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# Just culture in Europe and Beyond

## Setting the scene

ES2 WS2

Istanbul 20-21 September 2012

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**ES<sup>2</sup> - Experience Sharing to Enhance SMS –  
Programme 2012**

*SMS from the local perspective to the FAB*



**ES<sup>2</sup>-WS2-12 - JUST CULTURE – TIME TO DELIVER  
Implementation, Opportunities & Challenges**

**20-21 SEPTEMBER 2012 - ISTANBUL**

**- HOTEL WOW ISTANBUL HOTEL - DÜNYA TİCARET MERKEZİ YANI 34149 YEŞİLKÖY/ ISTANBUL**

Day 1 – 20th September 2012	
08:30	Registration
09:00	Welcome and introduction DHMI General Directorate of State Airports Authority of Turkey & EUROCONTROL
09:20	Session 1: Setting the scene – Just Culture in Europe and Beyond <i>Issues, trends and concerns – EUROCONTROL - Tony Licu - Head of Operational Safety Unit</i> Q&A
09:45	Session 2: Just Culture Deliverables: Model Policy, Support and Cooperation <i>EUROCONTROL Just Culture Task-Force – Roderick Van Dam – Chairman of Just Culture Task Force</i> Q&A
10:15	Coffee break
10:45	Session 3: Where are we – Judiciary & Safety investigation practice in Europe <i>Roderick Van Dam – Chairman of Just Culture Task Force</i> Q&A
11:10	Session 4: Just Culture in your Pocket <i>Best Practices for Just Culture - Job Brüggem – Safety Manager – ATC The Netherlands</i> Q&A
11:35	Session 5: What does Just Culture mean for Frontline Operators <i>IFATCA – Zeljko Oreski – European Vice-President</i> Q&A
12:15	Lunch Break
13:40	Session 6: EU Policy and Regulatory Approach <i>European Commission – Jean-Pol Henratty – Policy Officer DG MOVE/SES Unit</i> Q&A
14:10	Session 7: EASA ATM/ANS Standardisation & links to Just Culture <i>Enhancing Just Culture to ensure a high level of aviation safety &amp; Standardisation visits approach to Just Culture – EASA - Milen Dentchev – Head of ATM Standardisation Unit &amp; Clarisse Ribeiro – Legal Expert</i> Q&A
14:50	Coffee break



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15:20	Session 8: Just Culture Achievements in Airlines Industry <i>Application to the Flight Data Monitoring, regulatory aspects, hurdles obstacles and successes -Air France- Captain Bertrand de Courville</i> Q&A
16:00	Session 9: Just Culture Principles - Application at Corporate level <i>Implementing Just Culture principles, the need for a robust policy – including the use of automatic collection of safety data – ENAV- Giancarlo Ferrara – Head of Safety Division</i> Q&A
16:40	Session 10 - Moderated Q&A session on Just Culture and Legal issues , Organisational issues and relationship with Media, Roderick Van Dam & Tony Licu
17:15	Session 11 - Conclusions of Day 1 - Where did we come from? - Where are we going?

Day 2 – 21 <sup>st</sup> September 2012	
09:00	Session 11 : Quality of Reporting & Data Investigation in relation with potential judiciary interventions <i>How Quality Reporting can influence decision making - Tom Lintner – President and CEO The ALOFT Group</i> Q&A
09:30	Session 12: Legal & Judiciary View (the Prosecutor and the Judge view) <i>The judiciary and the application of just culture – discussion with a number of representatives from the Judiciary in a number of EUROCONTROL member States</i> - Bate ter Steege - Dutch Prosecutor- The Netherlands - Massimo Scarabelli – Judge GIP Italy Q&A
10:40	Coffee break
11:10	Session 13: Practical Occurrence Cases and Judicial interventions <i>All with moderator (Tom Lintner and speakers)</i>
12:30	Lunch break
14:00	Session 14: Just Culture – What Next? <i>Conclusions and way forward</i>
15:00	Closure



## European description of Just Culture

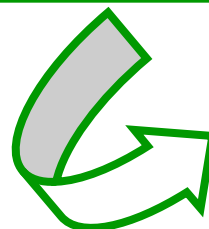
A culture in which front line operators or others are not punished for actions, omissions or decisions taken by them that are commensurate with their experience and training,

