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## **Trials of trustworthiness between Ethiopian lawyers and Chinese clients**

*Legal representation requires trust. How is trust given and gained in lawyer-client relations that are tainted by mistrust? In this article I examine interactions between Ethiopian lawyers and their Chinese clients to show how both parties mitigate mistrust to enable productive legal representation across radical difference. This process not only involves patience and persistence but also prompts clients to put trust on trial. First, they do so by closely monitoring their lawyers or testing them through choreographed situations of trusting in which the stakes are low or the transfer of trust carefully controlled. Second, by cultivating loyalty and proximity they attempt to further enhance the predictability of the other's future actions to ensure the desired outcome of trust. [trust, lawyers and clients, race, Ethiopia, China]*

Legal representation is predicated on trusting and trustworthiness. Clients trust lawyers to provide legal guidance and represent them in court. By doing so, they enter into a position of dependence. Few clients give their trust lightly. Trusting is a perilous undertaking, for the act of trusting renders the trust giver vulnerable to deception. Clients usually select a lawyer they think they can trust, while lawyers need to win the trust of their clients. How is trust given and gained in a social environment that is tainted by mistrust? How do lawyers and clients confront situations imbued with global inequalities in which the act of trusting is complicated by social distance and radical difference?

Since their entry into Ethiopia as contractors in the 1990s and as investors in the 2000s, Chinese enterprises have faced a rising number of lawsuits by Ethiopian plaintiffs, from employees to subcontractors and from suppliers to government institutions. Chinese engineers complain that they spend more time in court than on the construction site. Confronted with these mounting legal challenges, Chinese enterprise managers have started entrusting local lawyers, albeit reluctantly, with their defense. Their recruitment of Ethiopian in-house counsel and their quest for legal advice from local consultants has, however, been marred by mistrust on both sides.

Variously attributed to social distance, racial differences, and a lack of communication, mistrust is rife in African–Chinese encounters (Schmitz 2021; Wu 2021). Mistrust is further fed by fear. A sense of anxiety, argues Di Wu (2021) in his study of Chinese farmers in Zambia, has come to set the tone of everyday encounters, tainting initial engagements between the two groups in the workplace and beyond. Chinese farm managers' reservations about the “other” and their reluctance to socialize with them is based on the cultural notion of the “stranger.” As an outsider, the stranger arouses negative sentiments and must

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be kept at bay. Indeed, mistrust, as Cheryl Mei-ting Schmitz (2021, 349) argues in her work on transactions between Chinese and Angolan business partners, is not the refusal to engage but “a form of engagement in which distance, rather than proximity, is cultivated” (see also Bognitz 2018).

Ethiopian lawyers were equally mistrustful of their Chinese clients, describing them as wicked, corrupt, and unwilling to respect their legal advice. “They are not happy when Ethiopians think ahead of them... [T]hey feel that there is not a single Ethiopian better than them,” an Ethiopian in-house lawyer remarked, pointing at his perception of clients’ sense of racial superiority.<sup>1</sup> “When they come to Ethiopia they see poverty. They fail to understand that there are educated people in this poor country.” This lawyer’s comment resonates with popular resentment of foreign nationals’ assaults on Ethiopian sovereignty and dignity. These sentiments are, however, connected to past threats of European colonialism and US imperialism as much as the growing Chinese influence. The traditional Ethiopian reserve and distrust of outsiders (e.g., Clapham 1969; Levine 1972), however, intersects with internal mistrust along ethnic, religious, and class lines (e.g., Fiseha 2012; Tareke 1996). Current ethno-political divisions and widespread violence have left trust wanting among Ethiopians—political elites and ordinary people alike (Chanie and Ishiyama 2021).

Ever since Georg Simmel ([1900] 2011) noted that personal trust is indispensable to society and social integration, it has been assumed that trust is predicated on familiarity and proximity (e.g., Fukuyama 1996; Putnam 2000). Recently, some scholars have refuted this premise and instead construe trust as a modality of action rather than a psychological state. Jack Barbalet (2009), for instance, maintains that members of tight-knit communities are as likely as strangers to mistrust one another. Peter Geschiere (2013, 32) echoes this finding and reminds us that trust can never be taken for granted, even among neighbors. Mere unfamiliarity cannot be a reason for mistrusting others, much as familiarity alone is an insufficient ground for trust. Matthew Carey (2017) suggests that predictability, rather than familiarity, ensures trust. He defines trust as confidence in the predictability of another’s future actions. Familiarity and proximity, however, may enhance predictability in relations of trust.

Where nationalism is a source of diverging loyalties and trust relations are imbued with essentialist cultural connotations, reflected in remarks like “Ethiopians cannot be trusted” or “Chinese cannot be trusted,” many of my interlocutors thought it was impossible that the other could ever have their best interests at heart. “Chinese and Ethiopians are not of one mind,” was an expression that Chinese managers used to describe the fundamentally different stakes the two groups have in any interaction. Trusting someone demands surrendering control to them—in this case, to the other.

Chinese enterprises typically employ an all-expatriate management. In these companies, Chinese nationals occupy most professional positions including those of project manager, site engineer, financial officer, estimator, and logistics manager. Lawyers are among the few Ethiopian professionals that Chinese companies employ, and lawyers gain the deepest insight into the management enterprise. They upset the power asymmetries between expatriates and locals, and they effectively break the racial glass ceiling. All this explains, in part, why Chinese management are reluctant to hire lawyers, let alone trust them to handle their companies’ delicate affairs.

