

## 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

**N Colangelo**



## Les Sources Des Obligations:

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**La Revue critique de législation et de jurisprudence du Canada**, 1875      **Host Bibliographic Record for Boundwith Item Barcode 30112002644547 and Others**, 1907      *Histoire du droit privé de la République athénienne ...: Le droit des obligations* Ludovic Beauchet, 1897      Brochure - International Chamber of Commerce International Chamber of Commerce, 1929      Revue trimestrielle de droit civil, 1909      **Recueil Des Traités** League of Nations, 1926

**Éléments de droit romain** Gaston May, 1894      **Manuel du droit fédéral des obligations** Virgile Rossel, 1892

*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 Pouillet 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 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 Pouillet 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 qu'il a noués mais aussi 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 l'héritage d'un grand penseur d'un véritable universitaire Yves Pouillet 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 Pouillet 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 Pouillet 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      **Le droit commun international comme source du droit international privé** Daniël Josephus Jitta, 1910

**Le nouveau droit des contrats et des obligations. 2e éd.** François Chénédé, 2018-08-16 Longtemps espérer un temps enterré la forme du droit des obligations va voir le jour L'v nement est historique si le droit des personnes et de la famille a connu tout au long du XXe siècle de nombreuses et profondes réformes législatives le Titre III du Livre III du Code civil tient quant à lui demeure pour l'essentiel dans son jus de 1804 Cet ouvrage expose les grandes lignes de cette forme il rappelle sa genèse Partie I présente son contenu en partie modifié et clair lors de la ratification de l'ordonnance en mettant en lumière les consécutions jurisprudentielles les innovations mais aussi les questions restant en suspens Partie II et envisage brièvement les suites venir de cette forme Partie III      Les Obligations en Droit Romain P. A. H. van Wetter, 1884      *Éléments de droit romain à l'usage des étudiants des facultés de droit* Gaston May, 1909      *The Canada Gazette* Canada, 1909      *Manuel du droit fédéral des obligations* Jacottet, 1884      Précis de droit romain, contenant, avec l'exposé des principes généraux, le texte, la traduction et l'explication des Institutes de Justinien Calixte Accarias, 1881      *Traité des obligations en général* René Demogue, 1923

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