

FEMALE LEGAL IDENTITY

IN MEDIEVAL SPAIN

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CONTENT WARNING

**THIS CLASS CONTAINS
DISCUSSION OF SEXUAL
VIOLENCE AGAINST WOMEN.
VIEWER DISCRETION IS
ADVISED.**

CLASS OUTLINE

POINTS FOR DISCUSSION

Historical Context

Significant Moments in Spanish Law

The Ius Commune

Legal Constructions of Female Identity

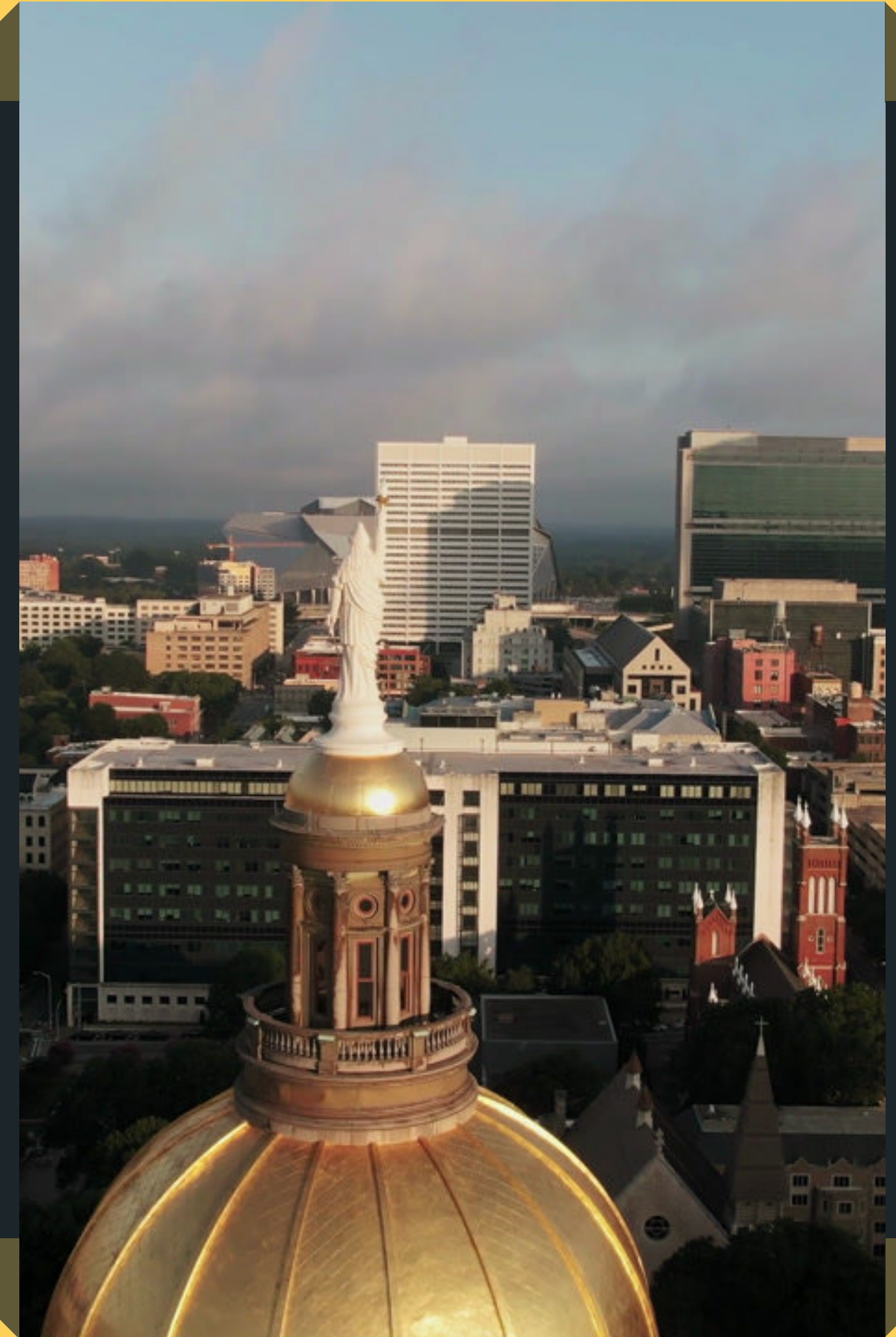
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“Man is of better condition than woman in many things and in many ways.”