*but where gross negligence, wilful violations and destructive acts are not tolerated.*



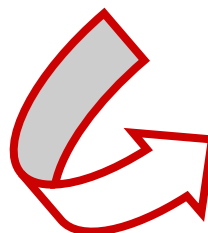
## "Forensic" of the Concept of Just Culture

Actions, omissions and decisions expected from someone with your level of training and experience



Not prosecuted

Gross Negligence or Willful Misconduct



Not tolerated

**BUT WHO DRAWS THE LINE ?**





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# Just Culture – on old issue

## Code of Hammurabi (1795-1750)

If a physician heals the broken bone or diseased soft part of a man, the patient shall pay the physician five shekels in money. If he were a freed man he shall pay three shekels. If he were a slave his owner shall pay the physician two shekels.

If a physician makes a large incision with an operating knife and cure it, or if he open a tumour (over the eye) with an operating knife, and saves the eye, he shall receive ten shekels in money. If the patient be a freed man, he receives five shekels. If he be the slave of some one, his owner shall give the physician two shekels.

If a physician makes a large incision with the operating knife, and kill him, or open a tumour with the operating knife, and cut out the eye, his hands shall be cut off. If a physician makes a large incision in the slave of a freed man, and kill him, he shall replace the slave with another slave. If he had opened a tumour with the operating knife, and put out his eye, he shall pay half his value.

(after prof. Hollnagel)





## Why do we need Just Culture ?

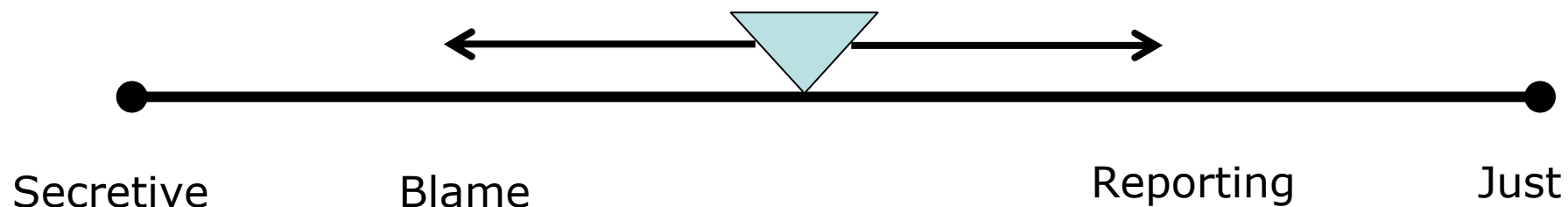
- Incident reports are essential to **aviation** safety;
- Need to ensure flow of information;
- Need to provide environment supporting reporting (and address “fear” of reporting);
- *Just Culture concept –supporting safety reporting in a culture that is “just” for all parties involved.*