Giving and gaining trust entails a trial in a double sense. An atmosphere of mistrust and distrust, resulting from previous experiences in which trust was breached, tested the endurance and patience of both parties as they attempted to establish a productive professional relationship. It also led Chinese company managers to put lawyers’ trustworthiness on trial. One technique for gauging lawyers’ trustworthiness was to engineer situations in

which the stakes were low or the transfer of trust was carefully controlled. Another was to try to get close to their lawyers and “befriend” them, by reducing the boundaries between the private and work spheres and encouraging their lawyers to do the same, thus converting outsiders to insiders. In this way, the Chinese clients sought to test the predictability of their lawyers’ actions. While some lawyers resisted the strategies of their Chinese clients or refused to continue working with them, others found them amusing and grew fond of their clients and managers. As a result, even if mistrust persisted and a client and lawyer never entirely trusted one another, their relationship could be fruitful.

The topic of trust frequently surfaced in conversations and interviews with Ethiopian in-house counsel and solo practitioners employed by Chinese firms during 13 months of field research in Ethiopia in 2019 and 2020.<sup>2</sup> Most of these lawyers were men in their late twenties to early forties who had served as a judge or prosecutor for several years before becoming lawyers. Coming from Addis Ababa; Dire Dawa; the Southern Nations, Nationalities, and Peoples’ Region (SNNPR); Oromia; Tigray; and Amhara and representing disparate ethnic groups, they worked for central state-owned enterprises (SOEs) or, as some pointed out with a smile, for companies with a name starting with “China,” such as the China Railway Group, the China Civil Engineering Construction Corporation, and the China Communications Construction Company—international contractors that have been the main drivers of Chinese-led development in Africa and beyond (Zhang 2020). In this study I also draw on courtroom observations and conversations with Chinese managers and judges and Ethiopian employees without legal backgrounds who were tasked to represent their Chinese employers in court and thus had acquainted themselves with the law to varying degrees.

Ethiopia has a civil law legal system with common law influences, most notably the growing importance given to precedents. The two tiers of federal and state courts, each consisting of three levels (first instance courts, high courts, and supreme courts), converge at the Cassation Division of the Federal Supreme Court, which can review decisions of both state and federal courts (Tura 2014, Abdo 2007). Apart from the two chartered cities of Addis Ababa and Dire Dawa, which fall directly under the federal system, Ethiopia’s regional states enjoy considerable judicial autonomy and are empowered to administer the courts within their borders (Afesha 2019).

Chinese companies benefit from working with lawyers native to the regions in which they carry out their projects. This is especially true in the current climate of political instability that started with civil unrest in 2015, abated briefly when Prime Minister Abiy Ahmed came to power in 2018, and flared up again in 2019 to culminate in civil war in 2020. Ethnic violence has left a mark on the Ethiopian legal profession. The mobility of lawyers has decreased, as some no longer feel safe outside their home region, and divisions within the legal profession mirror the fractured nature of Ethiopian society. Depending on the size of the project and the number of court cases they face, Chinese companies secure the services of up to four Ethiopian lawyers per project. The recruitment of local lawyers to act for them mirrors a trend by Chinese companies abroad (Erie and Liu 2021).<sup>3</sup>

Chinese enterprise managers feared that local legal experts possess privileged expertise and connections that they could use *against* as much as *for* the company. Faced with a surging number of court cases, however, they soon realized that they needed local expertise. Yet embracing and trusting Ethiopian legal experts has been a trying process.

### **Establishing Trust in Lawyer-Client Relations**

Mutual trust is established as a professional norm in lawyer-client interactions, and confidentiality rules have been developed to achieve it (Zacharias 1989). Yet trust, as Robert

Burt (1981) provocatively argues, is little more than a cherished aspiration. Marc Galanter (1998, 806) suggests that the general lack of trust in lawyers has to do with their questionable reputation; lawyers are not trusted because as the “producers and vendors of impersonal ‘cool’ trust”, they are the main beneficiaries of a lack of personal trust. By alerting clients to the fragility of unsubstantiated promises and urging them to resort to formal mechanisms rather than informal handshakes in their interpersonal dealings, lawyers introduce clients to a spectrum of devices that substitute “artificial” trust for “natural” trust.

Lawyers, moreover, possess exclusive knowledge on matters that their clients may know little about, requiring the latter to trust the former without being able to verify their professional expertise. Their relations of trust with clients are marred not just by power differentials (Sarat and Felstiner 1995) but also by divergent financial stakes (Mather 2003) and disparate class and racial backgrounds (Clair 2020; Hurder 1996). Indeed, difference, whether manifest by diverging interests or structural inequalities, is seen as the main source of mistrust in lawyer–client relations.

Whereas Ethiopian lawyers construe clients’ trust as a recognition of their professionalism and commitment to defending the interests of their clients, Chinese managers instead associate trust or the act of trusting (*xinren*) with loyalty. They do not ask for commitment to due process, much less ethical conduct. Rather, they expect their lawyers to be unwavering advocates of their cause. To enterprise managers, loyalty and, by extension, trust went beyond professional relations to include commitment to the Chinese community as a whole.

