

CHAPITRE 1 : LES SOURCES DES OBLIGATIONS

Obligation : lien de droit entre deux ou plusieurs personnes. Si l'on prend le lien entre 2 personnes, c'est le créancier (coté positif de l'obligation) et le débiteur (coté négatif de l'obligation).

Il y a 2 types d'obligations :

- **L'obligation civile**, signifie qu'en cas de non respect de cette obligation celle-ci a vocation à être sanctionnée par l'intervention judiciaire. Le créancier va pouvoir faire valoir son obligation auprès des juges.
- **L'obligation naturelle**, elle a cette particularité de ne pas pouvoir être sanctionnée par le juge. Elle est très proche d'un devoir morale.

En droit il y a 5 sources d'obligations.

I / Les obligations d'origine légale

Les obligations d'origine légale sont très nombreuses et sont étudiées avec la branche du droit qui les prévoit : c'est ainsi que l'obligation alimentaire, par exemple, est étudiée avec le droit des personnes et de la famille.

II / Les obligations d'origine délictuelle ou quasi-délictuelle

Article 1240 : « tout fait quelconque de l'homme, qui cause à autrui un dommage, oblige celui par la faute duquel il est arrivé, à le réparer ».

Il ne faut pas confondre la **responsabilité civile** avec la responsabilité pénale. La responsabilité pénale a pour obj de sanctionner un comportement d'un individu, ou d'une société. L'obj de la responsabilité civile est de **réparer le dommage qui a été causé à autrui**.

La différence entre une **responsabilité civile délictuelle ou quasi-délictuelle** :

- Quasi-délictuelle : le dommage est causé de manière non intentionnelle (par imprudence, inconscience...).
- Délictuelle : le dommage causé par autrui a été provoqué de manière intentionnelle.

La responsabilité civile délictuelle ou quasi-délictuelle doit être également distinguée de la responsabilité civile contractuelle.

III / Les obligations d'origine quasi-contractuelle

Avec le quasi-contrat, une obligation naît, pour celui qui en profite d'un fait accompli par une autre personne, en dehors de tout contrat, mais qui engendre des conséquences comparables à celles qui naîtraient d'un contrat.

1) La gestion d'affaire

Selon l'**article 1301**, « celui qui, sans y être tenu, gère sciemment et utilement l'affaire d'autrui, à l'insu ou sans opposition du maître de cette affaire, est soumis, dans l'accomplissement des actes juridiques et matériels de sa gestion, à toutes les obligations d'un mandataire. »

En outre, le gérant « est tenu d'apporter à la gestion de l'affaire tous les soins d'une personne raisonnable ; il doit poursuivre la gestion jusqu'à ce que le maître de l'affaire ou son successeur soit en mesure d'y pourvoir. » (article 1301-1).

Les Sources Des Obligations

Royal Society of Canada



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Manuel Élémentaire de Droit Romain Paul Frédéric Girard, 1911 *Mémoires Et Comptes Rendus de la Société Royale Du Canada* Royal Society of Canada, 1917 **Law, Norms and Freedoms in Cyberspace / Droit, normes et libertés dans le cybermonde** Cécile de Terwangne, Elise Degrave, Séverine Dusollier, Robert Queck, 2018-05-29 Professeur chercheur directeur de centre doyen et recteur Yves Poulet s'est illustré dans toutes les tapes et fonctions d'une carrière universitaire bien remplie marquant des générations d'étudiants de chercheurs de collègues et de pairs Spécialisteminent et incontournable du droit de l'internet et des technologies de l'information et de la communication il en est aussi l'un des précurseurs en fondant dès 1979 un des premiers centres de recherche européens en la matière Par cet ouvrage collègues amis anciens doctorants rendent hommage à l'une des plus belles plumes de la discipline en lui offrant leurs réflexions sur l'influence réciproque du droit et de la technologie Leurs contributions montrent l'étendue de l'expertise et des réseaux européens et internationaux d'Yves Poulet Elles s'articulent autour de trois axes qui furent autant de perspectives dans lesquelles il a inscrit sa recherche le droit les normes et les libertés La richesse de ce volume témoigne de son attention à l'humain des amis à qui il a ouvert des sillons qu'il a tracés en droit des technologies de l'information et de la communication sillons dans lesquels a poussé une forêt luxuriante toujours fertile C'est le héritage d'un grand penseur d'un véritable universitaire Yves Poulet has not merely served but excelled in all functions of the University world Whether as professor researcher director of a research centre or as dean and rector he has left a lasting impression in the minds of generations of students researchers colleagues and peers He is a preeminent expert on the law of Internet and Information and Communications Technologies who already in 1979 pioneered one of the first European research centres in the field This volume is a tribute to Yves Poulet from colleagues friends former PhD researchers offering their reflections on the reciprocal influence of law and technology These contributions highlight both the range of expertise and the extent of the European and international networks he has nourished They address the three main research axes Yves Poulet has developed through the years law norms and freedoms The authors of this volume pay homage to a mentor a friend but above all to an exceptional researcher who has sown countless seeds in the field enabling a luxurious landscape to grow and become a source of inspiration for many scholars This is the heritage of a genuine thinker a real academic *Proceedings of the Royal Society of Canada* Royal Society of Canada, 1916 Dictionnaire D'archéologie Chrétienne Et de Liturgie, Publié Par Le R. P. Dom Fernand Cabrol ... Avec Le Concours D'un Grand Nombre de Collaborateurs Fernand Cabrol, 1910 *Éléments de droit romain* Gaston May, 1894 Proceedings and Transactions Royal Society of Canada, 1917 La Revue critique de législation et de jurisprudence du Canada, 1875 Host Bibliographic Record for Boundwith Item Barcode 30112002644547 and Others, 1907 **Revue trimestrielle de droit civil**, 1909

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