads the notional election body, and a former lawyer who was jailed following the 2005 election disputes is now the head of the Ethiopian Human Rights Commission.<sup>151</sup> With a new cabinet in place, a thirteen-member Advisory Council consisting of elite lawyers and law academics gained a prominent role in the post-EPRDF transition.<sup>152</sup> After a complete collapse of the EPRDF, the Council proposed, and the parliament enacted, a statute that created a new bar

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<sup>149</sup> Alexandre Raffoul & Vijay Raju, *Ethiopia is Africa’s New Growth Engine*, WORLD ECONOMIC FORUM (Sep. 6, 2019), <https://www.weforum.org/agenda/2019/09/5-reasons-why-ethiopia-could-be-the-next-global-economy-to-watch/>.

<sup>150</sup> Paul Schemm, *Ethiopia Chooses New Leader from Protest-hit Region in Break from Past*, WASH. POST, (Mar 28, 2018), [https://www.washingtonpost.com/world/africa/ethiopia-chooses-new-leader-from-protest-hit-region-in-break-from-past/2018/03/28/58ae9fae-3275-11e8-8abc-22a366b72f2d\\_story.html](https://www.washingtonpost.com/world/africa/ethiopia-chooses-new-leader-from-protest-hit-region-in-break-from-past/2018/03/28/58ae9fae-3275-11e8-8abc-22a366b72f2d_story.html); *What is Behind Ethiopia’s Wave of Protests?*, BBC (Aug. 22, 2016), <https://www.bbc.com/news/world-africa-36940906>.

<sup>151</sup> Paravicini, *supra* note 143.

<sup>152</sup> Abadir M. Ibrahim & Abduletif Kedir Idris, *Profile: The Silent Fighters: The Volunteers behind Ethiopia’s Democratic Reforms*, Addis Standard (Feb. 27, 2020), <https://addisstandard.com/profile-the-silent-fighters-the-volunteers-behind-ethiopias-democratic-reforms/>.

association with nearly full regulatory autonomy and allowed lawyers to form law firms.<sup>153</sup>

The real power that drove the growth of the legal profession came from the economy, which in turn was driven by Chinese trade and investment in the country. Chinese business and broader Ethiopia-China economic ties drove the changes in the legal profession by compelling the EPRDF to commit to the profession and creating a market for legal services. In the next sections, I describe the works of lawyers working directly for and with Chinese businesses.

#### *A. OVERVIEW: LAWYERS WORKING FOR CHINESE COMPANIES*

Chinese businesses hire lawyers in a variety of ways. Companies with significant capital hire elite law offices for specialized transactions such as due diligence, loan agreements, or mergers and acquisitions, while relying on in-counsel services for regular legal issues such as land disputes, labor disputes, regulatory permits, insurance, and vendor contracts. Chinese companies with less capital and experience retain solo lawyers for specific cases and brokers to handle permits and regulatory affairs. This market on its own has provided a robust market for legal services, but private enterprises that have invested in the country following Chinese investment in roads, industrial zones, and communication infrastructure have also contributed to the growth of the legal service market in the country. The outcome is a legal profession segmented into three discernible segments. I discuss each segment in turn and show its link with Chinese businesses.

#### *B. LAW OFFICES*

Law offices that frequently work with foreign law firms and law firm networks within the country are a recent phenomenon.<sup>154</sup> Some advertise themselves as offering a “full service,” and specialize in commercial law, tax, and immigration; handling expatriate work permit issues and labor disputes for multinational companies. Their clients are mainly multinational companies, especially textile and other producers of consumer goods chains that emerged in the country following the path charted by Chinese companies.<sup>155</sup> These companies usually work with foreign law firms or law firm networks in a variety of

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<sup>153</sup> The Federal Advocacy Service Licensing and Administration Proclamation No. 1249/2021, Federal Negarit Gazette of The Federal Democratic Republic of Ethiopia (Aug. 5, 2021).