The Chinese clients I spoke to feared that their lawyers, by virtue of their identity as Ethiopians, supported the counterparty. Loyalty to them as clients meant disloyalty to the lawyer’s own side. Ethiopian lawyers admitted feeling utterly uncomfortable when they were viewed with revulsion in the courthouse for representing a Chinese multinational corporation that, skeptical local voices hold, grow rich on the back of Ethiopian poverty. Global inequalities inscribed interactions on the ground (Sheridan 2018) and complicated the cultivation of loyalty as a prerequisite for trust.

Although legal scholars have analyzed the role of trust and the consequences of its lack in lawyer–client relations (Burt 1981; Wendel 2020; Zacharias 1989), few have explored how lawyers or clients deal with a lack of trust. One notable exception is Matthew Clair (2021), who shows how disadvantaged criminal defendants in the United States develop coping mechanisms in response to their mistrust of their middle-class white defense lawyers, with whom they share little if any common ground. Mistrust, Clair shows, leads disadvantaged defendants to disengage from their lawyers and accumulate legal knowledge and skills on their own, albeit with limited success. Instead of withdrawing from their lawyers, the Chinese managers in this study, who had dramatically failed to help themselves, attempted to mitigate their mistrust of Ethiopian lawyers. Before I unpack the intricate strategies that they used, I will discuss how Ethiopian lawyer–Chinese client relations evolved in tandem with growing Chinese economic influence and how the recruitment of local lawyers centered on trust.

### **The Expansion of Legal Departments in Chinese Firms at Home and Abroad**

Few Chinese enterprises had legal departments when they started taking on overseas projects in Africa in the 1990s, encouraged by Jiang Zemin’s Going Out Policy. The first Chinese SOEs to embark on infrastructural construction in Ethiopia did not consult, let alone employ, legal professionals in-country. A growing number of disputes related to labor, land, and contracts with workers, subcontractors, suppliers, landlords, insurance firms, local government institutions, and even national banks, however, forced these enterprise

managers to consider seeking legal advice and hiring legal experts. Their reluctance to hire Ethiopian lawyers reflects their reluctance to trust them.

In the period spanning the late 1990s to the mid-2000s, Chinese human resource managers or liaison officers, alongside their Ethiopian interpreters, typically dealt with court cases and other legal issues. An interpreter who worked for a Chinese SOE around the turn of the century recalled the challenges he and his expatriate managers faced in court. He was tasked—despite lacking any legal knowledge—with translating pleadings and pen responses in consultation with his Chinese managers. In the courtroom he communicated with the judge and translated everything that was said from Amharic to English, whereupon a Chinese staff member translated from English to Chinese. Even though they lost most of their cases, he never opened a lawbook. Neither did his Chinese manager.

Chinese companies in Ethiopia, much like in China, hired legal experts only after the fact (Li 2021). Yet the reluctance of enterprise managers to recruit legal professionals cannot be explained by their mistrust alone. Many firms, especially SOEs, did not initially recognize the value of legal services (Liu 2006). At the start, being summoned to an Ethiopian court came as a surprise to these managers, who readily admitted that their legal awareness had since increased. “I learned a lot about the law, especially about judicial procedure,” a Chinese project manager based in Addis Ababa acknowledged. “I now know how to find witnesses and what kind of witnesses. I know more or less how to win a case. If I lose, I appeal.” His confidence reflects the experience he had accumulated. He had dealt for years with court matters alongside his duties as an engineer. Yet the sheer volume of cases they faced eventually forced his company to recruit a lawyer.

In tandem with their growing international imprint and an increase in international involvement in the domestic economy, Chinese firms started to employ legal experts (Liu 2006). In 2004 the State-Owned Assets Supervision and Administration Commission, an institution mandated to oversee and regulate China’s SOEs, promoted a strategy to upgrade their in-house legal capacity with an eye to safeguarding state assets. Meanwhile, market forces propelled the expansion of legal departments in private Chinese firms (Li 2021). The number of in-house lawyers of Chinese enterprises had grown considerably by the time Xi Jinping launched the Belt and Road Initiative, which resulted in a rapid expansion of Chinese activities overseas and introduced a new set of legal challenges (Erie 2021; Kidane 2011).

In Ethiopia, Chinese involvement gradually expanded from infrastructural construction to the hospitality and manufacturing sectors (Fei and Liao 2019; Oqubay 2015; Oqubay and Lin 2019; Tesfaye 2020). The proliferation of activities led to a surge in lawsuits against Chinese firms, most of which they lost because of their lack of legal knowledge and antagonistic attitude. At first, managers of Chinese enterprises paid little heed to court summons. They put the leaflets away and subsequently forgot about them, threw them in the bin, or, in a fit of anger, tore them up. After several warnings, the court proceeded without the respondents and gave an *ex parte* verdict. Managers only began taking the court seriously after they were brought under arrest to the courtroom because they had failed to obey a court order or after one of their vehicles were seized and sold at public auction to pay the damages awarded to the other parties.

Chinese enterprises suffered, too, from the lack of legal advice available to them at the transactional stage. When I asked a senior lawyer what mistakes Chinese firms had made, he noted: “The biggest mistake they made was failing to hire a competent legal advisor.”<sup>4</sup> His Chinese client had, for instance, entered into what he called a “dead contract” with an Ethiopian insurer, having effectively signed against the company’s interests. “In fact, I don’t know if you should consider this a mistake. They simply want to speed

up the process and finish their work,” the lawyer added. “But again, they do not even have a person who organizes their documents. Each day they come up with a new document.” Whether this was due to a lack of organization or their lack of trust in Ethiopian lawyers who wanted to view all the documents that could help them win the lawsuit was unclear. It was not uncommon for managers to hide documents from their lawyers.

