



Organizational Sociology

Lesson 3

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James Coleman (1974): Power and the structure of society. New York: Norton and Company.

Common Sense: Society as a huge network of persons. Or of roles and role relationships, respectively.

Maybe valuable ideas, but neither of these concepts nor further theories in social sciences take into account that society changed fundamentally during the last centuries.

But: What did change then?

The elements of society changed. In concrete terms: A new element added to society: Organization. The corporate actor.



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Law as a sensitive indicator:

While many social scientists still think that organizations are (or at least should be) centered around humans and their actions, wills, relationships, interests or needs ...

... law treats organizations as persons *sui generis* themselves: They can – at least today – be made responsible for their actions, can be taken to court, can fall into bankruptcy, etc.

Still: Intangible persons. Examples?

Examples: churches, corporations, labor unions, towns and municipalities, ...



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Coleman's books centers on the distinction between these two types of actors.

Legal persons do not have ...

- A limited span of life, i.e. they are immortal
- A physical body, i.e. they cannot be put into prison (however, still they can be sentenced to death)

On the other hands: Are natural persons defined by their physical, mortal existence (bondslaves, monks, Jews, etc)?

First question: How did they legal persons evolve?

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How did these juristic or legal persons evolve?

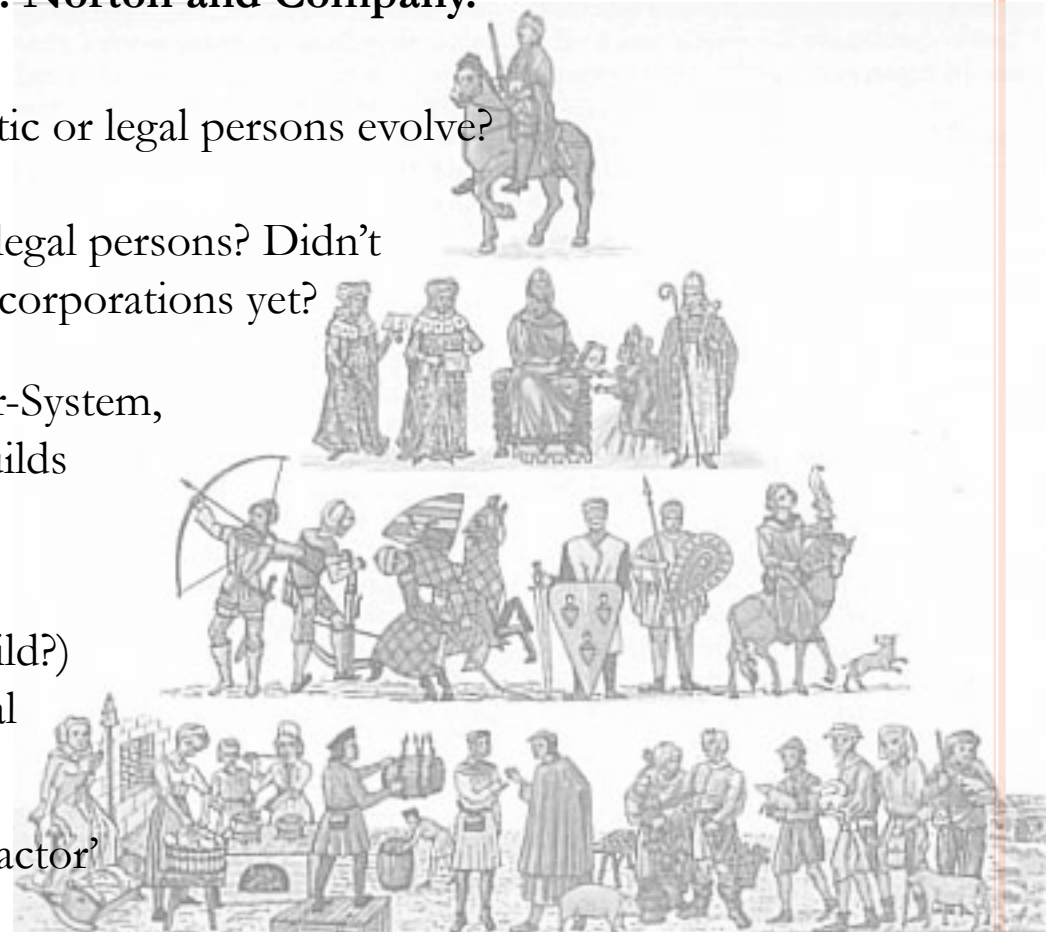
What is new about legal persons? Didn't the Medieval know corporations yet?

Lordship- or Manor-System,
Villages, Towns, Guilds

Difference?

Total inclusion (Guild?)
Part of the Medieval
hierarchy

≠ 'free corporative actor'





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The history of the free corporative actor

Basic idea: It's all about interests and rights, i.e. the interests and rights of both natural and legal persons, and the interrelations between them.

Starting with the Medieval: What are the first 'legal persons'?

