

ABOUT LAW

what an introduction



Let's begin with:

How do You DEFINE LAW?

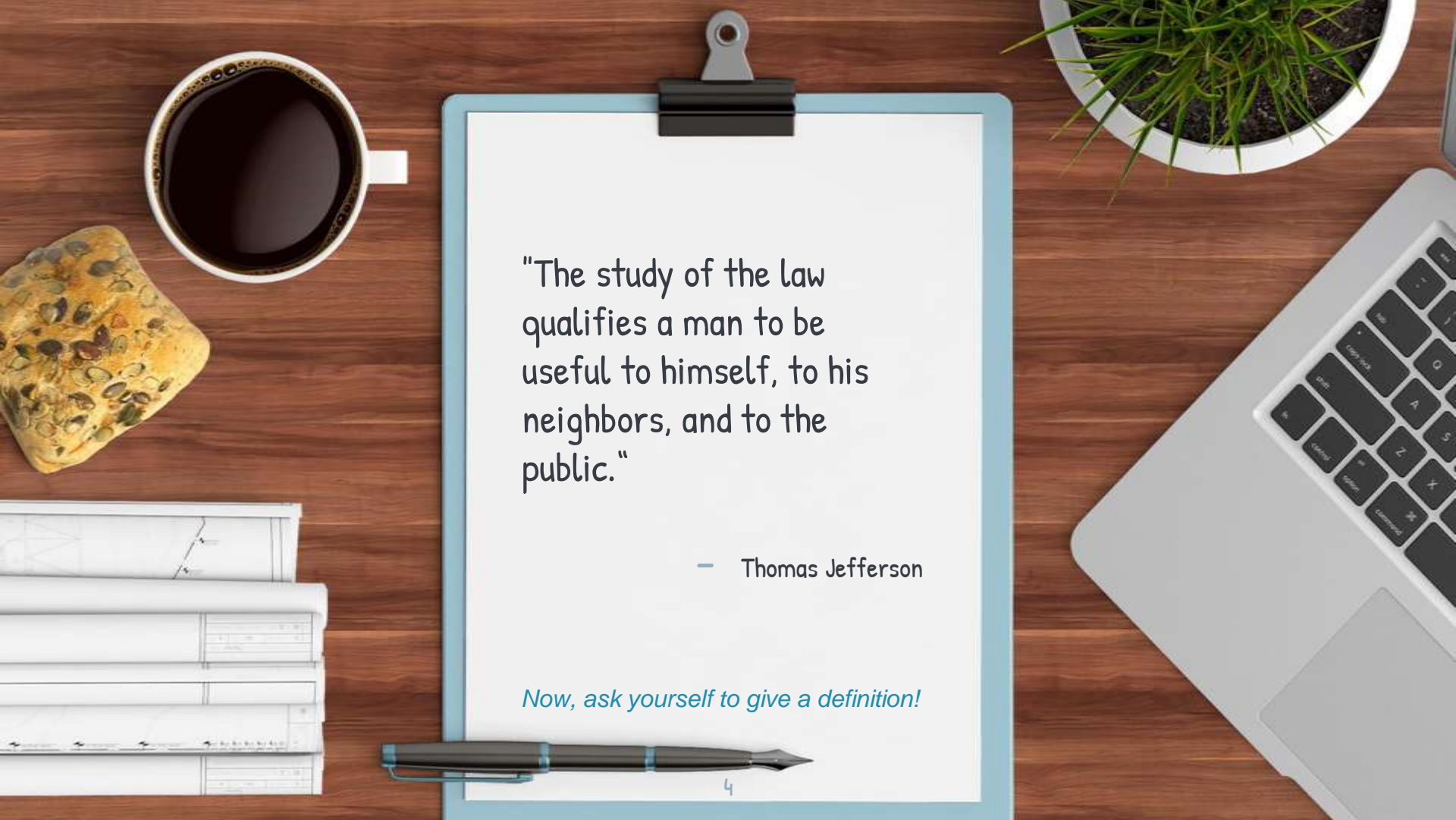
Clue

Law is **man made**. It changes over time to accommodate society's needs. It is made by legislature.

Law is interpreted by courts to determine:

- 1) Whether it is "constitutional"
- 2) Who is right or wrong

There is a process which must be followed (called "procedural law")



"The study of the law
qualifies a man to be
useful to himself, to his
neighbors, and to the
public."

— Thomas Jefferson

Now, ask yourself to give a definition!



FACT!

Even after years and thousands of dollars,
"Law" still is not easy
to define

THEN, WHAT DOES LAW CONSIST OF?

Law consists of enforceable rule governing relationships among individuals and between individuals and their society.

- > The law is a set of general ideas
- > When these general ideas are applied, a judge cannot fit a case to suit a rule; he must fit (or find) a rule to suit the unique case at hand.
- > The judge must also supply legitimate reasons for his decisions.



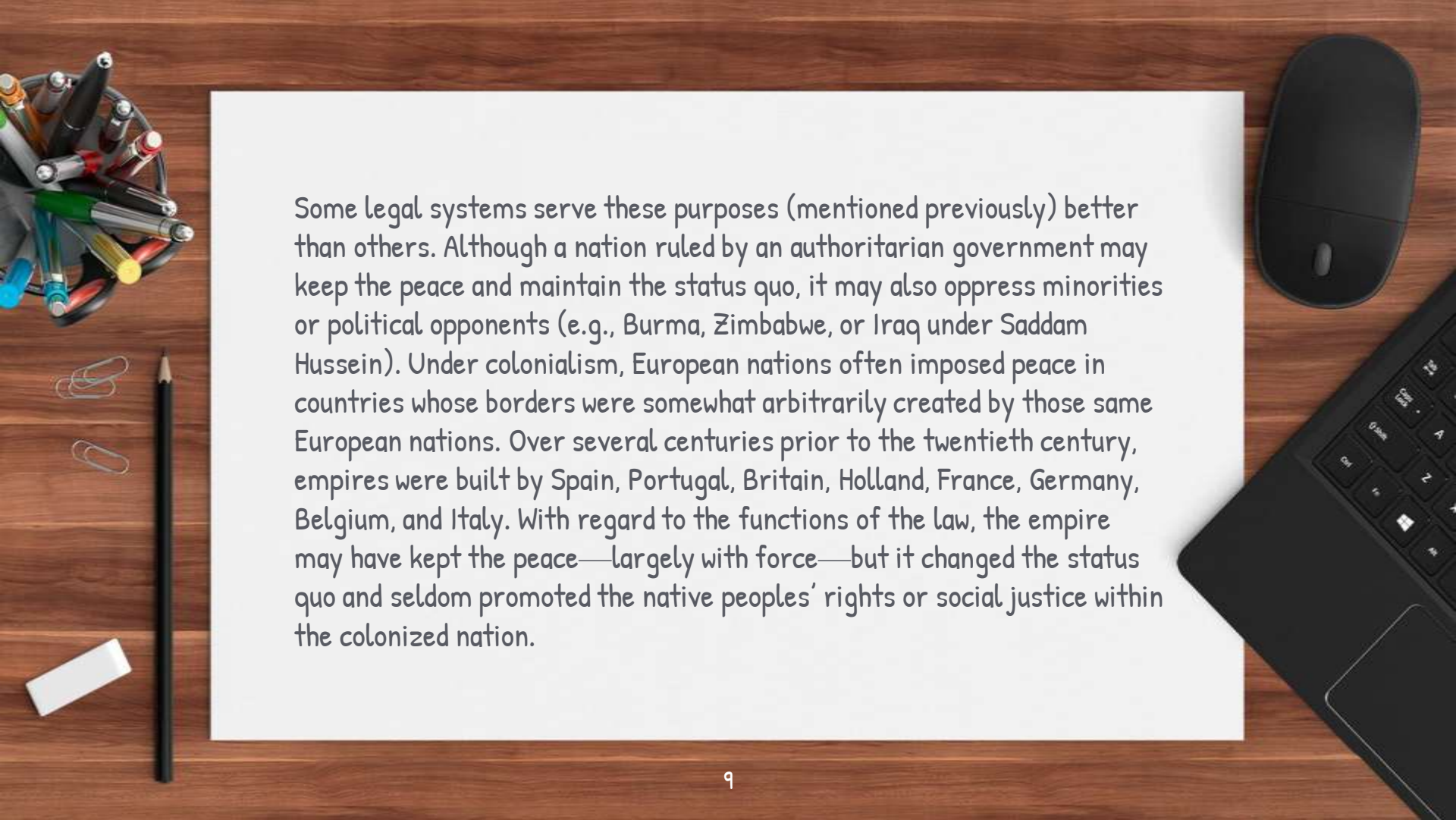
What is its function?