### Learning to Recruit Lawyers

These Chinese managers learned from their mistakes. They drew on connections they felt they could trust and started hiring staff members assigned to handle legal matters. This move toward professionalization did not necessarily mean that the companies started recruiting professional lawyers. Instead, many of them began recruiting administrators and paralegal professionals, such as scribes—a preference that should be understood in the context of legal services practices in China.

China’s legal system is characterized by what Sida Liu (2011) calls a “symbiotic exchange” between the market and the state. To survive, let alone thrive, Chinese lawyers must build bridges between the market and the state through negotiated reciprocal exchanges with judges and administrators (Ng and He 2017). They rely on patrons in the state system to safeguard their interests and provide them with a “protective umbrella” against intimidation and rent seeking (Michelson 2007). Considering the lawyers’ dependence on connections with the state bureaucracy in China, the enterprise managers in Ethiopia relied on their own cultural preferences and practices and deemed that former bureaucrats were most suitable for the job of lawyer.

Chinese managers also approached Ethiopian scribes, who are usually elderly men who sit in the shade of a tree or a shed outside the court premises. Scribes draw up statements of claim and defense and give legal advice in exchange for small fees; they are Ethiopia’s barefoot lawyers. Scribes assist litigants with limited means, such as daily laborers working for Chinese enterprises, but they cannot represent them in the courtroom. As members of the local community, scribes were nevertheless accessible. Some had previously been local administrators and were well connected, which explains the Chinese preference for using them. While some Chinese SOEs started hiring scribes on a full-time basis, smaller Chinese subcontractors enlisted scribes only for individual court cases.

But their experiences with bureaucrats-turned-lawyers and scribes were mixed, leading enterprise managers to eventually seek assistance from legal professionals. Confident that judges could be enticed by a good salary, they began approaching judges at local courts to gauge whether they would want to work for their company. This approach to judges should, yet again, be understood in light of the Chinese domestic legal services market, where former judges are sought-after lawyers (Liu 2006). Judges are valued for their connections inside the judicial system and beyond. “If the Chinese approach a lawyer, the first thing they ask is: ‘Do you know the judge?’” an Addis Ababa-based junior lawyer observed. “If you say, ‘No, I don’t know the judge,’ they don’t want you. If you say ‘Yes, I know the judge,’ they will take you.” He explained, rather pointedly, that Chinese clients view a lawyer as a link to the judge.<sup>5</sup>

When asked whether Chinese firms chose their lawyers wisely, a female judge based in Weldiya, Amhara, laughed. “I can’t say that they have a transparent system for recruiting employees. For one, they don’t put up job advertisements. Most of them hire their lawyers through connections,” she said. “Sometimes they simply approach a judge and ask whether he wants to work with them. They asked me, too, at one point.”<sup>6</sup> A trustworthy legal expert who would stand up for the interests of their client required professional training and legal



expertise, this judge held. Open recruitment would thus allow employers to compare candidates and select a lawyer with the best credentials. Credentials conveyed trustworthiness.

While meritocracy is the aim of professionals, it is not necessarily the practice in Ethiopia nor elsewhere (Dezalay and Garth 1997). According to the junior lawyer mentioned earlier, who had studied in China, the reason why the Chinese have been so successful in Ethiopia is their use of *guanxi*, that is, their skill in cultivating and navigating social connections.<sup>7</sup> Ethiopians, too, attach importance to connections, with the result that Chinese *guanxi* practices feed into Ethiopian practices of network-building, even if the latter do not necessarily like to admit it.

Through network-based recruitment, Chinese management hired lawyers they believed they could trust. Indeed, trustworthiness figured prominently in the recruitment of lawyers. The three steps described above, from the recruitment of bureaucrats and scribes to the recruitment of judges and lawyers should nevertheless be understood as an ideal typical sequence. Some firms hired legal professionals from the start, whereas others decided to take matters in their own hands after being betrayed by a lawyer.

### Testing Trustworthiness

One of the main obstacles to winning trust is the client's past experiences of being betrayed. Distrust is a direct consequence of betrayal, and mistrust is an initial attitude of suspicion toward the other (Humphrey 2018, 9). Indeed, the distrust resulting from a betrayal affects future acts of trusting (Barbalet 2009). For a start, trust is situational and relational (Wandall 2015). It depends on the relationship between trust giver and receiver. To minimize the risk of betrayal, Chinese clients and managers sought to diminish the degree of uncertainty that trusting required. They did so, first, by closely observing and monitoring their lawyers and second, by using techniques to measure their trustworthiness.

Chinese fears of betrayal abound. "We would rather pay a little bit more money to solve a dispute before it goes to court," a Chinese manager based in Addis Ababa explained, confiding, "In fact, I don't fully trust my lawyer. We are not of one mind." "Why?" I asked. "Lawyers consider themselves first. We calculate their commissions according to the contract. But they always want more. People here are hard to satisfy."<sup>8</sup> This manager refers to the divergence of the financial stakes between him or his company and his lawyer, and he ended his statement with a generic remark about Ethiopians. Other Chinese managers referred to racial disparities. "Ethiopians defend Ethiopians," an interpreter and deputy manager concluded, when she told me about the many court cases her company had lost.<sup>9</sup> Initially her company had not enlisted legal advice, fearing that the local lawyers would side with the Ethiopian plaintiffs. An overwhelming number of cases, however, had forced her and her superior to reconsider the matter.