SIETE PARTIDAS

HISTORICAL CONTEXT

13TH CENTURY IBERIA



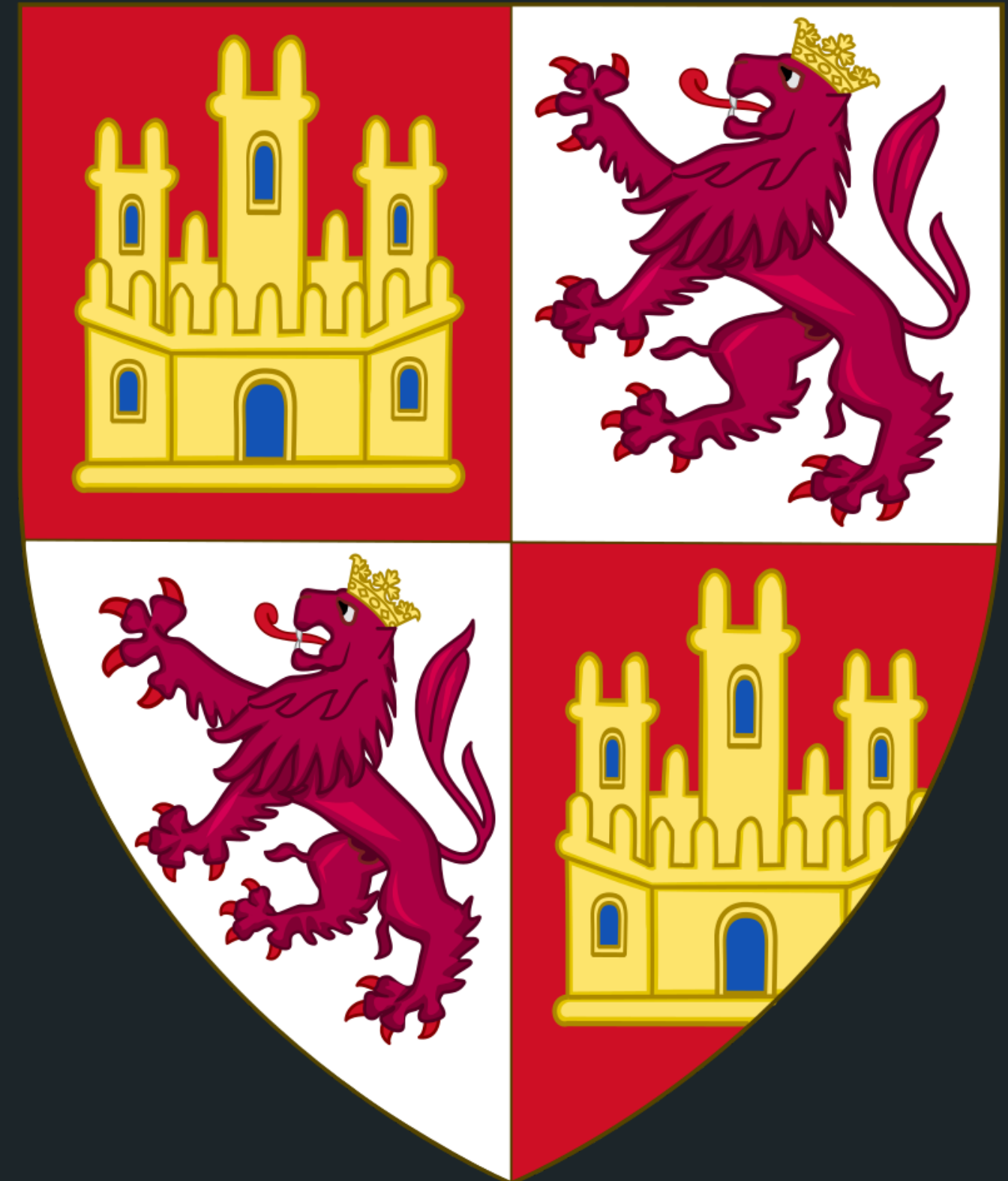
CROWN OF ARAGON

- Late 13th - early 14th century
- 1229-1324: Catalano-Aragonese monarchs (Jaume I, Pere II) expanded territories into Mallorca, Sicily, southern Italy & Sardinia
- Intellectual interchange of scholars from across Europe
- Development of shared legal culture based in the Mediterranean and spread north of the Alps & Pyrenees to continental Europe