Seriously? :"

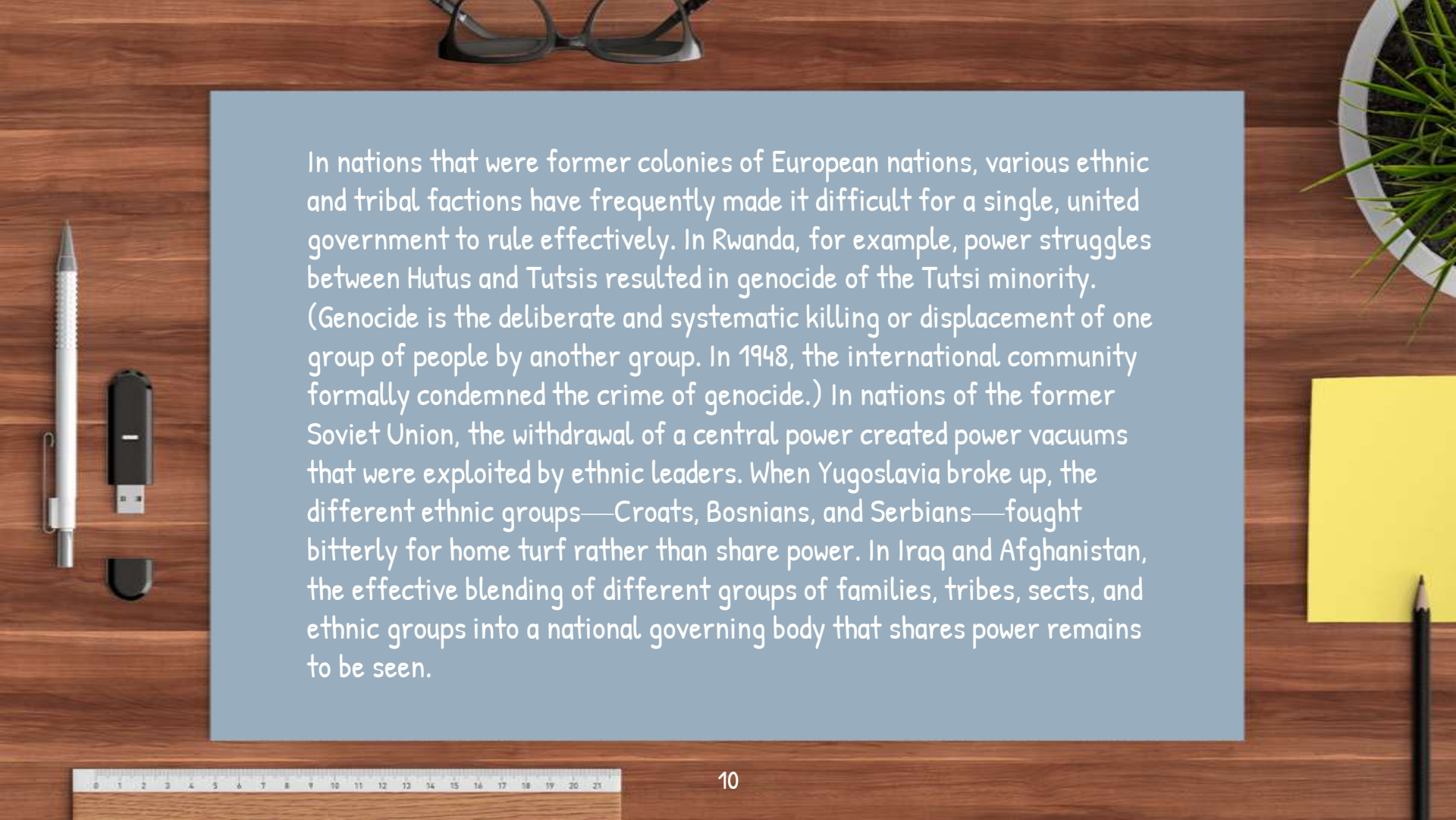


In a nation, the law can serve to

- (1) keep the peace,
- (2) maintain the status quo,
- (3) preserve individual rights,
- (4) protect minorities against majorities,
- (5) promote social justice, and
- (6) provide for orderly social change.