Some Ethiopian lawyers confirmed that Chinese fears of betrayal were grounded.<sup>10</sup> Occasionally, in-house lawyers conspired with local plaintiffs to enrich themselves or to make a gesture of ethnic solidarity in which the trust they owed to their compatriots overrode their professional obligation to their Chinese clients. In instances of extra-contractual damage caused by the heavy vibration of road rollers, for instance, some lawyers would prod residents into filing a lawsuit against the Chinese construction company concerned. They then promised to lose the case on behalf of their foreign employer, whereupon the plaintiff and the lawyer split the compensation awarded by the court.<sup>11</sup> In instances like these, lawyers put their individual interests and collective Ethiopian interests ahead of those of the foreign company.

Stories about betrayed trust circulated among managers and were passed down from old hands to newcomers (Wu 2021). These stories thrived in an environment that was already

permeated by mistrust. Ethiopian lawyers saw the managers' default attitude of suspicion as an obstacle. "At first, they do not trust you," a former in-house lawyer said. "This is a challenge in and by itself. Even when you really work for them and protect their interests, they do not see it that way."<sup>12</sup> After a certain period, this lawyer noted, speaking of his own experience, the mistrust abated. "Initially, they suspect that their lawyers side with locals, or that you will treat them like a stranger." After lawyers proved to be trustworthy, however, Chinese managers' attitudes changed. Note that this lawyer uses the word "stranger" to denote a person who cannot be trusted, similar to his Chinese managers.

The observations of this lawyer are not unique. Many Ethiopian lawyers complained that Chinese clients or managers did not trust them, which, in their eyes, resulted in their reluctance to give them the autonomy that they deemed necessary for carrying out their job. Another complicating factor was the turnover of Chinese managers. Following each new arrival, trust had to be regained once again. Of course, the Chinese managers communicated with each other, and an already trusted lawyer would more easily be trusted than a new recruit. However, trust remained a personal matter and the trustworthiness of lawyers was often probed anew. How, then, did Chinese managers attempt to overcome their fears that their trust would be betrayed?

The in-house lawyers I spoke to noted that their Chinese managers kept a close eye on them. "They observe you and *everything* you do," a lawyer explained.<sup>13</sup> Mistrustful managers asked lawyers and interpreters to translate statements of defense and court decisions, and to provide detailed transcripts of court proceedings. They followed up on each suit. Some accompanied their lawyers to court. Ethiopian lawyers perceived the last action as the ultimate sign of mistrust, and they loathed it. Even lawyers who were enlisted for a single case felt they were monitored. The following example illustrates how Chinese managers scrutinized their lawyers' actions.

An attorney based in Tigray spoke of a case he had entertained for China Electric Power Equipment and Technology (CET), which was a joint respondent with Ethiopia Electric Utility, the country's electricity provider. The case was instituted by telecommunications company Ethio Telecom and heard at Mekelle High Court. CET had accidentally damaged a fiber-optic cable during construction and installation work, and Ethio Telecom demanded compensation by suing both the Chinese contractor and the owner of the project, Ethiopia Electric Utility. The damages requested comprised the repair of the cable and the costs lost over the non-operation of the line. CET enlisted a lawyer in Mekelle upon the recommendation of the lawyer based at their headquarters who was reluctant to travel up north amidst rising ethnic tensions.

In a consultation session, the lawyer referred to the Ethiopian Communication Services Proclamation 1148/2019, which states that upon receiving a construction permit, a company must ascertain from the city administration whether the site is free from telecommunication lines. If the contractor damages a cable after having received this clearance from the administration, they cannot be held liable. The lawyer explained this to his Chinese client, who responded curtly, "show me the proclamation and the article," whereupon he asked his lawyer to wait for 10 minutes. After making a phone call he said, "alright, now we can continue." The Chinese client had cross-checked the information, a gesture that his lawyer interpreted as a sign of mistrust. "They are very suspicious. They don't trust people. They did not trust me. This is how they developed a strong legal know-how."

Mistrust prompted Chinese managers to cultivate their own legal knowledge and skills (Clair 2020). Management got the relevant laws, such as the Civil Code or the most recent Labour Proclamation translated into Chinese and disseminated among their high and mid-level managers. These translations, alongside oral testimonies of court experiences, were



also passed on to the managers of other companies. Exchanges like these increased their legal knowledge and, over time, their legal cunning.

Aside from monitoring their lawyers' actions and movements, the Chinese managers also used strategies to measure the trustworthiness of their legal experts while enhancing the predictability of their actions. The lawyers recalled, often with a smirk, the ingenious techniques that Chinese managers deployed to put their trustworthiness on trial. One lawyer recounted that when he started working for his current employer, a Chinese central SOE, his manager left an open bag containing 500,000 Ethiopian Birr (roughly USD 35,000 at the time) of cash on the chair in his office.<sup>14</sup> He saw this as a clear test. His manager waited to see what the lawyer would do next. Would he notify his Chinese superior? Would he return the money? Would he take some bank notes and leave the rest? Or would he run away with the entire bag? The Chinese company managers used similar techniques with rank-and-file laborers. On payday, they would add one or two 100 Ethiopian Birr notes to see whether the workers were honest enough to return the additional banknotes. A good worker, in the eyes of the Chinese management, was a worker they could trust. Those who faithfully returned the money were classified as trustworthy and those who did not as untrustworthy. These trials of trustworthiness and the classifications they yielded significantly impacted the employment relationship. A breach of trust was damaging and could be detrimental. Betrayed trust was irreversible.