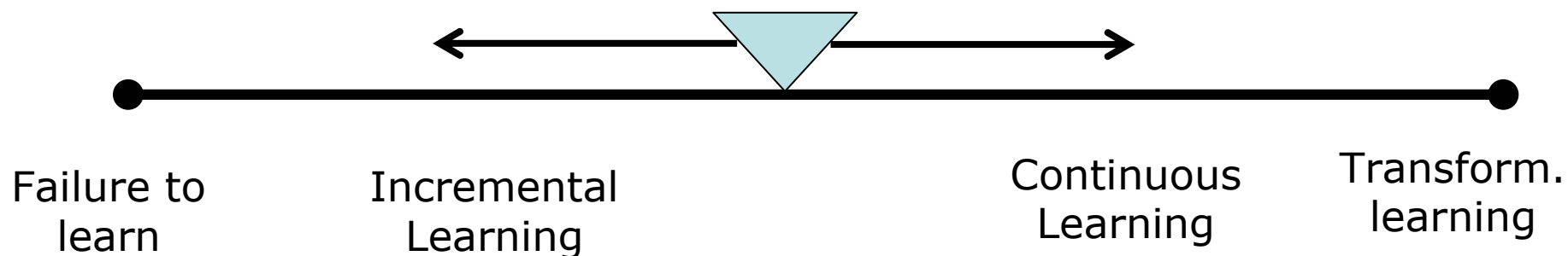


## Accountability vs. Learning

### “The Accountability Scale”



### “The Learning Scale”







## Moderns time and aviation “Criminalisation” -samples

- 1988, Air France - over Habsheim; PIC & F/O, 2 Air France officials & president of flying club charged with manslaughter; all found by the court guilty; PIC -6 months in prison, plus 12 months probation; the others were sentenced to probation;
- 1997- Japan Airlines MD-11- Captain prosecuted, found guilty - eventually acquitted by the Nagoya High Court on January 9, 2007;
- 1997-Ukrainian Yakovlev-42 - 2 ATCO's prosecuted; found guilty of manslaughter; sentenced to 5 years imprisonment- confirmed on appeal;
- 1999-Falcon 900 B - PIC and co-pilot (also a Captain) charged with **manslaughter** and causing bodily injury; trial court, captain guilty- 5 years; co-pilot acquitted; appeal-reduced the sentence to 36 months;
- 2006 -collision between American registered executive jet and a Gol Airlines 737 – crew of Legacy Jet and Brazilian ATCOs pursued



## Moderns time and aviation “Criminalisation” -samples cont’d

- Pilot of Garuda Airlines – accident March 07, 21 pax killed; July 08 Captain charged; faces life imprisonment
- Concorde – July 08 French judicial officials ruled Continental Airlines & 5 others charged; 113 persons killed
- April 08 Tokyo HC overturned lower courts acquittal of 2 ATCO’s and sentenced one to 12 yrs and the other 18 yrs (suspended); near collision of 2 JAL airlines;
- Captain of the Boeing-737 who survived the accident in Kyrgyzstan on 24 August 2008 detained; 65 pax killed; faces up to 15 years of imprisonment under the criminal code
- Helios Airways - 4 persons officially charged by Cyprus prosecuting authorities – Trial began 23 February 2009 and the recent sentence in 2012 (Head of Flight Operations; Head of Training, CEO and Accountable Manager)
- And many more... Linate , Ueberlingen, Cagliari



## Criminalisation of Aviation/ATM

- Criminalisation: Wrong term for a serious problem
- Balance between two goals:
  - Enhancing Safety and Administration of Justice
- No Extremes:
  - No immunities from Prosecution
  - No misuse of Prosecution/Judicial Powers
- Resolve at the root:
  - Protect reporting/investigation process
  - Establish prosecution policy
- Just Culture Concept (By Any Name)
- We need to separate JC in case of accidents and in case of incidents



## Why this shift in perception ?

- Technical failures vs. human failures;
- We tend to apportion responsibility and blame for outcome;
- We tend to retrospectively judge humans as autonomous and volitional individuals (contrary to how we judge technical failures);
- Investigators treat existing social and organisational activities as irrelevant standing conditions;
- The operations complexity is not of easy access of the judiciary;
- Society pressure to open enquiries (media);
- Etc.



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## Just Culture Activities – World Wide

- European JC Task Force
- Common Aviation Prosecution Policy in Europe
- Education and Support; Prosecution Expert Pool project
- EU rules and initiatives
- ICAO High Level Safety Conference
- Follow-up Recommendations and General Assembly
- ICAO SIP TF
- ICAO SX-SG
- FAA Programmes
- IFATCA, IFALPA/ECA & CANSO



## Example - Occurrence Causes

- A man has a bad argument with his wife.
- He storms out of the house to the nearest bar and drinks four whiskies.
- He then decides to go for a drive.
- It is night-time, there is a skim of snow on the ground, and the tyres on our victim's car are smooth.
- In rounding a poorly banked curve at excessive speed, the right front tyre blows out, the car leaves the road and is demolished.