<sup>154</sup> There are ten well-known law offices in the country. They were established in the 2000s, and all of them are based in the capital. Interview with MD, Advisor, Ministry of Justice, Addis Ababa, May 31, 2019.

<sup>155</sup> Mehrteab Leul & Associates Law Office, [https://mehrteableul.com/MLA\\_Office\\_Profile\\_2019.pdf](https://mehrteableul.com/MLA_Office_Profile_2019.pdf) (last visited Sep. 13, 2022).

arrangements. Some have exclusive arrangements with foreign law firms. Mehrteab Leul & Associates Law, for instance, reportedly works exclusively with DLA Piper.<sup>156</sup> Others belong to networks and have flexible arrangements with multinational law firms. Mesfin Tafesse and Associates, for instance, works with the Africa Legal Network group,<sup>157</sup> and many other Western law firms.<sup>158</sup>

A major advantage for local law offices of having a foreign affiliate law firm is for the purpose of client references, that is, foreign firms refer clients to the local firms. Local law offices sometimes need to select an appropriate mode of affiliation with the foreign law firms. Some foreign law firms prefer an exclusive affiliation to ensure reliability, whereas local law offices prefer retaining the flexibility to expand their client bases. According to one of my interlocutors, an exclusive affiliation severely constrains their ability to expand and freedom to structure their daily work “because the foreign law firms with an exclusive relationship like to dictate to local law offices.”<sup>159</sup>

Most law offices started as a collaboration between two or more senior, licensed lawyers, typically former judges or prosecutors. They are increasingly hiring new law graduates, first as interns and then as associates, in ways that resemble the recruitment practices of American law firms. The foreign law firms and law firm networks often provide opportunities for a secondment in Western law firms for junior lawyers in local offices. Two of my interlocutors benefited from

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<sup>156</sup> Founded by Mehrteab Leul Kokeb, Mehrteab Leul & Associates Law Office, Mehrteab Leul & Associates, <https://mehrteableul.com/index.php/about> (last visited Sep. 13, 2022); Getu Shiferaw, *Foreign Investment and Forex Regulation in Ethiopia*, DLA PIPER (Apr. 17, 2019), <https://www.dlapiper.com/en/us/insights/publications/2019/04/africa-connected-issue-2/foreign-investment-and-forex-regulation-in-ethiopia/>.

<sup>157</sup> Africa Legal Network, <https://aln.africa/our-offices/mesfin-tafesse-associates>, (last visited Sep. 13, 2022).

<sup>158</sup> Mesfin Tafasse & Associates, <https://www.mtalawoffice.com> (last visited Sep. 13, 2022) (“Mesfin Tafesse & Associates (MTA) is a leading corporate law office in Ethiopia that focuses on providing high quality and timely legal advisory services in core business sectors. MTA’s practice areas are corporate and commercial law, mergers and acquisitions, taxation, power and energy, mining, manufacturing & industries, banking & finance, ICT & Telecom, construction and real estate, employment and immigration and dispute resolution. In more than a decade of experience in corporate legal advisory, MTA has served domestic clients, national and global multinational corporations, private equity and strategic investors, banking and development finance institutions, professional firms as well as public organizations. MTA is a member of the Ethiopian Lawyers’ Association, the Africa Legal Network—an alliance of top-tier independent law firms in Africa; and the Employment Law Alliance, the largest network of labor; and employment lawyers worldwide. MTA is ranked by Chambers and Partners as a band-1 legal service provider in Ethiopia, a tier 1 law office by Legal 500 and a tier 2 law office by IFLR1000.”).

