

Abstract

The doctrine of good faith is an important fundamental of the law of contract in the Civil Law systems. In England, conversely, it has generally been accepted that there is no general doctrine of good faith in contract law. Scots law and Thai law are similar in that their private laws have been influenced both by the Civil Law and the Common Law traditions. Nevertheless, in terms of private law, in both systems the Civilian influence appears to be stronger than the Common Law one.

The research illustrates that Scots law and Thai law recognise the notion of good faith differently. The research shows that the role of good faith in Thai law is indeed similar to that of the Civil Law system. In addition, like the Civilian approach, Thai law makes a clear distinction between subjective and objective good faith. Most importantly, Thai law regards good faith as the highest norm of, not merely the law of contract and the law of obligations, but rather all private law. Scots law, in contrast, does not regard good faith as the fundamental basis of private law, even though the concept does exist in particular areas of private law. Although Scots law is familiar with the Civilian subjective good faith, it has not yet recognised good faith as the highest norm of all private law. In fact, in the Scots law of contract there are only certain contexts in which contracting parties are required to be in accordance with good faith. This difference stems from the fact that Scots law developed its own law, not always following the Civilian tradition. Also, there is an influence from English law, where good faith is not regarded as a fundamental basis of private law. Thai law, on the other hand, mainly followed the Civilian approach as a result of the reception of foreign law in Thailand.