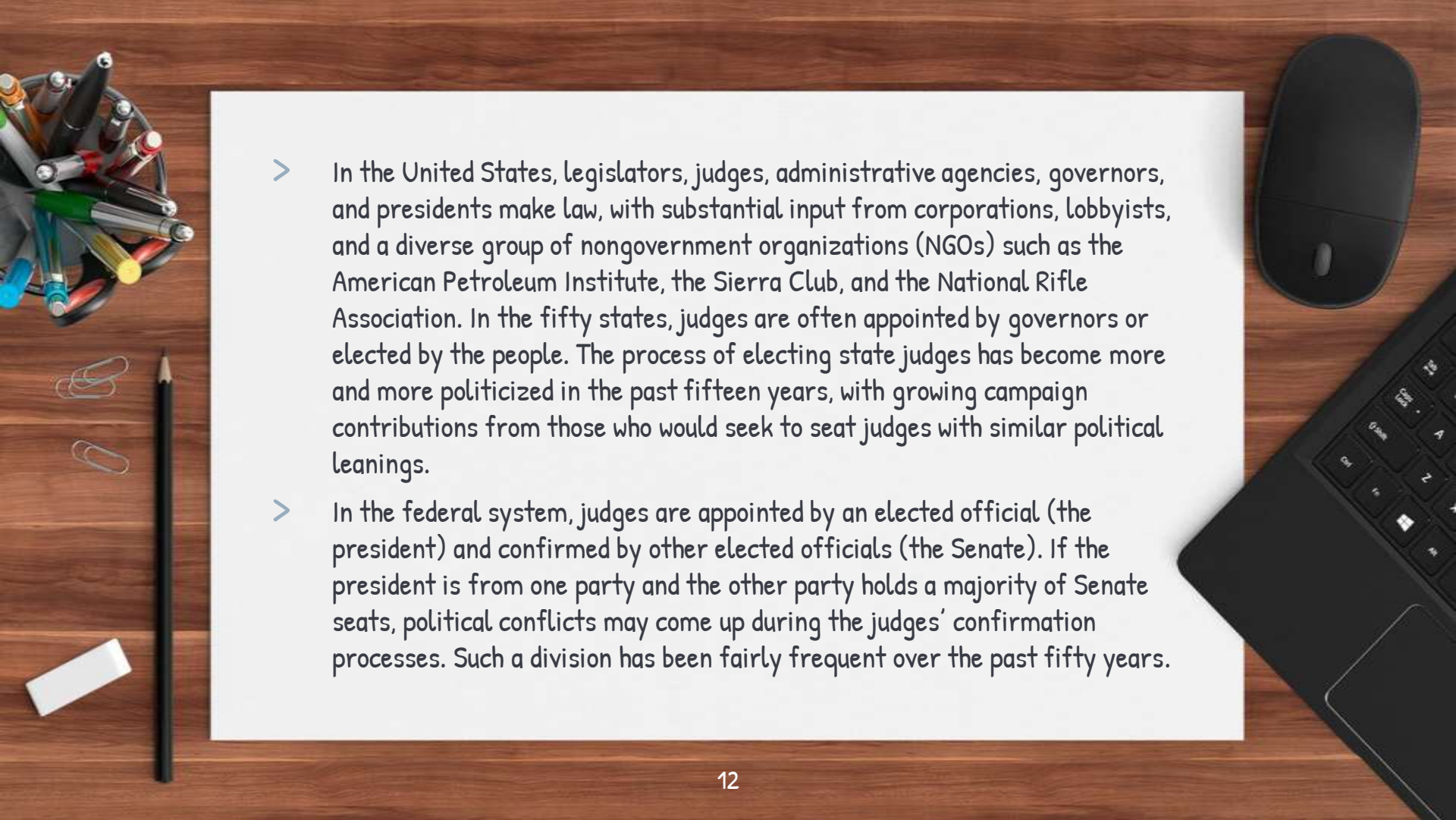
Some legal systems serve these purposes (mentioned previously) better than others. Although a nation ruled by an authoritarian government may keep the peace and maintain the status quo, it may also oppress minorities or political opponents (e.g., Burma, Zimbabwe, or Iraq under Saddam Hussein). Under colonialism, European nations often imposed peace in countries whose borders were somewhat arbitrarily created by those same European nations. Over several centuries prior to the twentieth century, empires were built by Spain, Portugal, Britain, Holland, France, Germany, Belgium, and Italy. With regard to the functions of the law, the empire may have kept the peace—largely with force—but it changed the status quo and seldom promoted the native peoples' rights or social justice within the colonized nation.