<sup>159</sup> Telephone Interview with MS, Advocate and Founder of a Law Office (Aug. 30, 2021).

such opportunities. The secondment programs are paid for by the foreign law firms or networks.<sup>160</sup>

Some law offices focus mainly on Chinese clients. An account by one of my interlocutors provides details about the law offices that work with Chinese clients.<sup>161</sup> As a former judge and a prominent expert working with Chinese clients in the country, she is the founder of one of the top law offices in the country. Her legal services include part of the African Union Headquarters construction project. Her first contact with Chinese business occurred through her father, who took her to Beijing as a graduation present when he traveled there for a trade fair. But she had not pursued the contacts further as she had declined her father's offer to work for the family business that took her father to Beijing. Instead, she took up an appointment as a judge and then a job with a French consulting firm in South Sudan. When the consultancy wound down, she returned to Addis Ababa to work as a lawyer for local businesses in her family's circle. This time her Chinese contacts and the relations she had built with Ethiopian officials in South Sudan were useful in expanding her professional reach. She established herself by enhancing her Mandarin and building the kind of trust that Chinese companies require to get a foothold in this business.

Now nineteen associates work at her law office; of whom twelve are women and two are Chinese. Her Chinese associates are technically hired by a sister company, a limited liability company that provides consultancy services. She needed assistance with Chinese language and laws, but she could not hire a Chinese lawyer because the country's laws did not allow foreign lawyers to be employed until 2021.

Her Chinese employees provide support for her legal work. But their primary function is language translation, which has been her biggest problem. Before hiring them, she had to rely on electronic devices and the internet to communicate with her Chinese clients. Her Mandarin is basic. So is her clients' grasp of Amharic and English. When the information was not confidential, she used to hire commercial interpreters and translators. Hiring Chinese lawyers helped her both with language service and legal work.

She divides her Chinese clients into two different types: big ones and small ones. The "big ones" work mainly in infrastructure, energy, and finance projects.

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<sup>160</sup> See International Legal Finance Association, <https://www.ilfa.com/#about-us> (last visited Sep. 13, 2022).

<sup>161</sup> Interview with MS, Advocate and Founder of a Law Office (Aug. 30, 2021).

They are Chinese state-owned enterprises and private companies with considerable capital. Even when the companies are officially private, the Chinese government is involved because Chinese banks finance them.

She also works with European, South African, North American, and Indian clients and their law firms. She recently completed an assignment with one of the top-tier law firms in the United States. But her Chinese clients and their lawyers are different in many ways. They specifically depend on personal recommendations and references. “To get a Chinese client,” she says,

[I]t helps if you built a robust, long-term trust. Once they trust you, they treat you as a partner. They look up to you not only as a legal advisor but also as a confidante for business and personal matters. It might take some time to build that kind of relationship, but you are their big man once you have it. You have enough flexibility when you work with a Chinese company in that kind of relationship. Usually, they approach you well in advance for legal services—sometimes as early as six months before they plan to have a company registered or a project started. This gives you enough time to study the relevant law, business plan, and everything you need to materialize the transaction.

Like many of my interlocutors based in the capital city, she also agrees that working with Chinese clients rarely involves litigation; her work mainly requires due diligence, which takes as much as six months of her retention time before the company is registered and operations start. Chinese clients include their local lawyers in an intimate connection with their business affairs. The local lawyers find this both risky and inviting at the same time. “Oddly enough,” said my interlocutor,

they give you material that you would not normally expect to receive from your client at an early stage of your relationship. They may ask you to decide on business matters, which should usually be determined by the business managers, or even personal issues. They count you as a partner in the business. “The lawyer is a stakeholder with ideas,” they say. They ask you to advise them on every kind of risk and every kind of decision they have to make about the company.

When they explore investment opportunities abroad, big Chinese companies usually come into the country with a Chinese lawyer or law firm. Once the investment transaction begins, the lawyer or the law firm’s representative visits

