

Addis Ababa University
College of Law and Governance Studies
School of Law
Undergraduate Law Degree (LL.B.) Program
Property Law Syllabus

I. Course information

Course Title: Property Law

Course Code: Laws3041

ECTS: 7; **Credit hours:** 4

Academic Year: 2023/2024

Semester: I

Target Group: Regular Program Students, Sec. 1 & 2

Lecture Hours: Sec. I: Tuesday 10:40 am- 12:40 pm & Thursday, 08:30 am-10:30 am

Sec. II: Wednesday 8:30 am- 10:30 pm & Friday, 10:40 am-12:40 pm

Classrooms: Mandela Bdg.

II. Instructor's information

Name: Kokebe Wolde

Office Location: Mandela Bdg. Office no. 318

Consultation Hours: Wednesday & Friday afternoon

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III. Course Description

Since time immemorial, 'property' has been the prime preoccupation of man and the society in which he lives. It has spurred civilizations, wars, social upheavals, revolutions, and the rise and fall of ideologies and civilizations. And it continues to be as important as ever. It is the nerve centre of the political-economy order of states and the socio-economic life of individuals and communities. It has profound influence in individual and societal life.

As a result, the protection of interests and the regulation of human relations pertaining to 'property' has been an important concern of even the earliest of legal systems. What things/interests can be objects of 'property'? Who should be entrusted with custodian role of 'property' interests?, i.e., who should have access to and control over proprietary resources? What prerogatives (rights) and responsibilities should be bestowed up on the custodian? How should the respective roles and relations of the State, communities and the individual be configured to maximize the value, returns and benefits of property interests for the common good? These are questions central to the institution of 'property', the answers to which is determined by the formal politico-legal order of every country.

Although the details may differ from one system to another owing to different factors, all legal systems have body of principles and rules that determine the ideological-legal configuration of

the 'property' rights system, providing answers to the grand issues noted above and setting the minutiae of rules that regulate day-to-day human interactions based on property. The Ethiopian legal system is no exception in this regard. Ethiopia has its own property-rights system, which has been under the influence of different shades of state ideology over the past 60 years. Today's Ethiopia property-rights regime is constituted of the 1995 Constitution as its foundation and Book III of the 1960 Civil Code of Ethiopia and other plethora of legislation issued over the past six decades.

Studying this property law system is essential to properly understand and apply it in order to achieve its pre-set objectives and also appropriately respond to changing circumstances in society. The course Property Law is, therefore, designed to acquaint students with the principles, rules and institutions of the Ethiopian property-rights regime, from the point of the formal legal system. The Course will analyse the theoretical basis of fundamental legal concepts relevant to property law with particular emphasis on the Ethiopian law and practice. Starting with a discussion of the definition and the different nuances of the concept of 'property' in general, the Course will thereafter focus mainly on the 'private property' genre. 'Private property' is an indispensable feature of modern society and a measure of individual freedom that a particular political-legal order affords to subjects. The main questions to be addressed in this Course, therefore, are these: What is property? What is the justification for the recognition and protection of 'private property'? Who may be holder of 'private property'? What can be objects of 'private property'? What are the powers/prerogatives that come with being holder of 'private property'? How is 'private property' to be acquired, transferred and extinguished? What limitations are imposed on the enjoyment of 'private property'?

The Course will, thus, introduce students, with a focus on the Ethiopian property law regime, to the concept of 'property'; classifications of objects of property and the legal effects of the classifications; the protection of possession by law; the definition, attributes and types of ownership; and the manner of acquisition, transfer, extinction, and proof of ownership. The course will also address such important topics as joint ownership; dismemberments of ownership (eg. usufruct, servitude); the public domain; expropriation; and requirements of registration of property interests. The course will also highlight the major changes and continuities in the realm of Ethiopian property law since the second half of the 20th century.

IV. Course Objectives and Competencies to be Achieved

General objectives

The main objectives of the course Property Law are the following: -

- ✓ Ensure that students understand the types and nature of the various property rights protected by the law;
- ✓ Enable students to acquire knowledge of the relevant concepts, rules and principles pertaining to property and governing property-related transactions;
- ✓ Let students know the corpus of legal instruments and institutions that regulate property matters;

- ✓ Ensure that students understand the importance of the recognition and protection of private property right to individuals in particular and to the country in general;
- ✓ Let students appreciate the importance of an efficient and comprehensive property rights system for development; and,
- ✓ Equip students with the skills necessary to apply property law in real-life situation;

