

INTRODUCTION TO SPANISH PRIVATE LAW

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Private Patrimonial Law

- Law of obligations:
 - Obligations
 - Contracts
 - Quasi-contracts
 - Civil liability
- Law of things:
 - Property
 - Right on someone else's things
 - Registry law

Person's Law

- + Natural persons
 - Civil capacity
 - Legal capacity
 - Total
 - Limited:
 - Emancipation
 - Incapacitation
 - Special capacities
- + Artificial persons:
 - Public Law
 - Private Law:
 - For profit:
 - Corporations
 - For non-profit:
 - Foundations and Associations

Representation:

-Legal

-Voluntary:



Contract Law:

- Contract: Agreement between two or more persons that creates rights and obligations between them.
- Principles of contract Law:
 - Perfection through consent (art.1.258 CC)
 - Obligations arising from contracts are law between the parties (art. 1.091 CC)
 - Autonomy of will / freedom of contents (art. 1.255 CC)
 - Freedom of form (art. 1.278 CC)

Elements of contracts

- Natural
- Accidental: condition, term, modus
- Essential:
 - Consent (free / sufficient capacity)
 - Object
 - Cause or consideration

Effects of the contract: the obligation

- Obligation: legal relation between two persons (debtor and creditor) that leads to one of them obtaining goods and services from the other secured by all the patrimony of the person obliged
- Types of obligations:
 - Object: positive/negative;
specific/generic;
simple/complex (cumulative, alternative, optional)
divisible/indivisible
principal/subordinate
 - Bond: pure/conditional/subject to term
 - Subjects: joint but not several/joint and several

Non-performance of obligations

- **Non-performance of obligations:**
 - Total breach
 - Defective or inadequate performance
 - Late performance: debtor's delinquency

 - Consequences: a) action for performance or termination; b) compensation for damages

- + **Liability for non performance:**
 - Fault or negligence
 - Deceit
 - Delay

- + **Non-performance without liability:** Act of God or force majeure

Non-contractual liability

- Breach through fault or negligence of a general rule of conduct causing damage (art. 1.902 CC)
- Requirements:
 - Unlawful act or omission
 - Fault or negligence. Exception: strict liability
 - Damage
 - Causation: link between conduct and damage

Real Rights or rights in rem

- Real right: Direct and immediate power over a thing that the others have to respect (direct power, universal power, exclusion power, pursuit power)
- Types of rights in rem:
 - Total: property
 - Limited:
 - a) Of enjoyment: usufruct, use, habitation, easement, surface
 - b) Of acquisition: option, first refusal, redemption
 - c) Of guarantee: pledge, mortgage

Family Law and Succession Law

- Family Law:
 - Economical system of marriage:
 - a) Community of gains; b) Separation system
- Succession Law:
 - Testamentary:
 - + Heir testamentary: the legitime
 - + Legatees: particular successors
 - Intestate:
 - + Heirs at law: a) descending line; b) ascending line; c) spouse; d) collaterals up to fourth degree; e) state