Breached trust led to distrust and distrust bred mistrust, which was reflected in the high turnover rate of in-house lawyers in some Chinese enterprises. Pervasive mistrust on the side of their superiors made it difficult for the lawyers to carry out their work effectively, let alone enjoy it. A former in-house lawyer explained the challenges he faced. Because they did not fully trust him, his Chinese managers kept their cards close to their chest, or they passed responsibilities on to employees they trusted more, such as Ethiopian facilitators. Some facilitators are employed by Chinese companies for years and the managers trust them more than their legal professionals. They are fixers who assist Chinese managers in a myriad of matters including grocery shopping, liaising with the agents of the Ethiopian Revenues and Customs Authority, solving disputes between management and labor at the workplace, and lobbying administrators. In fact, before Chinese companies started hiring lawyers, some facilitators followed up on the court cases that involved them.

There were often tensions between the facilitators and the lawyers, in part due to their overlapping responsibilities. While the lawyers liked to keep legal matters in their own hands, Chinese managers preferred to have these responsibilities shared. This was yet another way to keep the lawyers in check and guard against any breach of trust.

### The Cultivation of Proximity

To diminish the risk of having their trust betrayed, some Chinese clients and managers attempted to get close to their lawyers, and thereby increase the predictability of the outcome of trusting. They did so by blurring the boundaries between the formal and the informal and between work and after-work hours in ways that were akin to the cultivation of *guanxi* (connections or social relationships) in China. Lawyers who were willing to relinquish the boundaries between work and the private sphere were better trusted by their managers. However they also identified their superiors' instrumental intentions and were suspicious or skeptical of managers' advances. They sought to adopt a professional position with an emphasis on their expertise as they tried to limit their involvement in their clients' social worlds. How did managers attempt to win their lawyers' trust and thereby reduce the uncertainty intrinsic to giving trust? Before I turn to this question, I briefly discuss practices of cultivating *guanxi* in China.

*Guanxi* refers to material and immaterial reciprocal exchanges in which the receiver gains a favor that creates an obligation for future favors to be returned to the giver (Yang 1994). As Yanjie Bian (2018) shows, *guanxi* spans a broad spectrum: it is a sentimental tie based on sympathy and love, a sentiment-driven instrumental tie, and a specific instrumental tie or informal contract agreed in business. Whereas some scholars underline the strategic quality of *guanxi* and its use in economic transactions, others draw attention to its less instrumental and more emotional characteristics in China (Yang 1994). One important element of *guanxi* is its multiplex nature. *Guanxi* mixes “qualitatively different norms of exchange, namely expressive with instrumental, social with economic, symbolic with material, personal with public, friendship with business, or familial with collegial” (Bian 2018, 605). The more layered *guanxi* is, the more likely it is that those engaged in a *guanxi* exchange will invest trust in one another and the less likely it is that a person formerly trusted will breach the trust given to them—or at least many believe. In business, *guanxi* is strengthened through shared intimacy and social rituals such as banquets (Osburg 2013). *Guanxi* rituals help remove the cognitive and moral barriers of potentially instrumental engagements (Li 2011; Smart 1993).

Prodded by eager Chinese managers, Ethiopian employees, including in-house counsel, now and then invited their superiors to their homes during national festivals such as Epiphany, Easter, or the Ethiopian New Year, or family celebrations such as weddings and graduation ceremonies. I accompanied some Chinese managers on two such occasions. These instances of shared intimacy were as awkward as they were amicable. Neither of the parties was able to forget, let alone forsake, their formal relationship and the power asymmetry imbued in it, however hard the Chinese managers tried to break these boundaries by putting on traditional Ethiopian clothes, sharing Ethiopian flat bread and popcorn, or learning Amharic phrases.

As Janny Chang (2013) shows for Chinese-managed workplaces in Zambia, invitations to such celebrations blur the lines between the intimate and non-intimate components of relationships between Chinese and Zambian staff. The Chinese managers who visited the homes of their trusted Zambian workers were exposed to some of the most intimate details of their employees’ personal lives. Although the relationships continue to be infused with power hierarchies, the quality of the relationship, Chang argues, nonetheless changes. In Ethiopia, employees who allowed their manager to peek into their private lives more easily gained their managers’ trust.

For Chinese managers, one sign of loyalty and trust was their lawyer’s willingness to relinquish the boundary between the formal and the informal by taking on tasks that were not part of a lawyer’s responsibility and were not included in their job description. A senior lawyer based in Addis Ababa who provided consultancy services to several Chinese companies recalled that he was surprised to find himself rushing to a garage upon a phone call from a Chinese client one day. The Chinese manager had taken his car to the vehicle repair shop for maintenance and was presented with an exorbitant bill. He asked his lawyer to haggle over the price. “This does not mean that this issue does not have a legal dimension, but it should be a legal matter in the end,” the lawyer recalled, bemused.<sup>15</sup> “The case would become a legal issue when the car could not be repaired for the agreed price or when the mechanic increased the price beyond what had been agreed. The Chinese [client] said that this should be solved by a lawyer nonetheless,” the lawyer laughed, concluding: “This shows that he trusted me.” This lawyer had worked with nearly 30 Chinese enterprises in the manufacturing and construction sectors. He was well trusted within the Chinese community, and most of his clients came to him on the recommendation of former Chinese

clients. He had won this reputation in part by rushing to be at his client's service when asked.