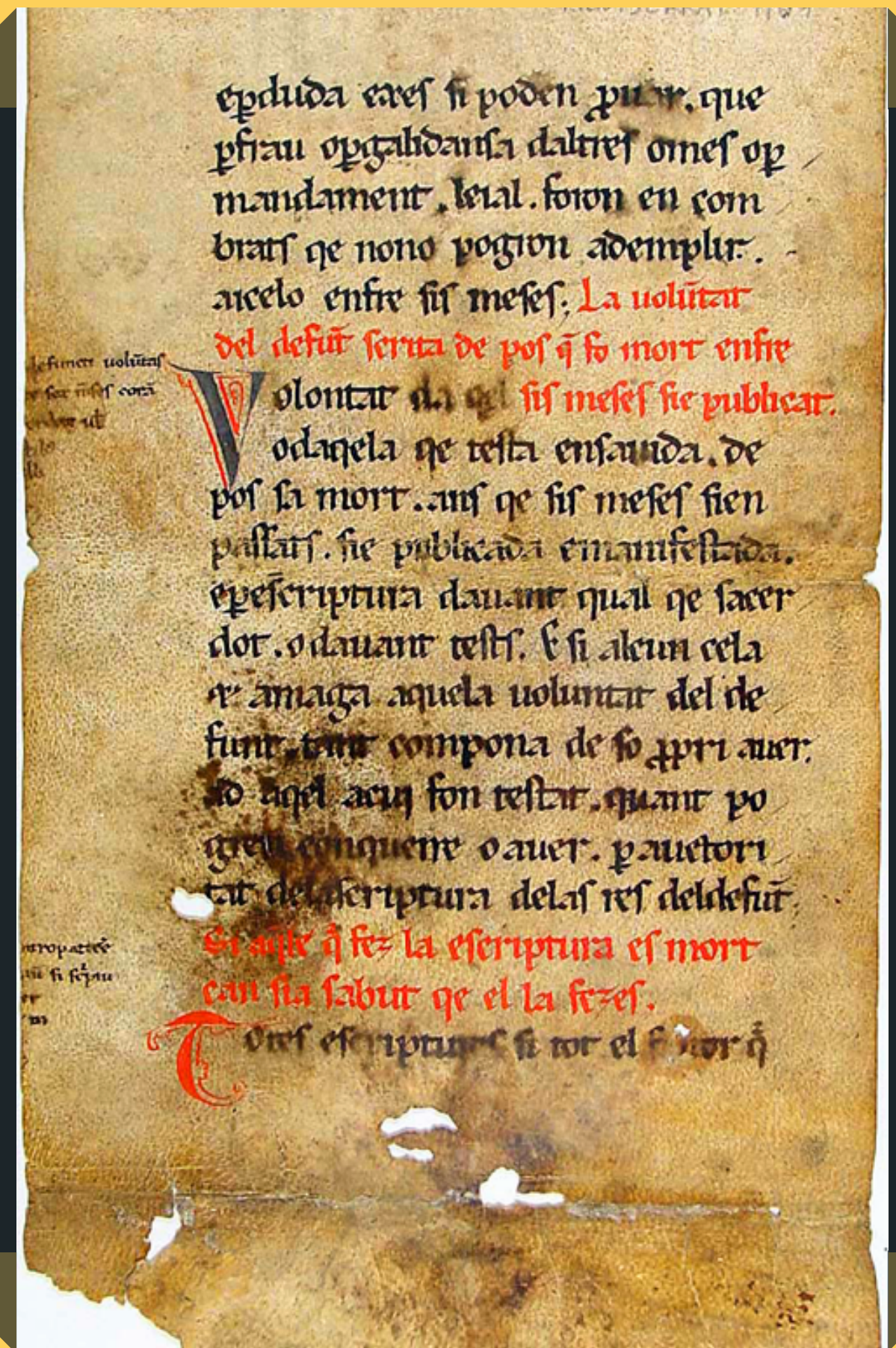
CROWN OF CASTILE

- Alfonso VI of Castile and León (d. 1157) - divided kingdom between sons
- Crown of Castile reunited the kingdoms of Castile and León, plus all southern territories reconquered from the Moors
- Taifas of Córdoba, Murcia, Jaén, and Seville
- Alfonso X (1221-1284) fostered multicultural & multilingual court - included Christian, Jewish & Muslim scholars
 - Encouraged use of vernacular Castilian over Latin
 - Introduced first vernacular law code in Castile (Siete Partidas)
 - Also introduced consistent judicial system across Castile



SIGNIFICANT MOMENTS

IN SPANISH LAW



Moments in Spanish Legal History

642-643

Visigothic Code
(AKA Liber
Iudiciorum, Libro
de las Jueces)
promulgated by
King Chindasuinth

654

Visigothic Code
expanded by King
Recceswinth -
transition from
Roman law to
Germanic law

1238

Fuero General de
Navarra (General
Charter of
Navarre) codified

1241

Fuero Juzgo
enacted in Castile
by Ferdinand III -
translation of
Liber Iudiciorum

Moments in Spanish Legal History

1261

Furs de València
(Charter of
València) codified
under James the
Conqueror

1255

Fuero Real (Royal
Charter) compiled
under Alfonso X
of Castile

1265

Siete Partidas
(Seven-Part Code)
compiled under
Alfonso X of
Castile

THE IUS COMMUNE

ROMAN COMMON LAW ARRIVES



BASIC INFORMATION

- Combination of Roman law (corpus iuris civilis) and canon law (corpus iuris canonici)