Specific objectives and competencies to be achieved

Upon successful completion of the course students are expected to: -

- ✓ Understand the province of property law; distinguish it from other laws governing relations between persons in relation to objects of property;
- ✓ Understand fundamental property law concepts;
- ✓ Know the key principles, concepts & terms relevant to property law;
- ✓ Understand the details of the principles, rules and institutions that govern property-based relationships;
- ✓ Map the multitude of legislation that deal with the subject matter of property and be able to identify the relevant one for a particular issue;
- ✓ Identify the institutions that are involved in the regulation and enforcement of property interests and understand their respective roles;
- ✓ Appreciate the importance of property law and associated institutions to society;
- ✓ Note the changes and continuities in the realm of property law since 1960 in general and the coming into force of the FDRE Constitution in 1995, in particular;
- ✓ Demonstrate problem solving approach to hypothetical and real-life cases involving issues covered by property law;
- ✓ Acquire the skills necessary to interpret and apply rules and principles in the analysis of real cases involving property and property-based relations and to provide appropriate legal solutions;
- ✓ Acquire the knowhow required to advise clients, to draft contracts and other acts creating, transferring, extinguishing or restricting property rights; and,
- ✓ Be able to identify problems and gaps in the laws and the practice and suggest appropriate solutions.

V. Course Policy and Teaching & Assessment Methods

Students are required to attend classes regularly, participate actively, and accomplish course-related tasks assigned by the instructor. Students who miss 15% of the total classes will not be able to sit for the final exam. Attendance will be taken regularly. Each student is responsible for all class announcements and changes that may be made thereto.

The course will be delivered through a combination of class lectures and student-centred approaches, which require the students to take an active role in the teaching-learning process. Students are expected to read materials, books, cases and laws before every class and actively participate in class. Students will also be required to do individual and group assignments.

The final grade of students will be determined based on the following forms of assessment: -

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|----------------------------------|----------------------|
| - Surprise quiz: 10% | - Mid-term exam: 25% |
| - Assignment & Presentation: 15% | - Final exam: 50% |

IV. Course Content

1. Introduction

- 1.1. Why does 'Property' Matters?
- 1.2. The *raison d'être* for 'Property Law'
- 1.3. The central/principal questions of 'property law'
- 1.4. The concept of 'property': what is 'Property', anyway?
- 1.5. Rights protected under the civil law and the concept of 'property'
- 1.6. Property law in Ethiopia
 - a. Origin and development of the Ethiopian property law: An overview
 - b. Ethiopian Federalism and jurisdiction to legislate property law
 - c. Sources and structure of property law in Ethiopia

2. Objects and Subjects of Property Rights

- 2.1. Subjects of Property: Who can be 'holder' of property rights?
- 2.2. Objects of property: Meaning and scope
- 2.3. Classification of the 'objects of property'
 - a. *Movable vs. Immovable*
 - b. *Corporeal vs. Incorporeal*
 - c. *Intrinsic elements vs. Accessories*
 - d. *Private domain vs. Public domain*
 - e. *Other subsidiary classifications*

3. Possession

- 3.1. The concept of Possession: Definition & features of Possession
- 3.2. Justifications for protection of Possession
- 3.3. Acquisition and transfer of Possession
- 3.4. Effects of Possession
- 3.5. Vices of Possession and their effects
- 3.6. Protection of Possession
- 3.7. Loss of Possession

4. Ownership

- 4.1. Definition of Ownership
- 4.2. Essence and contents of Ownership
- 4.3. Various forms of Ownership and their justifications
 - 4.3.1. Private Ownership
 - 4.3.2. Public Ownership
 - 4.3.3. Collective Ownership

5. Private Ownership (Individual)

- 5.1. Definition and features of private ownership
- 5.2. Justifications (theories) for private property
- 5.3. Acquisition and transfer of ownership
 - 4.3.4. Original Acquisition
 - a. *Occupation*
 - b. *Possession in good faith*
 - c. *Usucaption*
 - d. *Accession*
 - 4.3.5. Derivative Acquisition: Transfer of Ownership
- 4.4. Proof of Ownership
- 4.5. Extinction of Ownership

6. Joint Ownership

- 6.1. Characteristics of Joint ownership
- 6.2. Pros and cons of Joint ownership
- 6.3. Difference between Joint and other forms of shared ownership
- 6.4. Creation of joint ownership
- 6.5. Rights and obligations of a joint owner
- 6.6. Extinction of joint ownership
- 6.7. Special cases of joint ownership

7. Usufruct

- 7.1. Definition and nature of usufruct
- 7.2. Manner of creation of usufruct
- 7.3. Rights and obligations of the usufructuary
- 7.4. Rights and obligations of the (bare)owner
- 7.5. Special cases of usufruct
- 7.6. Termination of usufruct and its effects

8. Servitude

- 8.1. Definition and nature of servitude
- 8.2. Purpose of servitude
- 8.3. Manner of creation of servitude
- 8.4. Types of servitude
- 8.5. Rights and obligations
- 8.6. Extinction of servitude
- 8.7. Current application of servitude