(adapted from N. Johnston)





*Overall this is what we know*

**THE MAN**

Has an argument  
with his wife

Drinks four whiskies

Drives fast

**THE CAR**

Tyre blows out

Car leaves the road

Car is demolished

Tyres were smooth

**THE WORLD**

Poorly banked curve

Skim of snow

Night time



### *Evaluate the data*

- Argument: how often? How bad?
- Skim of Snow: how thick?
- 4 whiskies: how much alcohol? (What is the norm)
- Tyres smooth: how much worn out? (millimetres)
- Curve bank: how bad? (angle required)
- Excessive speed: what was the speed? (Speed limit)
- Car demolished: evaluation of damages



*Find more*

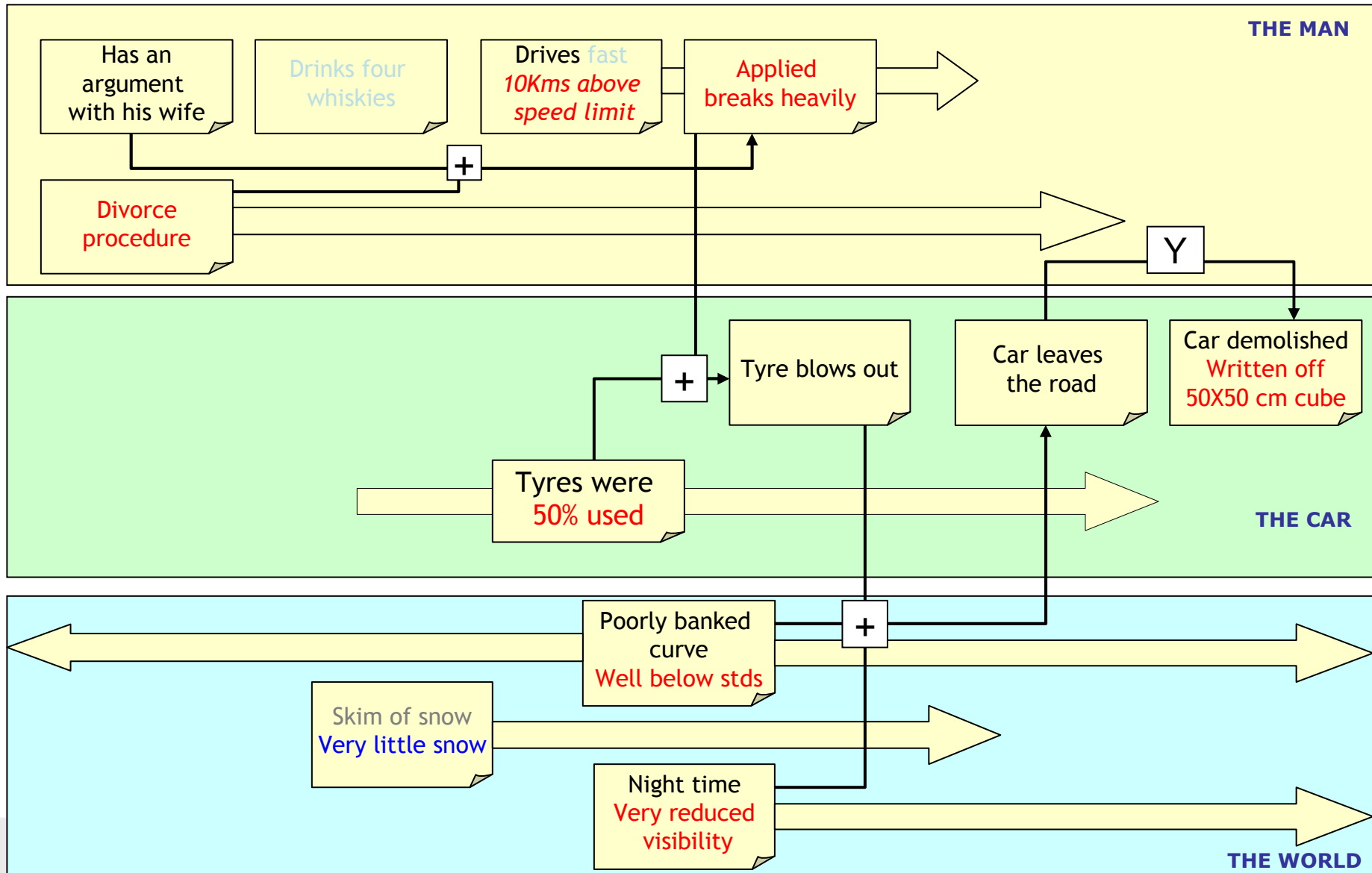
- Was it still snowing? How much snow, How slippery?
- What kind of driver was the man? Any offences before?
- Road signals (e.g. with reference to the curve)
- Interview the driver (after he leaves hospital):
  - How familiar with road
  - Family problems (HF specialist)
- Interview other persons
- Visit the places



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## What can we do about this?