Ethiopia at least once a year to audit the company. During these visits they meet with local lawyers to discuss legal details and the decisions the local lawyers have made. Chinese law firms act as supervisors or inspectors of the local lawyers on behalf of the company. The local lawyers often take this opportunity to ask their Chinese counterparts questions about the company and Chinese law during this annual meeting. The interactions are usually reciprocal, dialogical, and cooperative exchanges of ideas and experiences. The Chinese clients also invite their local lawyers to China to attend annual meetings. Usually, the invitees stay in a luxury hotel for about a week attending the annual meeting. Local lawyers for the “big ones” from across Africa attend the annual meetings in China. The local lawyers participate in internal discussions, negotiations, review meetings, and share experiences with their Chinese counterparts. However, their experience with other foreign clients is entirely different. One of my interlocutors says, “our Western law firm partners and clients are condescending and give us only limited and measured information. They tell you what they think is enough for the work they want you to do. The Chinese make you feel that you really belong, and they make sure you get the experience.”<sup>162</sup>

Sometimes, local law offices working for Chinese clients have to work in gray legal areas. A few years ago, a Chinese energy company wanted to create a public-private partnership with the government. There was no legal framework for such transactions in the country. But since the project was highly valued by the Ethiopian government, and the law office was successful in convincing them of its merit, the transaction was executed without a legal basis and eventually a 2018 private-public partnership proclamation was enacted after the transaction had been executed.<sup>163</sup>

Even when transactions occur in a legal vacuum, most of my interlocutors believed that large Chinese companies are very ethical about complying with the country’s norms and standards. Opinions on this issue certainly differ, depending on the informant’s experience and the type of client they are dealing with. Those who work closely with Chinese companies have a generally favorable view of their client’s compliance with local social, environmental, and legal standards. Some believe Chinese enterprises are typically more ethical than Western companies and are also compliant with the rules and procedures. Those who have less sustained

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<sup>162</sup> Interview with MS, Advocate and Founder of a Law Office (Oct. 13, 2020).

<sup>163</sup> Telephone Interview with HA, former Counsel at a Chinese company (July 21, 2022).

experience working with these companies believe that Chinese enterprises are less concerned about social and environmental standards.

The second type of Chinese client is what my interlocutor calls “the small ones.” Their capital ranges from five to ten million US dollars. They rarely come with lawyers, and they do not hire local lawyers unless they are in trouble. My interlocutor has been consulted by this type of company about criminal cases even though she works mainly in corporate law. She says, “I feel I have a special relationship with the Chinese community; hence I frequently give them free advice. A few of them have asked me to be their legal advisor when they acquired capital and became successful. Or they pay me for a long time after the transaction has been completed.”

### *C. SOLO LAWYERS*

Solo practitioners are the mainstay of the profession in Ethiopia. They focus on litigation and do not specialize, although some have developed a practical reputation in specific areas. Corporate clients often retain prominent solo lawyers for litigation purposes. Law offices that focus on transactional services often outsource litigations to solo lawyers. In-house counsel may also retain solo lawyers on behalf of their companies for litigation purposes, especially for complex cases.

Chinese influence barely registers with those who work as solo lawyers. A former state court chief justice, now a solo practitioner, believes that while Chinese businesses have created a vast market for lawyers working as advisors and brokers, who are charged with liaising with government agencies, communities, and other stakeholders, solo practitioners have few Chinese clients because “Chinese companies prefer negotiation to litigation.”<sup>164</sup>

### *D. IN-HOUSE COUNSEL*

In-house lawyers are the channels connecting Chinese businesses to the local legal world. As Miriam Driessen’s recent paper shows, in-house lawyers are among the best-paid and most widely hired local staffs in Chinese enterprises. Most Chinese companies working in infrastructure, energy, and other construction projects hire in-house lawyers at their headquarters and project sites primarily to represent them in land, labor, and tort claims. The connections these lawyers have established in their communities are the paramount consideration in the Chinese decision to hire them. Thus, what matters most for Chinese entrepreneurs—way above their experience or technical expertise—was the lawyer’s ability to deal with local communities and officials matters. The lawyers’ references, their local

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<sup>164</sup> Interview with BG, Advocate and Founder of a Law Office, Addis Ababa (June 26, 2019).