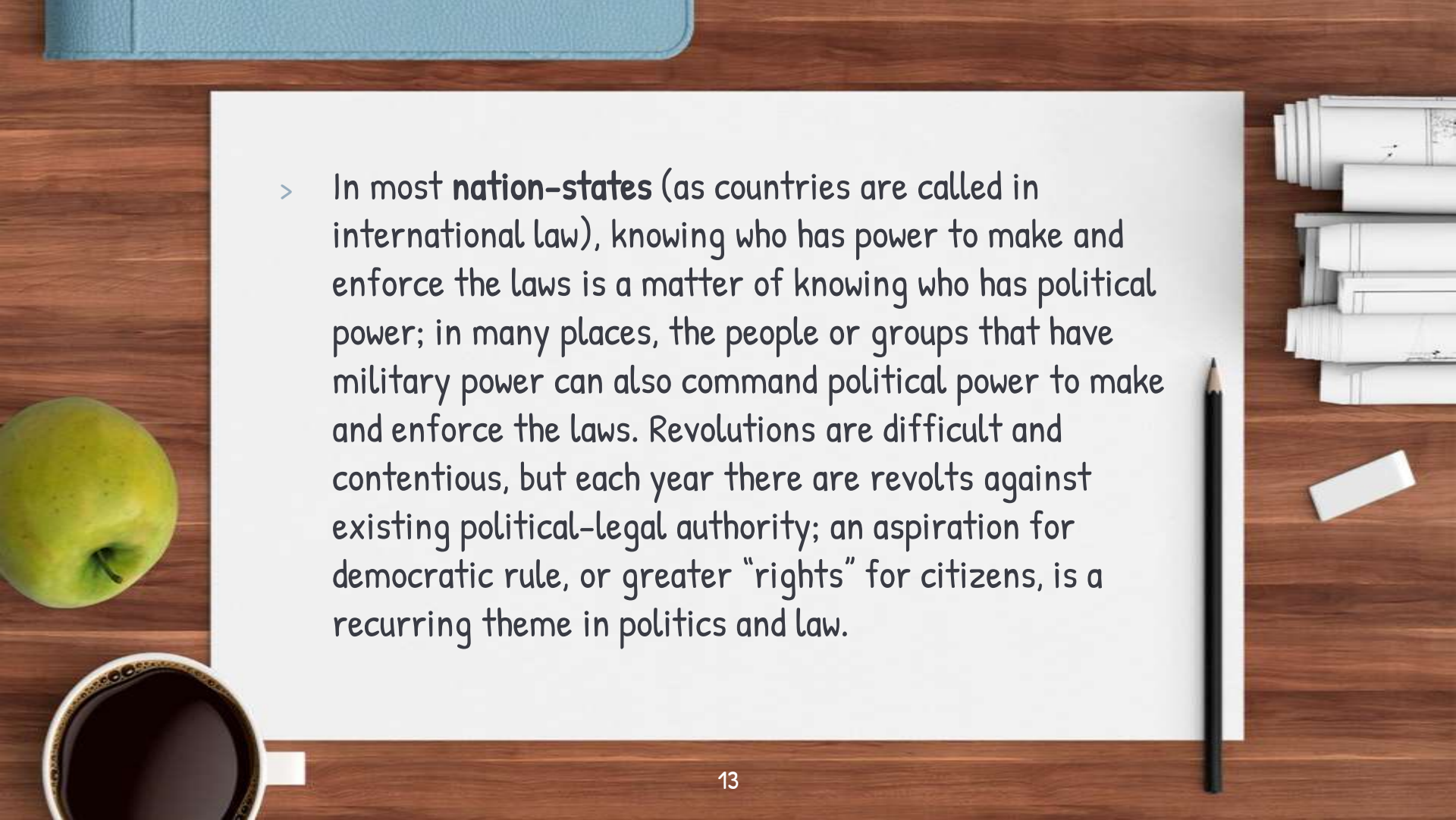


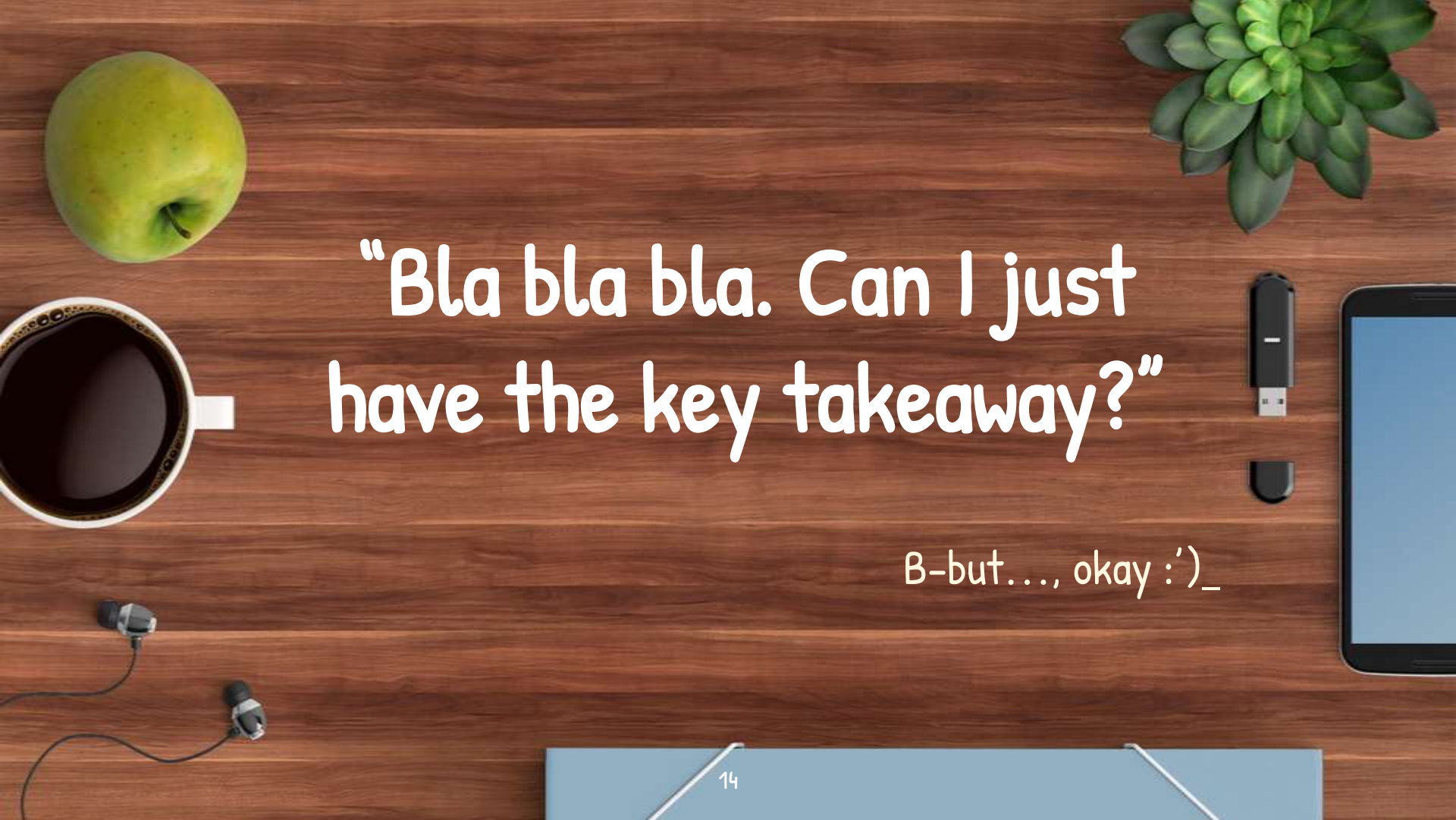
In nations that were former colonies of European nations, various ethnic and tribal factions have frequently made it difficult for a single, united government to rule effectively. In Rwanda, for example, power struggles between Hutus and Tutsis resulted in genocide of the Tutsi minority. (Genocide is the deliberate and systematic killing or displacement of one group of people by another group. In 1948, the international community formally condemned the crime of genocide.) In nations of the former Soviet Union, the withdrawal of a central power created power vacuums that were exploited by ethnic leaders. When Yugoslavia broke up, the different ethnic groups—Croats, Bosnians, and Serbians—fought bitterly for home turf rather than share power. In Iraq and Afghanistan, the effective blending of different groups of families, tribes, sects, and ethnic groups into a national governing body that shares power remains to be seen.

LAW AND POLITICS

How do they relate?