- In Crown of Aragon, ius commune was layered over existing local or regional laws and traditions as well as the existing Visigothic law codes (Liber iudiciorum)
- By 1359, Pere III requires advocates, judges & assessors to be familiar with the legal principles of either the Corpus iuris civilis or the Corpus iuris canonici

GENDERED ASSUMPTIONS IN IUS COMMUNE

1. Fragilitas - weakness
2. Imbecilitas - incapacity
3. Verecundia - female modesty/shame

Under classical Roman law, women were often consigned to guardianship under a man, and were treated as permanent minors due to their perceived weakness and inability to handle their own legal affairs

GENDERED ASSUMPTIONS IN CANON LAW

- Biblical ideas that reinforced a strict gender hierarchy
- Theological assumptions about the nature of women (inherently weak and incapable)

“Regarding witnesses: condition, nature, and manner of life should be considered.

Condition: that they be free, not slave, because sometimes a servant may be pressured by his master to suppress the truth. Nature: that they be male, not female, for females always produce varying and changeable testimony. Manner of life: if guiltless and irreproachable of deed. “ (Gregory IX, Liber extra, quoting Isidore of Seville)

GENDERED ASSUMPTIONS IN ARAGON

- Natural subordination of women to men
- Female weakness/incapacity
- Natural womanly modesty

