

Looking at the Law: Analysing the World-Wide Perception of the Concept of Agreement in Contractual Relationship

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Abstract

Arising from day-to-day human interactions are countless engagements in form of agreements, sometimes created with expectations that they are acted upon. Where the expectation is mandatory, there emerge mutual obligations. Therefore, there is general perception that contract is rooted in the agreement of the partners involved, even though not all agreements earn the epithet contract. But are all contractual relations really rooted in contract? This research seeks to unravel this poser. It adopts doctrinal method of research presentation relying on primary sources (such as relevant statutes, conventions and case laws) as well as secondary sources (such as relevant textbooks, journal articles, online materials and so on). The thesis of the paper is that in law of contract, the word 'agreement' is connotative and so assumes more than the ordinary meaning of its common usage. It posits further that contextually, agreement can be employed in actual or constructive sense. It concludes that determining the existence, extent and contents of contractual relations depends much on the proper understanding of the special character of the concept (agreement) as conceptualized in the paper.

Keywords

Agreement, Contract, Contractual Ingredients, Actual Sense, Constructive Sense.