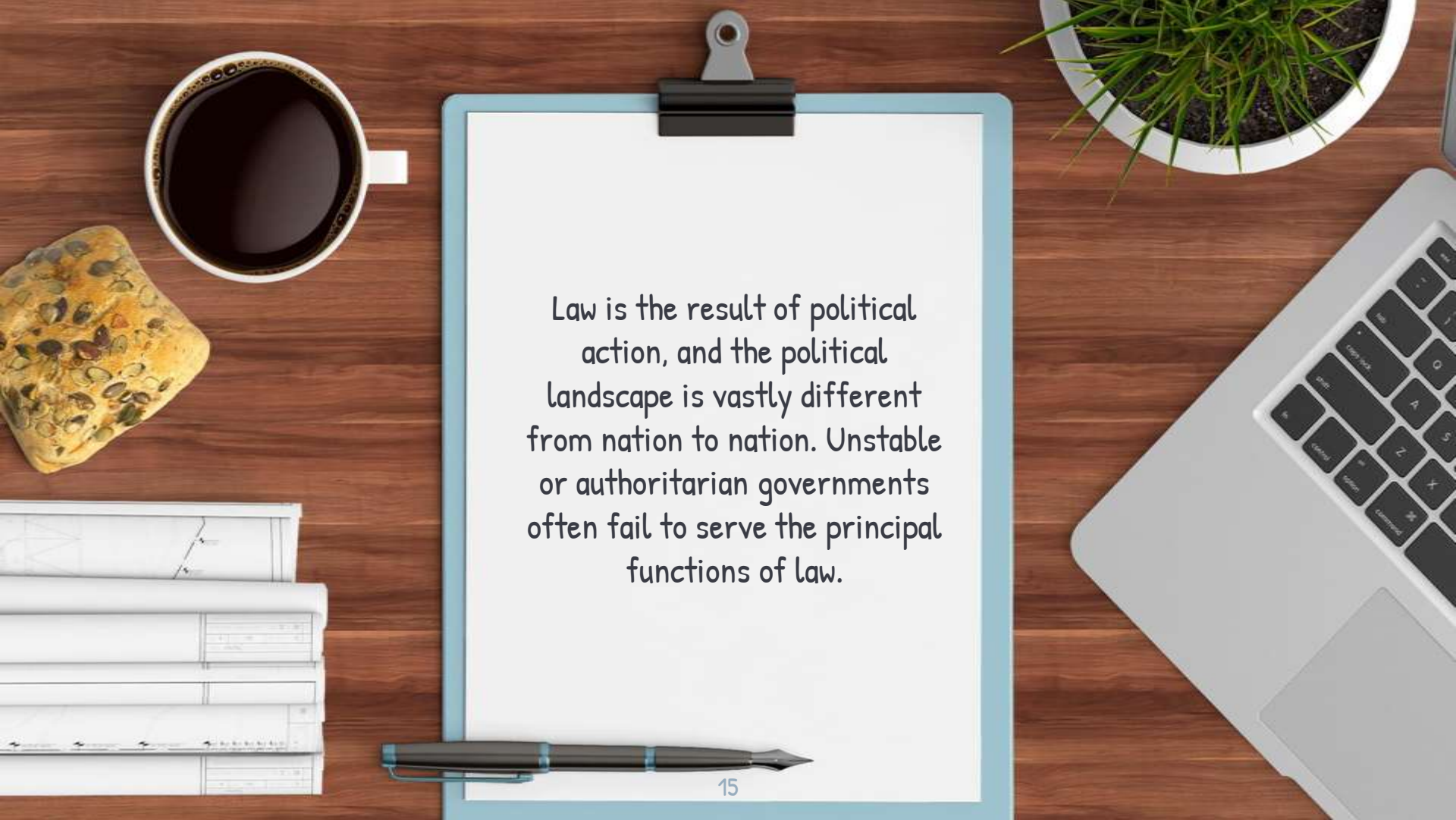
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- > In the United States, legislators, judges, administrative agencies, governors, and presidents make law, with substantial input from corporations, lobbyists, and a diverse group of nongovernment organizations (NGOs) such as the American Petroleum Institute, the Sierra Club, and the National Rifle Association. In the fifty states, judges are often appointed by governors or elected by the people. The process of electing state judges has become more and more politicized in the past fifteen years, with growing campaign contributions from those who would seek to seat judges with similar political leanings.
 - > In the federal system, judges are appointed by an elected official (the president) and confirmed by other elected officials (the Senate). If the president is from one party and the other party holds a majority of Senate seats, political conflicts may come up during the judges' confirmation processes. Such a division has been fairly frequent over the past fifty years.

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- > In most **nation-states** (as countries are called in international law), knowing who has power to make and enforce the laws is a matter of knowing who has political power; in many places, the people or groups that have military power can also command political power to make and enforce the laws. Revolutions are difficult and contentious, but each year there are revolts against existing political-legal authority; an aspiration for democratic rule, or greater “rights” for citizens, is a recurring theme in politics and law.



"Bla bla bla. Can I just
have the key takeaway?"

B-but..., okay :')_

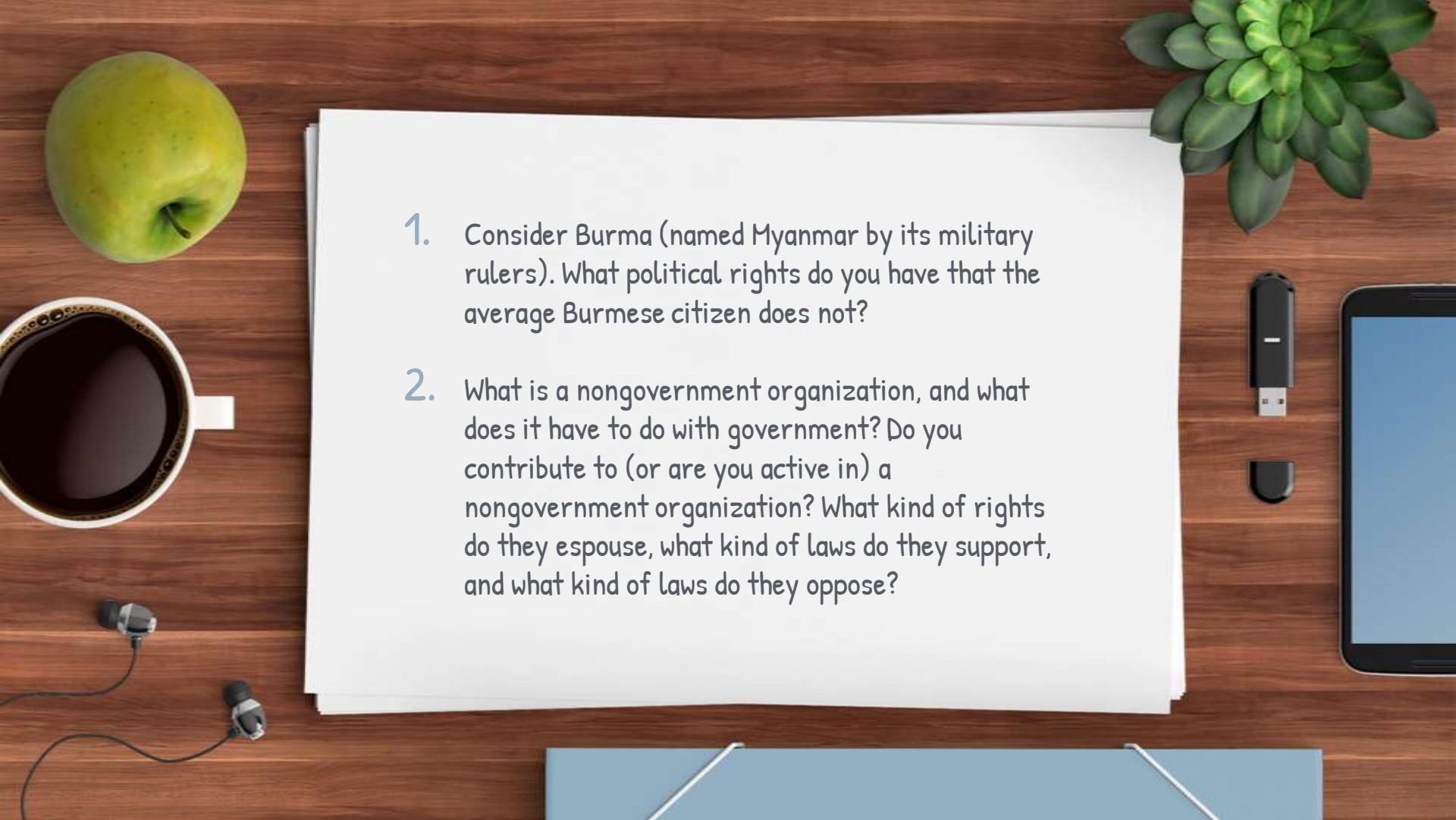
A top-down view of a wooden desk. In the top left is a white cup of dark coffee. Next to it is a piece of yellow bread with seeds. In the top right is a small potted plant with green grass. In the bottom left is a stack of white papers. In the bottom right is a silver laptop. In the center is a blue clipboard with a black clip at the top and a black pen at the bottom. The clipboard has a white sheet of paper with text.