Another sign of their loyalty was the willingness of lawyers to relinquish the boundary between work and life. Lawyers were frequently asked, if not required, to make time after working hours. They were sometimes called during the night and asked to come to the office or to another location. "'We are going to the police station,' they say. 'You better come *now*,'" a former in-house lawyer said about the nighttime calls he received from his Chinese managers.<sup>16</sup> Unless they had set clear boundaries, lawyers were on call 24 hours a day. However, if local employees got out of bed and rushed to the police station, they were often generously rewarded in cash or in more intangible ways such as with loyalty and trust. The lawyers who enjoyed working with Chinese clients and managers and had gained their trust simply put up with these night-time calls, albeit grumblingly.

Some Ethiopian lawyers managed to establish a bond of trust with their Chinese clients or managers. Those who did adjust to the Chinese work culture accepted the blurred boundaries between formal and informal aspects of the work and the unswerving commitment to the company, especially the manager, that was required. Some lawyers also began to share Chinese values, which brought them closer to their clients and managers.

### Winning Trust

Despite a lingering sense of mistrust, most Chinese managers and Ethiopian lawyers I talked to believed that trust could be won. Shared values between Ethiopian lawyers and their Chinese managers were taken to signal a rapprochement that was, both sides believed, conducive to trust. Ethiopian lawyers who said they had established a bond of trust with their clients or managers and enjoyed working with them described their experience as transformative. They adopted the discourse of self-development and sacrifice for development that is prevalent in mainland China (Zhang and Ong 2008) and among Chinese workers in Ethiopia (Driessen 2019b). "I learned that you can change yourself through work," a lawyer based in Raya said, expressing his appreciation for the Chinese work ethic.<sup>17</sup> "I dislike sitting down. I prefer to work." He described skipping breakfast or forgoing lunch while working for the Chinese simply because he had so much on his hands. Now that he is a solo practitioner he continues to do so whenever his workload demands it.

A lawyer's willingness to be complicit in illegal practices was the ultimate sign of rapprochement and trust between Ethiopian lawyers and Chinese clients (Driessen 2019a). Some lawyers engaged in unlawful practices for their clients, such as paying bribes or evading the payment of damages that had been awarded to their Ethiopian opponents. Others refused to take part in bribery and resigned. One lawyer resisted and faced painful consequences. When he was walking along an empty road one day, his Chinese manager passed by, jumped out of his car and physically assaulted him. "I work based on the law. If the company is wrong, the company should pay. If not, the company shall not be held liable,"<sup>18</sup> the lawyer remarked, recalling the incident. "If you stand for the truth, they may not like you." To him, morality and fairness trumped loyalty. Most Ethiopian lawyers admitted feeling uncomfortable when Chinese clients or managers pushed them to forsake professional ethics. It affected their relationship of trust. Most lawyers, however, managed to set up professional boundaries between them and their clients and convinced the Chinese managers to respect them.

The effectiveness of increased proximity depended, however, on the lawyer's relationship with their immediate superior. A senior lawyer based in Addis Ababa, who had worked with a central Chinese SOE in Oromia as their in-house counsel, pointed out the different experiences he had had with different Chinese managers.<sup>19</sup> Some had respected him,

while others remained suspicious of him. This was, he explained, related to the level of the specific Chinese manager in the corporate hierarchy as well as how long they had been in Ethiopia. “The Chinese who work in higher management, especially those who just arrived in Ethiopia:... you cannot say that they are Chinese. They are extremely respectful.”

When the road projects in Oromia came to an end, the original managers were replaced by what he called “vagabonds.” When I asked what Chinese managers had learned from him, this lawyer said that he had taught the Chinese to trust others. When his initial managers returned to China, he was left with 57 pending cases. “They understood that they were liable in most cases and were willing to pay in line with the court decision,” he recalled. “They had me handle the cases on my own, even though the claims, taken together, amounted to millions of Ethiopian Birr.” He followed up on these cases and tried to minimize compensation. “Of course, they might have been suspicious of me as a person. I am an Ethiopian; a citizen of this country. They may have thought I would hurt the company’s interests. However, they trusted me.” This story confirms the earlier observation that relations of trust are tied to individual managers rather than the company.

Gaining trust often marked a turning point in a lawyer’s relationship with their Chinese client or manager. It occasioned a change in the quality of the relationship as well as the quality of the lawyer’s work: “Once they trust you, you can do everything at your own discretion. Once they trust you, they will ask for your advice. Once they trust you, they will ask you to recommend lawyers based in other regions,”<sup>20</sup> a lawyer remarked. Full trust entailed the transfer of responsibility from client to lawyer, increasing the lawyer’s autonomy. Additionally, if trust was hard-won, it was not easily breached. Trust came with loyalty. “Once the Chinese trust you, they do not change their mind [about you],” another lawyer said. “I love this part of their culture.”<sup>21</sup>

Importantly, trust was rewarded. “If you work hard and achieve results, the Chinese will believe in you. That is the benefit,” a lawyer who had worked for a Chinese central SOE for four years contended. “I have conducted thousands of cases for them. Not one manager asked me about their progress.” He paused, adding, “Of course, this was not from day one. They carefully evaluated my work and results. They gradually started to trust me... Their trust is worth more than money.” The last statement hints at the lawyer’s dissatisfaction with his current pay. He confided after the interview that he had never received a pay rise. This was painful for him, not least given the fact that he handles cases with claims amounting to millions of Ethiopian Birr. Would he have been hired on a case-by-case basis, he would have received 10 percent on each claim and be a rich man by now. He respected his Chinese employer nonetheless and took the fact that they granted him autonomy as evidence that they trusted him.