Women derive all social status from their relationship to men

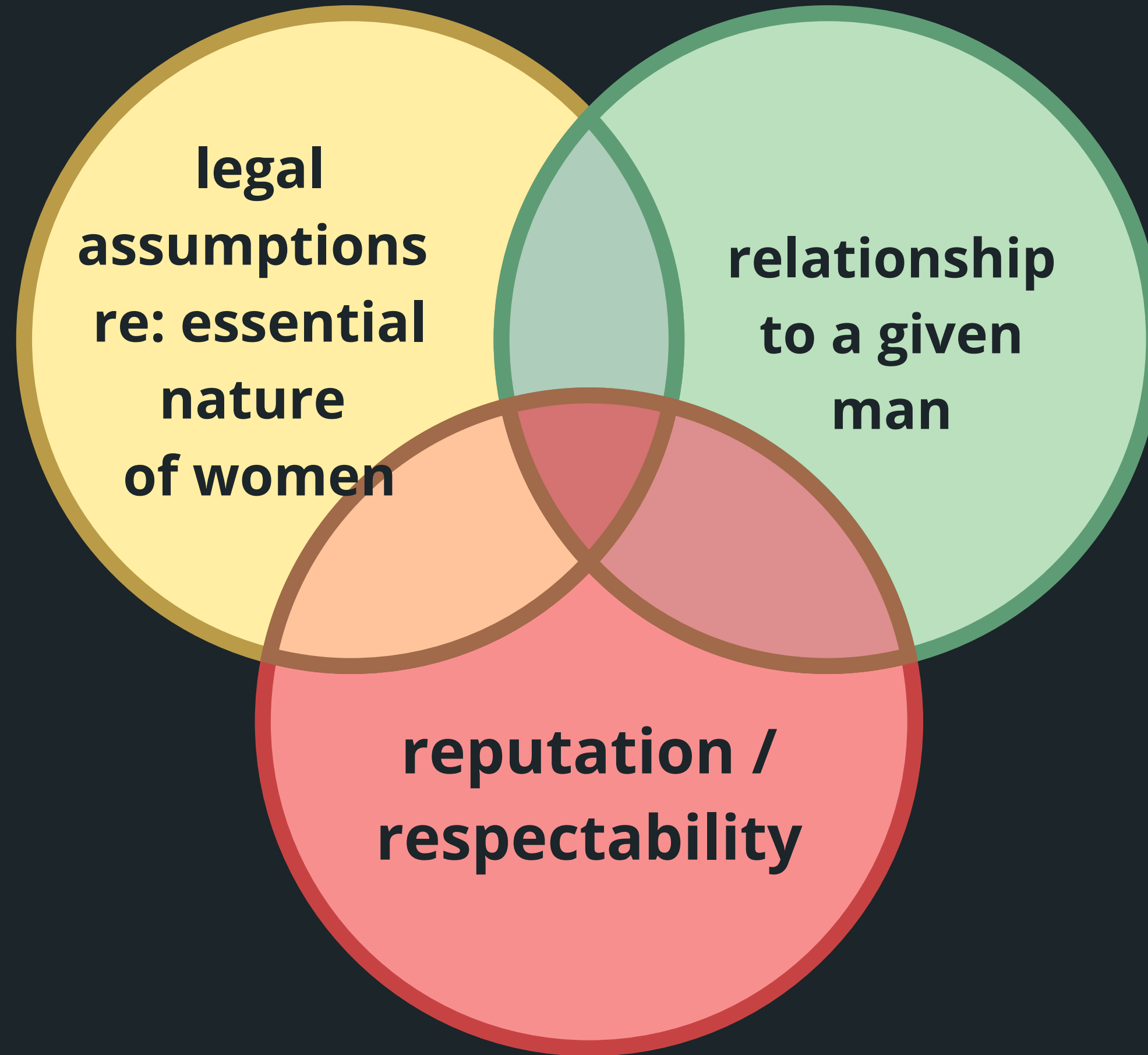
- husband, if married or widowed
- nearest male relative if unmarried

LEGAL CONSTRUCTS

OF FEMALE IDENTITY



FACETS OF IDENTITY





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