Law is the result of political action, and the political landscape is vastly different from nation to nation. Unstable or authoritarian governments often fail to serve the principal functions of law.



Now, EXERCISES!

Xixixi...

- 
1. Consider Burma (named Myanmar by its military rulers). What political rights do you have that the average Burmese citizen does not?
 2. What is a nongovernment organization, and what does it have to do with government? Do you contribute to (or are you active in) a nongovernment organization? What kind of rights do they espouse, what kind of laws do they support, and what kind of laws do they oppose?

Schools of Legal Thought

Background

When we look at the development of law, there are several things they have had a major influence. Some of the more important element are customs, history, and logic.

The "Problem"

The major problem is that philosophers disagree on what are the major factors.

Outcome

This disagree has lead to 2 different schools of thought on what the major factors are: (next page)

1. The Traditional Approach

The traditional approach looks to the past to discover what the principles of the current law should be.

Strict decisions are followed.

Followers of this school look to prior decisions which are on point and will usually follow them to the letter.

2. The Sociological Approach

Under this approach, social forces and needs are the primary factors.

- a. The key to this approach is that historical cases don't drive future law. Under this approach, as society changes, the law should also change.
- b. Earlier Illustrated Case. Under this approach, the social host issue would probably have a different outcome.

Why? Because the court would see this as a public safety issue and would put the (1) put the burden on individuals contributing to the occurrence and (2) provide a financial outlet for those who have been injured.

BUT WAIT,

How do legal systems
in U.S. and Indonesia
differ?

“... And why do we have
to know that?”

“Good question. Why do you
have to answer?”



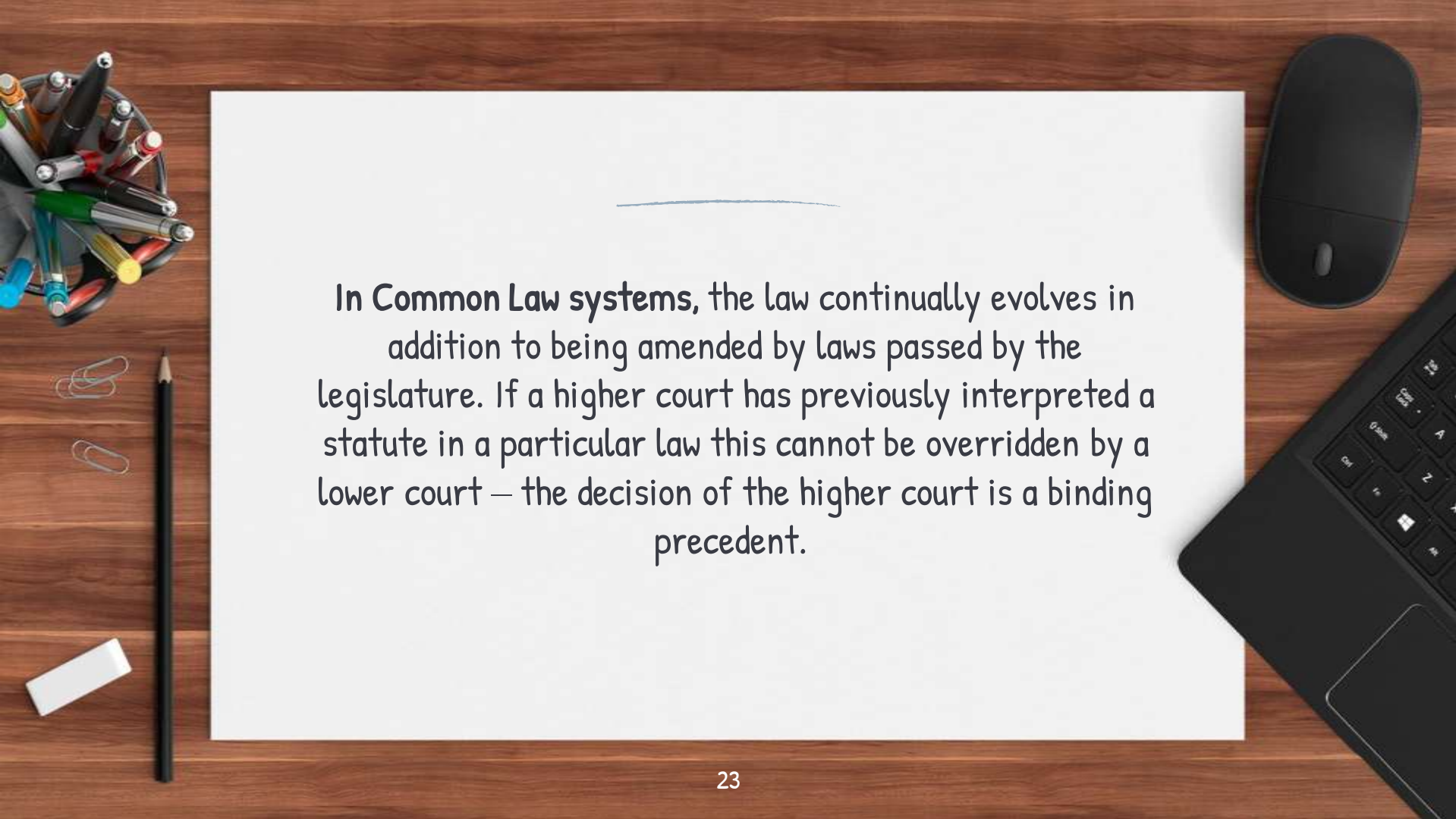


There are
2 main types of legal
system in the world,
with most countries adopting features from one
or other into their own legal systems



COMMON LAW

Used in: England (originated from) and former colonies of the British Empire, including U.S., Singapore, Pakistan, India, Canada, Ireland, New Zealand, South Africa, Hong Kong and Australia