If lawyers had proven their loyalty, they enjoyed considerable independence; perhaps more so than they would working for an Ethiopian employer. Loyalty was measured in terms of positive outcomes in trials of trustworthiness in addition to deliverability, as assessed by court victories. To be sure, winning trust was not a linear process. In an environment where Chinese managers constantly feared being taken advantage of and the other seemed impervious to their goodwill, trust in lawyers remained conditional. As soon as Chinese managers suspected their lawyer of conspiring with an Ethiopian counterparty, they returned to conducting trials of trustworthiness.

## Conclusion

Ethiopian lawyers described gaining trust, or trusting, as a trial. An atmosphere of mistrust and distrust tested their endurance and patience. This pervasive mistrust also led Chinese clients and managers to put trustworthiness on trial—that is, to test their lawyers with the

goal of increasing the predictability of their actions. They did so by monitoring techniques and using strategies to measure the lawyers' trustworthiness in situations in which the stakes were not very high or when the actions of the person hitherto trusted were cautiously overseen. Furthermore, they sought to increase predictability by enhancing proximity and familiarity, probing the boundaries between the formal and informal sphere. However exhaustive these Chinese strategies for testing trustworthiness were, they were not always productive. On the contrary, they could trigger reverse effects. Ethiopian lawyers who believed that their Chinese managers were reluctant to trust them could be inclined to breach the trust their superiors were willing to give.

Echoing Chinese clients and managers who believed that they could never be "of one mind" with their Ethiopian employees, my interlocutors mentioned the various obstacles that impeded trust, such as social distance and cultural difference. The reluctance of Chinese clients and managers to trust Ethiopian professionals can largely be explained by the fact that doing so required them to relinquish control and admit that they depended on people they perceived as fickle strangers. Trusting Ethiopian professionals could upset the precarious balance of power in the racialized corporate hierarchy that the managers sought to protect. Testing trustworthiness, then, was not limited to relationships between individual lawyers and clients or managers. Such testing equally concerned the corporate hierarchies in which Chinese managers sought to retain the color line and thereby protect their privileged position as knowledgeable professionals. Zooming out even further, the trials of trustworthiness can be linked to global hierarchies and entrenched inequalities embedded in Ethiopia–China or Africa–China relations.

### Notes

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1. Interview with in-house lawyer based in East Gojjam, Amhara, December 4, 2020.
2. I draw on interviews with 30 Ethiopian lawyers, 16 of whom worked as in-house counsels of Chinese enterprises who were involved in both transactional practice and litigation. The remaining 14 lawyers provided legal consultancy services or represented their Chinese clients in court on a case-by-case basis. Due to COVID-19, 11 interviews were conducted over the phone. Interviews, all semi-structured, lasted two to three hours and included follow-up interviews, and interviewees were recruited following the snowball method. My earlier field research in 2011–2012 and 2017 in Ethiopia, during which I lived in Chinese and Ethiopian camps along infrastructure project sites, further informed me about corporate structures and everyday interactions between Chinese and Ethiopian employees. I also had the chance to join Chinese

managers to court and witnessed Chinese enterprise struggles with the Ethiopian legal system up front.

3. Up until 2021, foreign lawyers were not permitted to practice in Ethiopia.
4. Interview with lawyer based in Arba Minch, SNNPR, May 16, 2020.
5. Interview with lawyer based in Addis Ababa, June 30, 2019.
6. Interview with judge based in Weldiya, Amhara, November 25, 2020.
7. Interview with lawyer based in Addis Ababa, June 30, 2019.
8. Interview with Chinese project manager in Addis Ababa, July 7, 2019.
9. Interview with Chinese interpreter and deputy manager in Mehoni, March 8, 2012.
10. Interview with in-house lawyer based in East Gojjam, Amhara, December 4, 2020.
11. Interview with lawyer based in Bahir Dar, Amhara, October 19, 2020.
12. Interview with lawyer based in Mekelle and Wukro, Tigray, June 17, 2020.
13. Interview with in-house lawyer based in East Gojjam, Amhara, December 4, 2020.
14. Interview with former in-house lawyer based in Mekelle, Tigray, July 8, 2020.
15. Interview with lawyer based in Addis Ababa, June 13, 2020.
16. Interview with lawyer based in Mekelle and Wukro, Tigray, June 17, 2020.
17. Interviews with lawyer based in Raya, October 31 and November 7, 2020.
18. Interviews with lawyer based in Raya, October 31 and November 7, 2020.
19. Interview with lawyer based in Addis Ababa, July 10, 2020.
20. Interview with lawyer based in Bahir Dar, Amhara, October 19, 2020.
21. Interview with lawyer based in Mekelle, Tigray, April 7, 2020.

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