

## **LEARNING OBJECTIVE 4.1 Describe different types of legal systems.**

Both the rule of law and the rule of the individual operate under the framework of a legal system that is divided into three types of law: constitutional law, criminal law, and commercial law. At the national level these three types of law take one of five distinct forms: customary law, theocratic law, common law, civil law, or mixed legal systems. Firms must also be aware of the different standards in countries regarding product liability, property rights, and intellectual property. Last, international companies also need to understand and navigate international laws.

**Rule of the individual:** rule of governing whereby one individual is the ultimate authority and has discretion to set and enforce laws

- **North Korea**

**Rule of law:** rule of governing whereby all individuals are accountable to well-defined and established laws that are fairly enforced

- supports individual liberties, democracy, and economic prosperity
- puts a check on governmental power
- codifies and clarifies business property rights and builds institutions such as courts, public records offices, and patent offices that protect those rights
- **Denmark, Norway, Finland**

**Three types of law:**

1. **Constitutional law:** laws that set the bounds of government and governmental procedures
2. **Criminal Law:** laws and punishments that regulate social conduct and provide personal, property, and human rights protections
3. **Commercial law:** laws specifying the rights and duties of individuals in their business dealings, how businesses are created and organized, and how business is transacted

**Types of legal systems:**

1. **Customary law:** laws derived from experience, practice, collective wisdom, and shared philosophy to set the boundaries and rights that define relationships between community members
  - a. Mongolia, Somalia, Mozambique.... Tribal law
2. **Theocratic law:** a system of law that relies on religious doctrine and belief
  - a. The middle east; Saudi Arabia
3. **Common law:** A legal system in which judges interpret law and set precedent for subsequent interpretation and usage

- a. The United Kingdom, United States, and Australia
- 4. **Civil law:** a system of law that provides a comprehensive code of written law that judges translate into legal principles and regulatory statutes
  - a. continental Europe, South America, and the former USSR
- 5. **Mixed legal systems:** a legal system that combines two or more of the following types of law: customary, theocratic, common, or civil law
  - a. Canada and South Africa

**International laws:** laws agreed on by nations; these laws are binding on nations and supersede their national laws

**Public international law:** laws that govern interactions of nation-states

**Law of the sea:** allows countries to seize and prosecute pirates

**Private international law:** laws that establish international legal jurisdiction and procedures for people and organizations

**Arbitration:** the process of reaching a binding decision through an arbitrator (a third party) outside the courts

**Supranational law:** international law that limits the rights of sovereign governments

### **LEARNING OBJECTIVE 4.2 Explain the ways in which crime and corruption affect international business.**

The level of crime and corruption in a country can affect an international business. Crime can take two forms: individual crimes and the abuse of public office, or corruption. Corruption generally creates more lasting effects on international businesses than individual criminal activities. Corruption can include acts of bribery, embezzlement, and nepotism, the hiring of family members.

#### **Increasing Wealth through Regulatory Changes**

- When countries improve their laws, they likely open up more opportunities for business in the country

#### **Product Liability**

- many countries place product safety restrictions on the goods and services of foreign firms
- In the European Union, China, and India, GMOs have historically been banned because of fears that modifications make the food unsafe

#### **Property Rights and Intellectual Property**

- In the United States, land owners control the mineral rights to any resources under their soil.
- In Botswana, the federal government owns all mineral rights regardless of who owns the land
- World Intellectual Property Organization, an organization established in 1990 in Switzerland to help creators obtain legal protection for their work, intellectual property (IP) is any creation of the human mind

**LEARNING OBJECTIVE 4.3 Describe the difference between illegal and unethical conduct.**

Unlawful activity is determined by the different legal systems of individual countries. Unethical activity is determined by the moral principles of right and wrong an organization embraces. At times, unlawful activities may be deemed ethical, whereas lawful activities are considered unethical. Decisions about employment, environmental, and human rights practices can create ethical dilemmas that affect the growth and reputation of international companies.

		Ethicality	
		Unethical	Ethical
Legality	Legal	Exploitive labor practices	Ideal business practices
	Illegal	Criminal action	Illegal protests seeking human rights, freedom, and changes in the law

**Ethics:** the moral principles of right and wrong that guide personal and organizational decision making

- Employment practices
  - certain employment practices that expose workers to dangerous work conditions, pay wages below subsistence levels, and treat employees without dignity are considered unethical.
  - Such unethical behaviors, though not illegal, can be detrimental to both employees and to employers alike.

- Environmental practices
  - Many organizations are now turning to sustainable methods, meaning practices that reduce waste, such as responsible packaging and eliminating the use of plastic bags; that recycle metal, glass, plastics, and electronics; and that cut greenhouse gas emissions, such as by using solar or wind power instead of fossil fuels
- Human rights
  - In 1948, the United Nations published the Universal Declaration of Human Rights, including the rights of freedom, life, liberty, and security

**LEARNING OBJECTIVE 4.4 Identify key laws that govern international business.**

The Foreign Corrupt Practices Act (FCPA) of 1977 forbids payments to foreign government officials for the purpose of obtaining or retaining business. The FTC regulates all forms of online advertising, data collection, and sales, and imposes penalties for companies making false claims or violating customer's rights. Governments like the European Union are also passing laws to help ensure accountability for data security.

**The Foreign Corrupt Practices Act:** forbids payments to foreign government officials for the purpose of obtaining or retaining business.

- **facilitation payments:** payments made to speed up the actions that government officials are already bound to perform ARE NOT BANNED

**E-commerce in the United States is governed by the Federal Trade Commission (FTC)**

- imposes penalties for companies making false claims or violating customers' rights.
- For example, in 2016, the FTC imposed a \$950,000 fine against the Indian mobile advertising company InMobi for collecting location information on customers without their consent, and required the firm to delete all the data they gathered