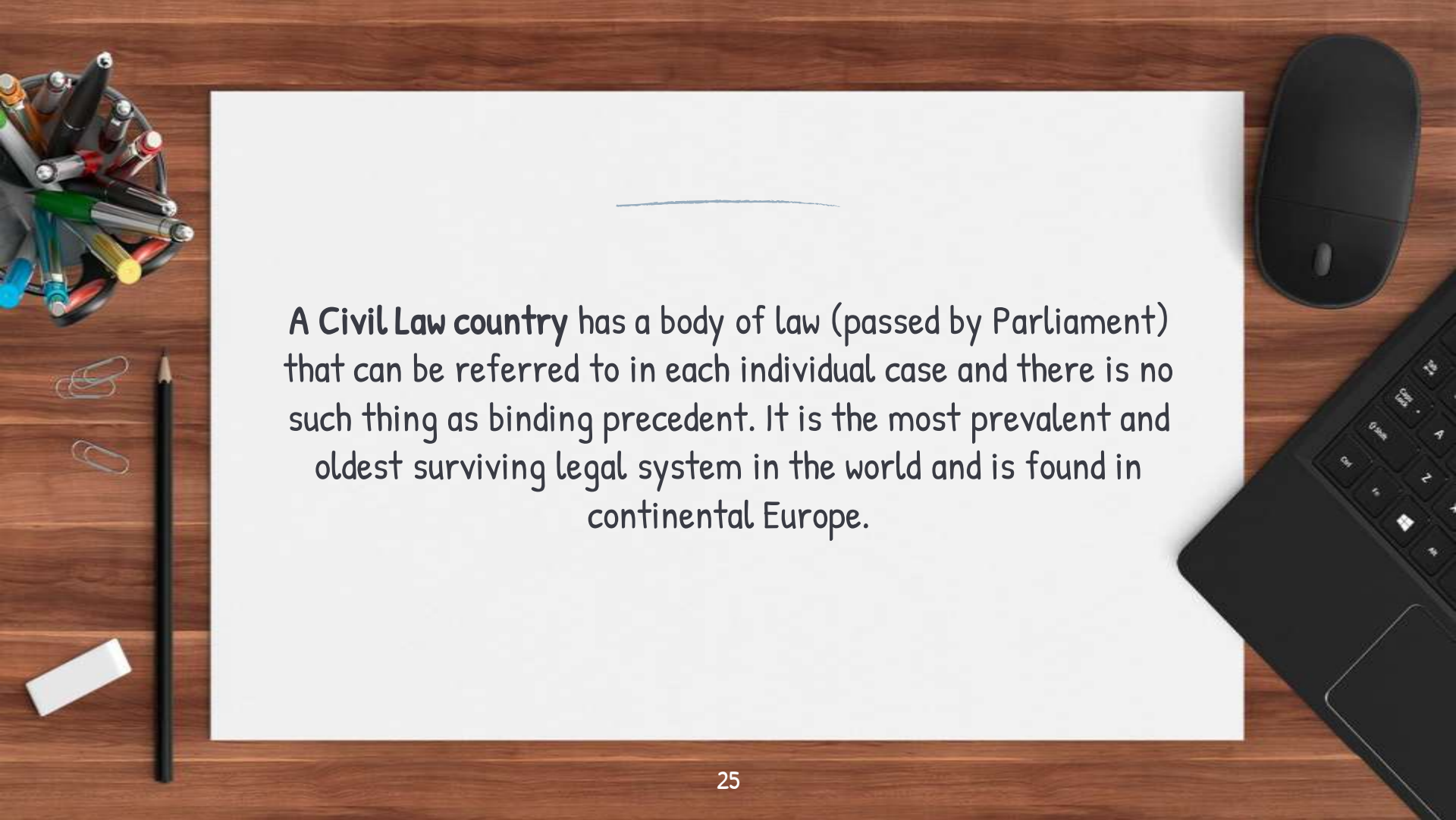
In Common Law systems, the law continually evolves in addition to being amended by laws passed by the legislature. If a higher court has previously interpreted a statute in a particular law this cannot be overridden by a lower court – the decision of the higher court is a binding precedent.

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CIVIL LAW

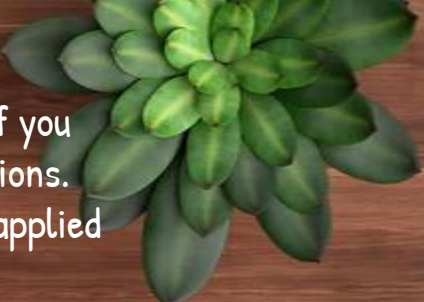

Used in: France, Netherlands, Germany, Spanish, Portuguese, and their former colonies or protectorates (much of Latin America and in parts of Asia and Africa-including Indonesia)




A Civil Law country has a body of law (passed by Parliament) that can be referred to in each individual case and there is no such thing as binding precedent. It is the most prevalent and oldest surviving legal system in the world and is found in continental Europe.

NEED AN
EXAMPLE?







In the U.S. (except Louisiana), where Common Law system is applied, if you want to know what the law is, you check the statutes, rules and regulations. But you also need to review how these laws have been interpreted and applied by reviewing past legal cases.



Under the Civil Code your inquiry stops with the statutes, rules and regulation – the Civil Code itself. Forget about creative interpretations of the law, or complying with the spirit of the law rather than the letter of the law.



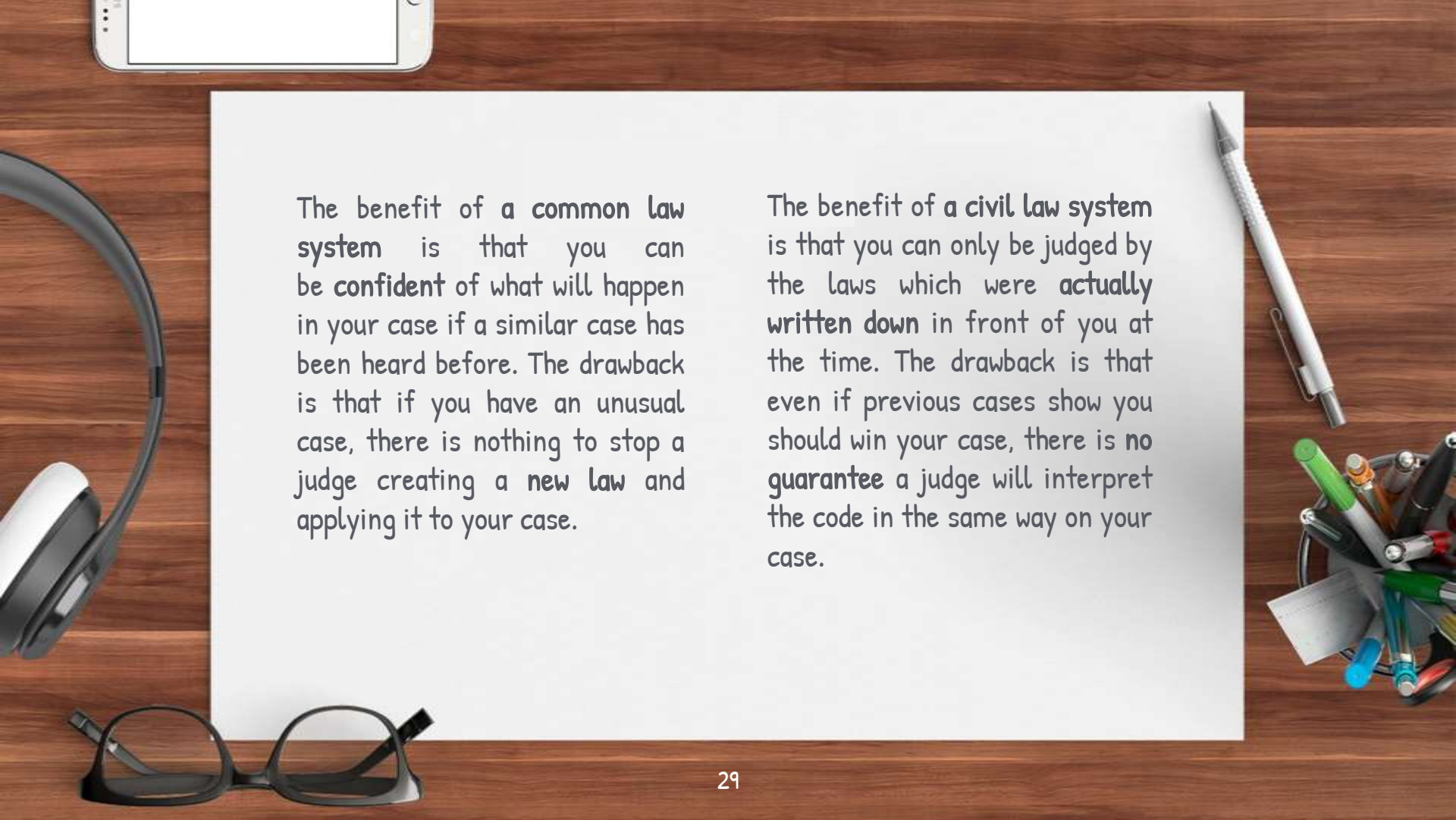
If the Civil Code says that you need to do X, you need to do X. There is no room for making analogical arguments, such as since doing Y would have the same result as doing X, it should be okay – and perfectly legal – to do Y rather than X. You might as well stop the analysis, and get ready to follow the letter of the law exactly, even if you can think of a hundred different and perhaps better ways to accomplish the same thing.





