

# Law and morality in business ethics and politics

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51E00100 Business ethics  
Philosophy of management  
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# Structure of the session

- Recap of spaceship exercise
- Basics of philosophy of law
- Implications to business ethics and politics (of SD & CSR)

BREAK

- Group work & discussion

# What was the idea of the task?

- To "create" a self-sustaining society
- To consider how values, ideologies etc. clash during such organization (consider how good society is constantly re-negotiated)
- Other learnings?
- To get food for thought for this session

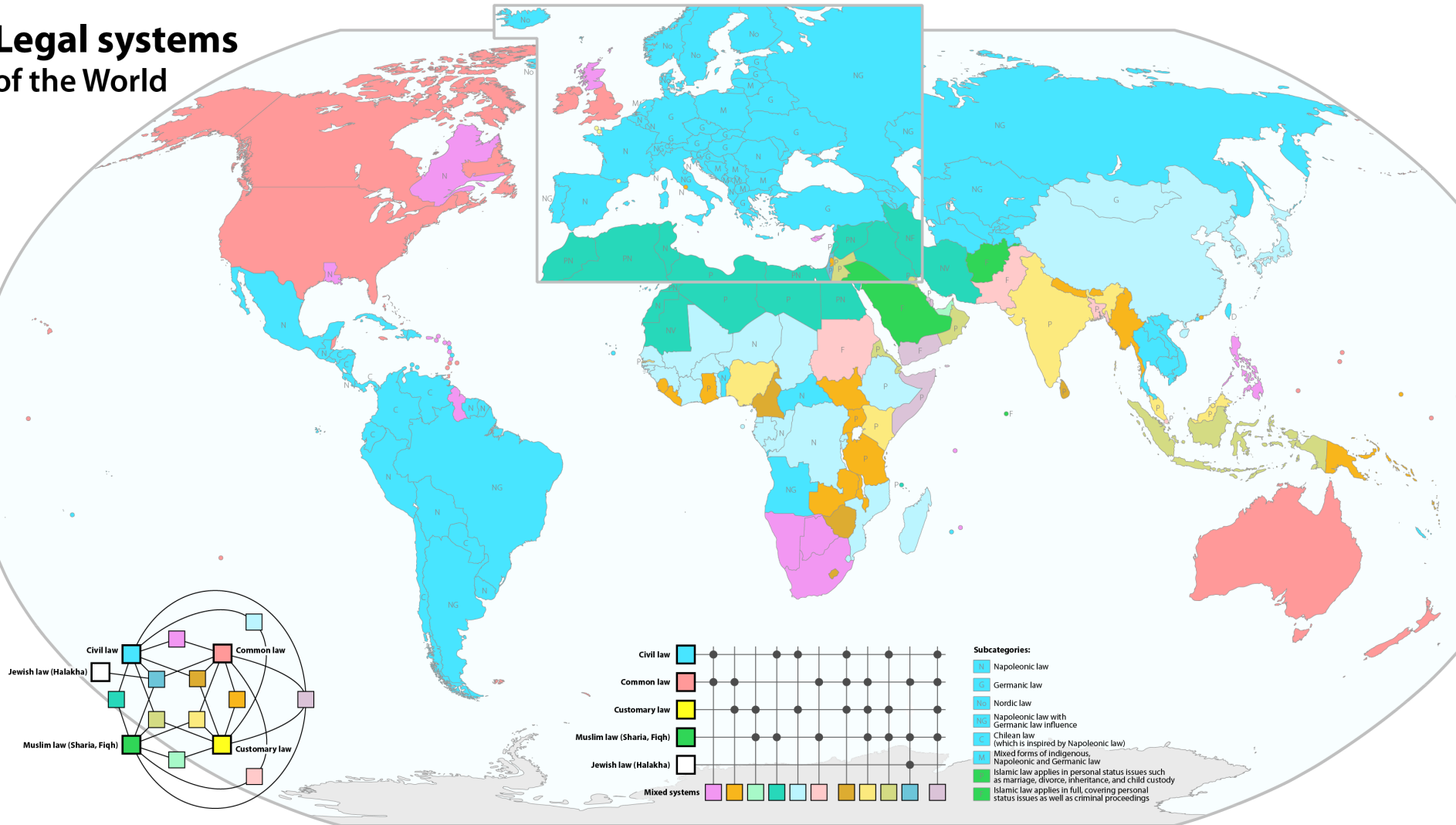
# Basics of philosophy of law

# Focus of analysis

- Law and legal institutions
    - Different legal systems (cf. for example common law vs. civil law)
    - Law and morality (intersections, distance, etc.)
    - Justifications → normative research
  - Often abstract in above terms but has **connection to applied ethics and political philosophy** via specific questions that can be analyzed from different viewpoints
- We concentrate in the intersections

# Different legal systems

## Legal systems of the World



From: Wikipedia/Maximilian Dörrbecker (Chumwa) using World map by Canuckguy and others UNESCO World Heritage map by NNW

# Intersections

- Limitations of law in terms of morality leading to, e.g.
  - Political CSR
  - Punishments that are not considered justified by the public and/or legal scholars (e.g. reliefs of rape sentences by Eastern Finland Court of Appeal during 2000s → still ongoing discussion)
- Law and economics (drawing from Chicago school/neoclassical economics) → critique: Is the fundamental aim of law to "boost economy" (and not to protect people or nature, etc.)?
- Intersections of political ideologies and law → critique: is law independent of ideology or is it supporting existing power structures?