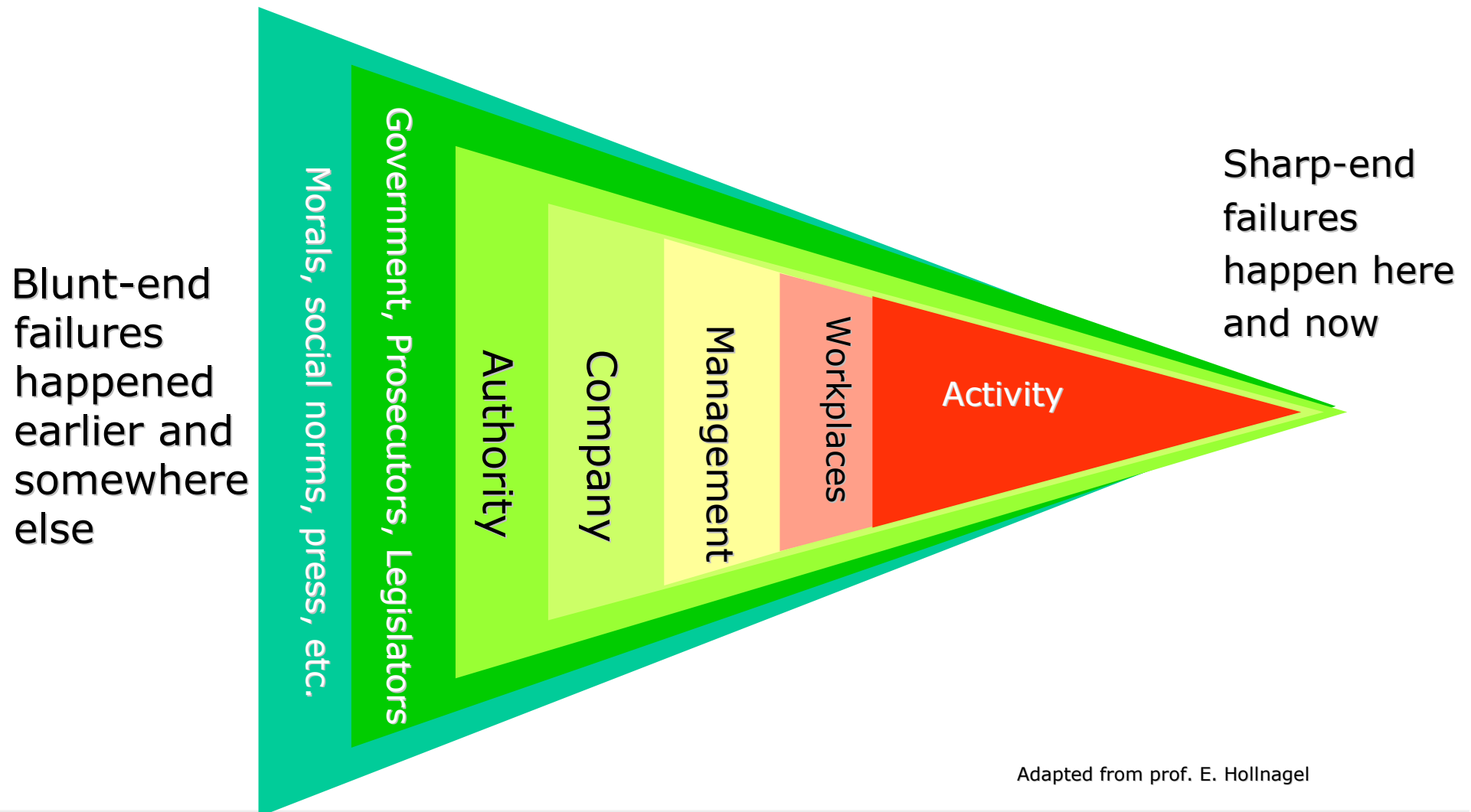




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# Sharp-end, blunt-end



Adapted from prof. E. Hollnagel



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