- Church
- Town
- King



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The Church

- Church as part of the household or manorial system
- Increasing independence of the church
- Work of baptized bondslaves
- Tithe

But: Who owns the tithe? Who owns the right to benefit from (part of) the bondslaves' work? Who can sell 'the church', the land it is build on, etc?

Answers:

- The four walls of the church (building)
- The saint the church is devoted to (St. Paul, St. Peter, etc)



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The Saint as fictitious person (13th Century)

- The saint has no other function than to represent a name (which can be used in the context of transactions)
- While priest come and go, St. Peter sells and buys land, buildings and further properties of ‘the church’.

As a result, the church itself (i.e. without referring to ‘its’ concrete saints), became a sort of a person
→ i.e. *somebody* who can close a contract

In concrete terms, the priest or the church authority has been perceived as a guardian or keeper of the church’s property, with the church being something like a minor (underage) child.



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Towns as legal persons (13th Century)

- Had special rights and special duties, defined and granted in the town charter
- If a town did something wrong, the king could penalize it (in all)
- If a town wanted to use a piece of land, *it* had to pay a rent (in all)

Some towns even sold (the benefits of) their rights, e.g. the ‘citizens of Nottingham’ sold some of their rights to levy customs to ‘the citizens of Retford’ as early as in 1225.

Isn't this like a deal between two persons?
The peculiar thing: This deal has been legal!



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Kings as legal persons (16th century)

- The special case of the ‘corporation sole’

- Kind Edward IV. sold land.

- Certain people claimed the deal illegal

- Reason being?

The king was only 9 years old! The king couldn't close contracts yet!

Counterargument: The kind is not just one person, but rather two persons in one.

-The moral natural person of the concrete king

-The immortal ‘state person’ (a legal person representing the state)



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Kings as two persons in one

- Ongoing controversy within the English society
- Difference between 'the crown' and its bearer
- Difference between the Monarch and the Monarchy (≠ Louis XIV)

Parliament makes Revolution against King Karl I while still printing a medal carrying the picture of the very King.



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The Trust

- Anti-Trust laws in the 19th/20th century USA
- Origins: Lombardy
- Context: Heritage laws
- Concrete practice: Giving heritage to trustee with more or less binding of what to do with it.

In the 14th century, wealthy Englishmen adopted the ‘trust system’. But why? And how?



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Trusting against king and country

- Passing his own wealth on to his successors has not been a great problem in English right of succession.
- Exception: The handing down of land.
- Problem: Death/Estate Taxes, sometimes even the confiscation of the land.

Solution?

- The land is transferred to a trust, i.e. a corporation (i.e. just a group of landowners) that formally owns the land.
- The trust makes the land available to its former owner, as well as to its successors.
- Access rights and property rights are divided
- No Death/Estate taxes (for the trust never dies).



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Results of the new form of trust

- Accumulation of wealth among the trust members
- Weakening of the (financial) position of the landlord or king
- Popularization of the 'legal person'
- Universities of Cambridge and Oxford as Universitae (i.e. Associations, German: Gesellschaften).
- Fictitious persons



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Similarities and differences between the fictitious, legal persons of the Medieval and the Modern Times

Similarities

- Not only natural, but also legal persons had rights and could conduct trade even in the Ancient times
- Medieval communities like villages had common properties (the commons)
- The church had been one of the most wealthy collective actor of the Medieval



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Similarities and differences between the fictitious, legal persons of the Medieval and the Modern Times

Differences

- The scale and the scope of legal transactions conducted by the new legal actors was not defined by the Medieval hierarchy anymore: Once granted a privilege, towns did not need to ask the king for permission to transfer it to some other corporative actor.
→ Citizens, and not the king, decided of how to make use of a privilege.
- Even persons who did not have but a short history as a natural person could accumulate resources and influence.



