

民法の条文の訳例

1. 民法第1条の例：

第1条

- (1) 私権は公共の福祉に遵ふ。
- (2) 権利の行使及び義務の履行は信義に従ひ誠実に之を為すことを要す。
- (3) 権利の濫用は之を許さず。

訳例1：

Section 1.

1. All private rights shall conform to the public welfare.
2. The exercise of rights and performance of duties shall be done in good faith and in accordance with the principles of trust.
3. No abusing of rights is permissible.
(The Civil Code, Eibun-Horei-Sha)

訳例2：

Section 1.

1. All private rights shall be exercised in conformity with the public welfare.
2. All rights shall be exercised and all duties shall be performed in good faith.
3. No right shall be exercised in an abusive manner.

2. 民法第54条の例：

第54条

理事の代理権に加へたる制限はこれを以て善意の第三者に対抗することを得ず。

訳例1

No restriction place on the power of representation of any director can be set up against a bona fide third person.
(The Civil Code, Eibun-Horei-Sha)

訳例 2

No restriction upon the power of a director to represent a juristic person shall be valid against a [third person without knowledge] OR [*bona fide* third party who has no notice or knowledge].¹

[Translator's note: "Without knowledge" is the translation of *zen-i*.

Sometimes *zen-i* is literally translated in "good faith." However, the word

zen-i always means without knowledge or without notice in a legal context.]

3 . 民法第 90 条の例 :

第 90 条

公の秩序又は善良の風俗に反する事項を目的とする法律行為は無効とす。

訳例 1 :

Section 90.

A juristic act which has for its object such matters as are contrary to public policy or good morals is null and void.

(The Civil Code, Eibun-Horei-Sha)

訳例 2 :

Section 90

A juristic act [purporting an object] OR [with an object or purpose]² contrary to the public order or good morals is null and void.

[Translator's note: Juristic act (Rechtsgeschaef) means an act of expression of a will intending to create a legal effect.]

¹ "*Bona fide* third party" is an easily recognizable concept to lawyers trained in the common law. Using the phrase could on the one hand be helpful in allowing an English language reader to quickly come close to grasping the concept, but at the same time has the risk of creating a (potentially) false expectation that the common law concept of a "*bona fide* third party" is identical in all respects to the concept of a 「善意の第三者」, which may not always be the case.

² "Purporting" may be a little hard for some English readers to follow in this context.

4.民法 91 条の例：

第 91 条

法律行為の当事者が法令中の公の秩序に關せざる規定に異なりたる意思を表示したときはその意思に従う。

訳例 1：

If the parties to a juristic act have declared an intention which differs from any provisions of law or ordinances which are not concerned with public policy, such intention shall prevail.

(The Civil Code, Eibun-Horei-Sha)

訳例 2 .

If a person expresses, through a juristic act, an intention that varies from a provision of any law or regulation (other than a law or regulation that relates to public order), such intention shall [prevail] OR [be respected].³

³ This strikes me as an extremely difficult provision to translate!