# Implications to business ethics and politics (of SD & CSR)



# International governance and the limits of nature

- Environmental problems are global → solutions need to be global
- However, international binding regulation over environmental issues does not exist, e.g. in terms of usage of natural resources and polluting (cf. Rio 1992 and following negotiations)
- Counterarguments for binding regulation have been especially interruption of markets (assumption of free markets) and slowdown and/or end of economic growth
- However, there is plenty of international binding regulation in questions of free trade (and large scale of ongoing negotiations, e.g. TTIP)
- Levels of regulation in international agreements
  - International: often **commitments** of commonly agreed **goals**
  - National: **possibly binding regulation**, often only **committing via different forms of signatures**
  - Actor/company: **voluntary programs**, e.g. CSR, certificates

# Legal perspectives

- Corporate law behind the colonialization:
- Effect of law and economics school (cf. Chicago school)
  - Basic assumption is the willingness of owners to maximize profits
  - Thus, e.g. the value of environment is defined only as what is defined as *commodities in markets* at each moment (cf. oil, ores) → diminished to economic value; "resources"
  - Although European corporate law does not "force" to focus only on maximizing economic profits, the effect of Anglo-Saxon culture creates expectation of raising economic interests over others
  - NB! *Creating* profit does not equal to *maximizing* profit!

# The paradox of voluntary regulation (and regulatory bodies)

- In binding regulation\*
  - Someone else, normally from democratic basis, defines rules that guide actions
  - Breaking the rules is supervised and a punishment follows; the punishment is also defined by an independent system
- In voluntary "regulation"
  - The actors themselves define the rules
  - The actor or civil society (no power to punish) "supervises" whether rules are followed
  - Normally the maximum "punishment" is (momentary) loss of reputation, and possibly promises to improve operations in future (CSR)
- For example, Rana Plaza 2013 case and the industry responses\*\*

\*Cf. 450 years old judicial instructions:

<https://oikeus.fi/en/index/esitteet/olauspetrintuomarinohjeet.html>

\*\* Steven Greenhouse & Stephanie Clifford (10 July 2013). ["U.S. Retailers Offer Plan for Safety at Factories"](#). *The New York Times*.

# Options for current regulatory and economic system... (in terms of legislation)

- Ecological economics and environmental economics since 1970s
- Alternative governance models (e.g. Earth system governance and minor system level changes; e.g. altering business-related legislation, financial experiments)
- Strong scientific background in recognizing environmental and social problems and their background reasons (cf. climate change and current Trump policies)
- Especially in Europe no actual legislative obstacles to govern economic action in different way(s)

...and the impossibility of implementing them

- Policies widely directed by neoclassical economics (and interest groups close to industries and financial world)
- Institutions of environmental governance started to be built during the era of growing neoliberalization
- Today, also public sector is expected to be measured with productivity which increasingly lessens national incentives to reformulate policies towards environmental sustainability

→ *Problems are not based on lacking knowledge or legislative possibilities but **political and cultural***

# Group work & discussion

# One case (Dakota access pipeline conflict), different perspectives

## General guidelines

- Search information about the case and how it proceeded
- Answer specific but also common questions where applicable
- Common questions to all groups:
  - What was AND should be main learnings from the case and from which actors (companies, legislators, civil society, etc.)?
  - What are the intersections of (possibly needed) legislation and morality (consider whose morality)?

**Specific questions about / points to reflect different level ethical issues** and possible solutions in the case:

- Group 1: Individual (as specific stakeholder/interest group, as manager etc.) and company (collective societal actor)?
- Group 2: Society and economy?
- Group 3: Near and global nature?

**All groups**, please also utilize formerly discussed suitable ethical and justice frameworks and other learnings from the course for your **argumentation!**

# References and additional readings

- Andersen, Paul ja Sørensen, Evelyne. 2011. The principle of shareholder primacy in company law from a Nordic and European regulatory perspective. In: Hanne Birkmose, Mette Neville ja Karsten Engsig Sørensen (eds.) *The European Financial Market in Transition*. Alphen aan den Rijn: Kluwer Law International, 169-198.
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