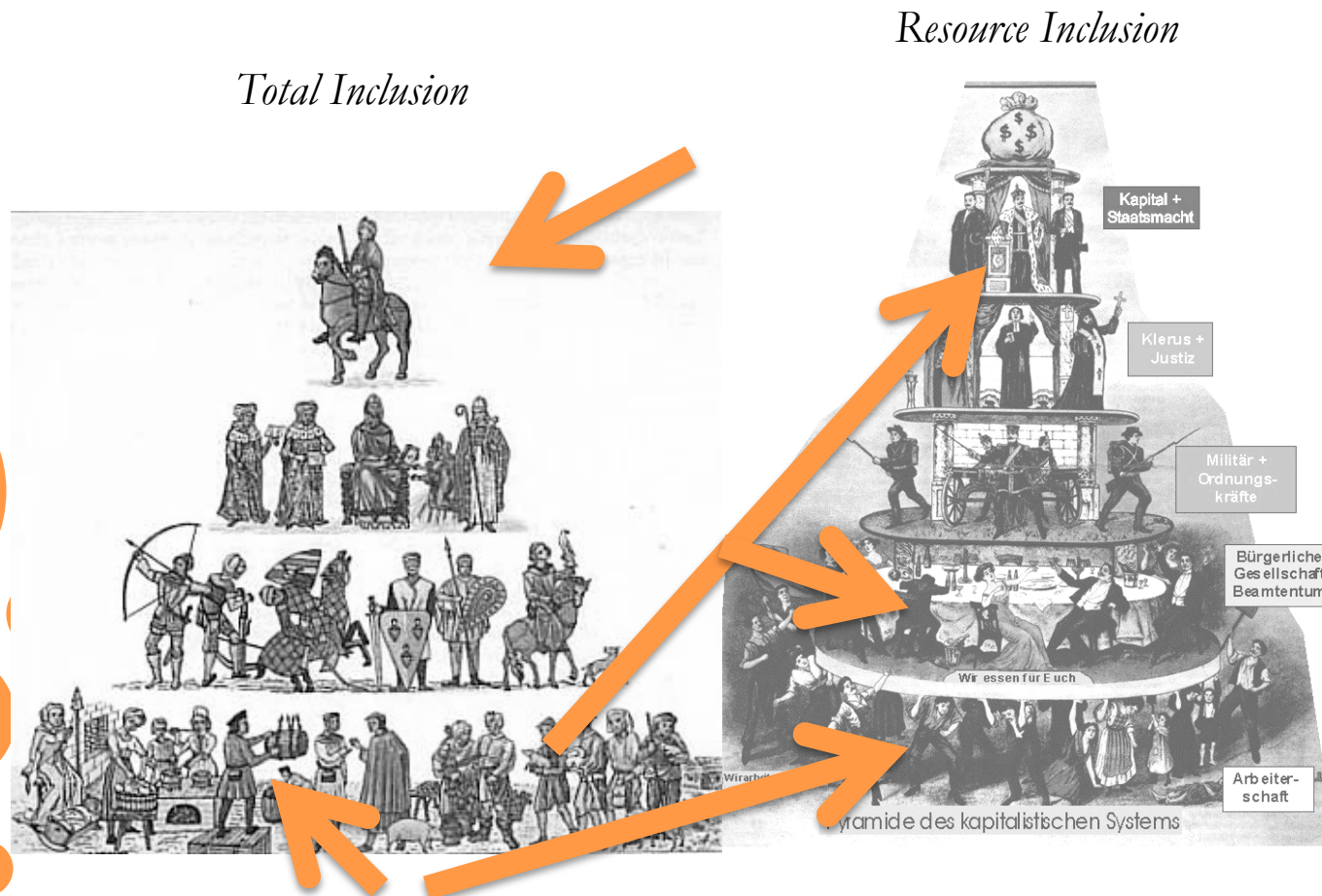
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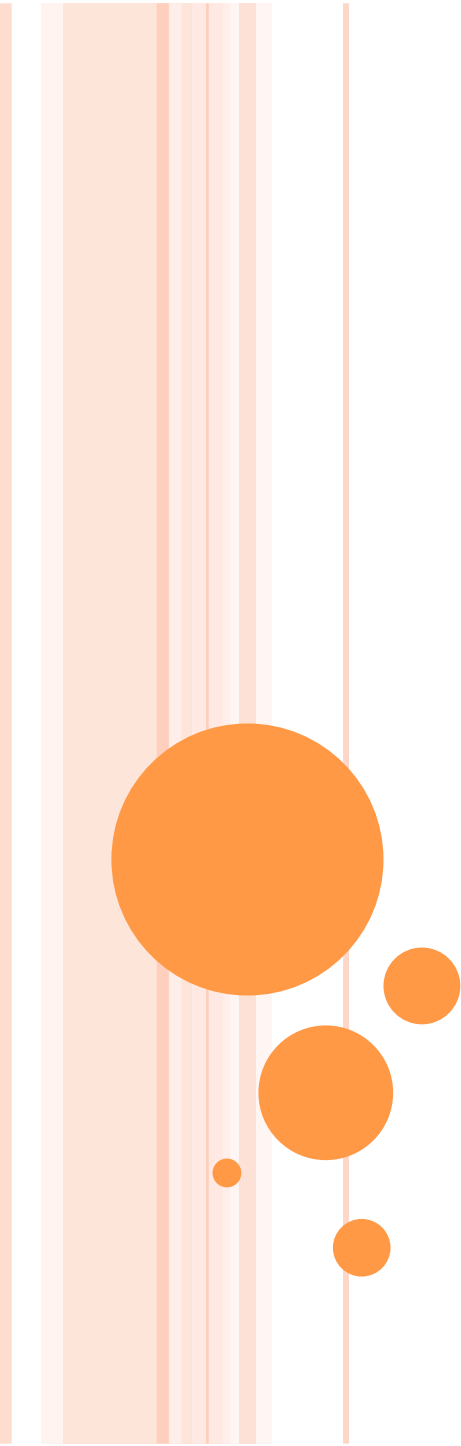
Differences

- In a certain way, the legal person was the shield and sword of those whose natural person wasn't as powerful as the ones of the nobles.

Impact on the social structure of the Medieval?



From the Subject to the Citizen



Next time: Organization, Hierarchy and Network

Just find out as much as you can about it ...

With regard to the special question:

How to define the border(s) of an organization??