language skills, and their perceived connection with local courts and officials dictated the managers' decisions to hire them. For this reason, Chinese businesses usually preferred to employ former judges or prosecutors in their specific community. But this preference can also open up opportunities for new, inexperienced lawyers. One of my in-house counsel interlocutors appeared in court to represent a multi-billion energy company five days after receiving his law degree from Addis Ababa University School of Law. As an in-house counsel, he did not need to have a license, but even his power of attorney arrived from the company manager while he was in the courtroom.<sup>165</sup>

Further, because they value a counsel's social connections, Chinese businesses often hire individuals without legal training for tasks that generally require qualified or licensed lawyers. Informal lawyers, continuing the traditional practice of scribes thriving in the shadow of regulatory laws, typically handle licensing and business registrations and broker relations between their clients and labor workers, vendors, local communities, and government officials. Informal lawyers often write pleadings and appear in courts to represent their clients, especially businesses with minor capital and investment. Their service is less costly than that of qualified lawyers because they approach officials through flexible means rather than by using official rules and conforming to bureaucratic expectations. Their diligence and opaque but robust connections with government agencies and local communities attract clients. A key quality one needs to thrive in the informal world of lawyering for a Chinese client is agility in dealing with official rules and the government; and the ability to communicate back and forth across linguistic, cultural, and professional boundaries.

#### CONCLUSION

Many people believe that China pursues a policy of mutual equality and nonintervention, suggesting that it does not influence legal professions abroad. However, the changes that have been registered in Ethiopia's legal profession over the last two decades show that Chinese influence has grown to be more robust than Western influence in recent decades. Because its power is silent, invisible, and rhetorically distanced from altruistic or paternalistic memoranda, it commands more influence in shaping law and lawyers through the economy. This is not to say that Chinese influence is better or worse than Western influence or qualitatively different. It is simply to note that China has profoundly influenced Ethiopia's legal profession toward a capitalist form of legal services over the last two decade.

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<sup>165</sup> Interview with HA, Chief Counsel of a Utility Company and former Counsel for a Chinese Company (July 21, 2022).

**Annex. 1. Number of Licensed Lawyers (Advocates)**

<b>Region/city administration</b>	<b>Female</b>	<b>Male</b>	<b>Total</b>
Addis Ababa	Data unavailable	Data unavailable	5,000
Dire-Dawa	Data unavailable	Data unavailable	35
Amhara	22	779	801
Oromia	Data unavailable	Data unavailable	1,527-1,540
Tigray	Data unavailable	Data unavailable	Data unavailable
Benishangul	Data unavailable	Data unavailable	33
SNNPR	Data unavailable	Data unavailable	602
Afar	0	15	15
Somalia	0	20	20
Harari	0	48	48
Gambella	0	22	22

**Annex 2. Law Schools in the Country**

<b>No.</b>	<b>Name of School</b>	<b>Year Established</b>	<b>Graduates</b>
1	Debre Markos University	1999/2000	Approx. 840
2	Dilla University	2000	Approx. 280
3	Assosa University	2006	Approx. 144
4	Gambella University	2008	29
5	Debre Tabor University	2010	
6	Bule Hora University	2007	76
7	Addis Ababa University	1963	4304
8	Wolaita Sodo University	2000	838
9	Dire-Dawa University	2001	
10	University of Gondar	2005	
11	Jimma University	2003	
12	Wachemo University	2008	
13	Metu University		
14	Wollega University	2005	
15	Werabe University	2011	
16	Jinka University	2013	
17	Mizan Tepi University		
18	Wolkite University	2013/2014	
19	Salale University	2011	
20	Bonga University	2011	

21	Oda Bultum University	2011	
22	Ambo University	2009	
23	Jigjiga University		
24	Arsi University		
25	Madda Walabu University		
26	Samara University		
27	Wollo Univeristy	2008	
28	Debre Berhan University	2011	
29	Arba Minch University	2010	
30	Haramaya University	2002	
31	Hawassa University		
32	Bahir Dar University		
33	Adigrat University		
34	Mekelle University	2001	
35	Aksum University	2006	
36	Civil Service University		