9. Restrictions on Ownership

- 9.1. Introduction
- 9.2. Theoretical justifications for putting limitations on ownership
- 9.3. Sources of limitations on ownership: *external and conventional restrictions*
- 9.4. Special cases of restrictions on ownership
 - 9.4.1. Right of recovery
 - 9.4.2. Promise of sale and right of pre-emption

10. Expropriation

- 10.1. Definition
- 10.2. Expropriation and other related concepts
- 10.3. Justification for the state's power to expropriate property
- 10.4. Nature of expropriation
- 10.5. Limits on the expropriation power of the state

11.Registration of Property

- 11.1. Introduction
- 11.2. Purpose of property registration: Economic & legal significance
- 11.3. Types of registration
- 11.4. The state of property registration in Ethiopia
 - a. The legal framework
 - b. The institutional set-up
 - c. Objects required to be registered
 - d. The formality requirements
 - e. Effect of (non-)registration

V. Reading Materials

A. Legislation

1. The Constitution of the Federal Democratic Republic of Ethiopia 1995.
2. The Civil Code of Ethiopia, Proclamation No. 165/1960.
3. The Condominium Proclamation No 370/2003.
4. Antiquities Protection and preservation Proclamation No 229/1966.
5. Rural Land Administration and Land Use Proclamation no. 456/2005.
6. Urban Land Lease Holding Proclamation no. 721/2011.
7. Urban Land Holding Registration Proclamation no. 818/2014.
8. Urban Land Holding Adjudication and Registration Regulations no. 324/2014.
9. Federal Urban Real Property Registration and Information Agency Establishment Regulations no. 251/2011.
10. Urban Planning Proclamation no. 574/200.
11. Expropriation of Land Holdings for Public Purposes, Payment of Compensation and Resettlement Proclamation No 1161/2019.
12. Payment of Compensation for Property Situated on Landholdings Expropriated for Public Purposes Council of Ministers Regulations No 137/2007.
13. Government Ownership of Urban Land and Extra Houses Pro No 47/1975.
14. Government Ownership of Rural Land Proclamation no 35/1975.
15. Ethiopian Water Resources Management Proclamation No 197/2000.
16. Ethiopian Civil Aviation Authority Re-establishment Proclamation No 273/2002.
17. Bililign Mandefro, The Unofficial Translation of Book III of the Civil Code of Ethiopia, 1960, Unpublished, AAU.
18. Forest Development, Conservation and Utilization Pro No 542/2007.
19. Research and Conservation of Cultural Heritage Pro No 109/2000.
20. Ethiopian Wild Life Development and Conservation Proclamation, 541/2007.
21. Ethiopian Wild Life development and conservation Authority Establishment Pro No 575/2008.

B. Books and Articles

1. **Reader on Property Law**, Justice and Legal System Research Institute, Unpublished, 2008.
2. Muradu Abdo, **Ethiopian Property Law: A Textbook**, (USAID: Addis Ababa) 2012.
3. Muradu Abdo, Subsidiary Classification of Goods under Ethiopian Property Law, **Mizan Law Review**, 2(1), 2008.
4. Muradu Abdo, The Subject Matter of Property Rights: Naming and Meaning, **Ethiopian Journal of Legal Education**, 2(2), 2009.
5. Mekibib Tsegaw, Contracts Relating to Immovables and the issue of Form as a Contemporary Problem, **Ethiopian Bar Review**, 2(1), 2007 (in Amharic).
6. Jermy Waldron, **The Right to Private Property**, 1988.
7. A.W. Paton, **Jurisprudence**, 3rd Ed., 1967.
8. Aubry and Rau, **Droit Civil Francais**, Volume II Seventh Edition by Paul Esmein, West Publishing Corporation, 1966.
9. Dunning, H.C, **Property Law of Ethiopia** (Materials for the study of book III of the Civil Code).
10. Michele Graziadei & Lionel Smith (Eds), **Comparative Property Law: Global Perspectives**, Edward Elgar, 2017.
11. Eric Descheemaeker & Elspeth Reid (Eds), **The Consequences of Possession**, University of Edinburgh Press, 2014.
12. Planiol, M **Treatise on the Civil Law**, Vol. I part, II 12th ed.
13. Robert C. Ellickson, Carol M. Rose and Bruce A. Ackerman, **Perspectives on Property Law**, Aspen publishers Inc, 2nd Ed., 1995.
14. Lawson E.H., **Introduction to the Law of Property**, London: Oxford University Press, 1958.
15. Yianno-poulus, **Louisiana Civil Law Treatise**, Vol.II, West Publication Company, 1967.
16. Amos and Walton, Classification of property. (Unpublished).