"PROS AND CONS?"

- *C'mon, debaters need this*
 - :)



The benefit of a **common law system** is that you can be **confident** of what will happen in your case if a similar case has been heard before. The drawback is that if you have an unusual case, there is nothing to stop a judge creating a **new law** and applying it to your case.

The benefit of a **civil law system** is that you can only be judged by the laws which were **actually written down** in front of you at the time. The drawback is that even if previous cases show you should win your case, there is **no guarantee** a judge will interpret the code in the same way on your case.

SLIGHTLY ABOUT:

CJS

CRIMINAL JUSTICE SYSTEM



HAVE YOU EVER HEARD OF:

- 1) Presumption of innocence
- 2) Due process of law

PRESUMPTION OF INNOCENCE

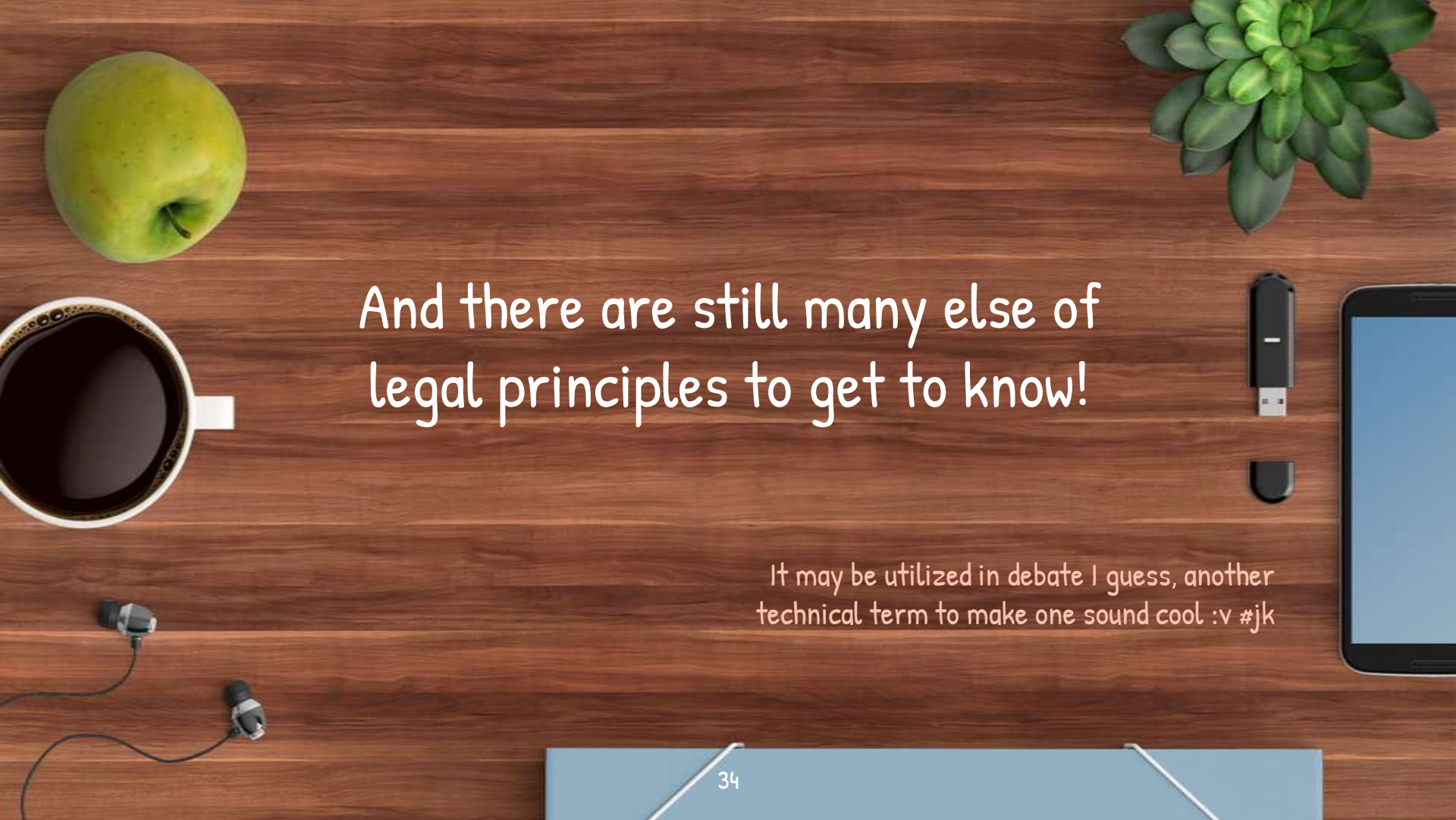
It is a fundamental principle of the common law, a legal principle that every person accused of any crime is considered **innocent** until proven guilty. Under the presumption of innocence, the legal burden of proof is thus on the prosecution, which must present compelling evidence to the trier of fact (a judge or a jury).



DUE PROCESS OF LAW

Due process is the legal requirement that the state must **respect** all legal rights that are owed to a person. Due process balances the power of law of the land and protects the individual person from it.





And there are still many else of
legal principles to get to know!

It may be utilized in debate I guess, another
technical term to make one sound cool :v #jk



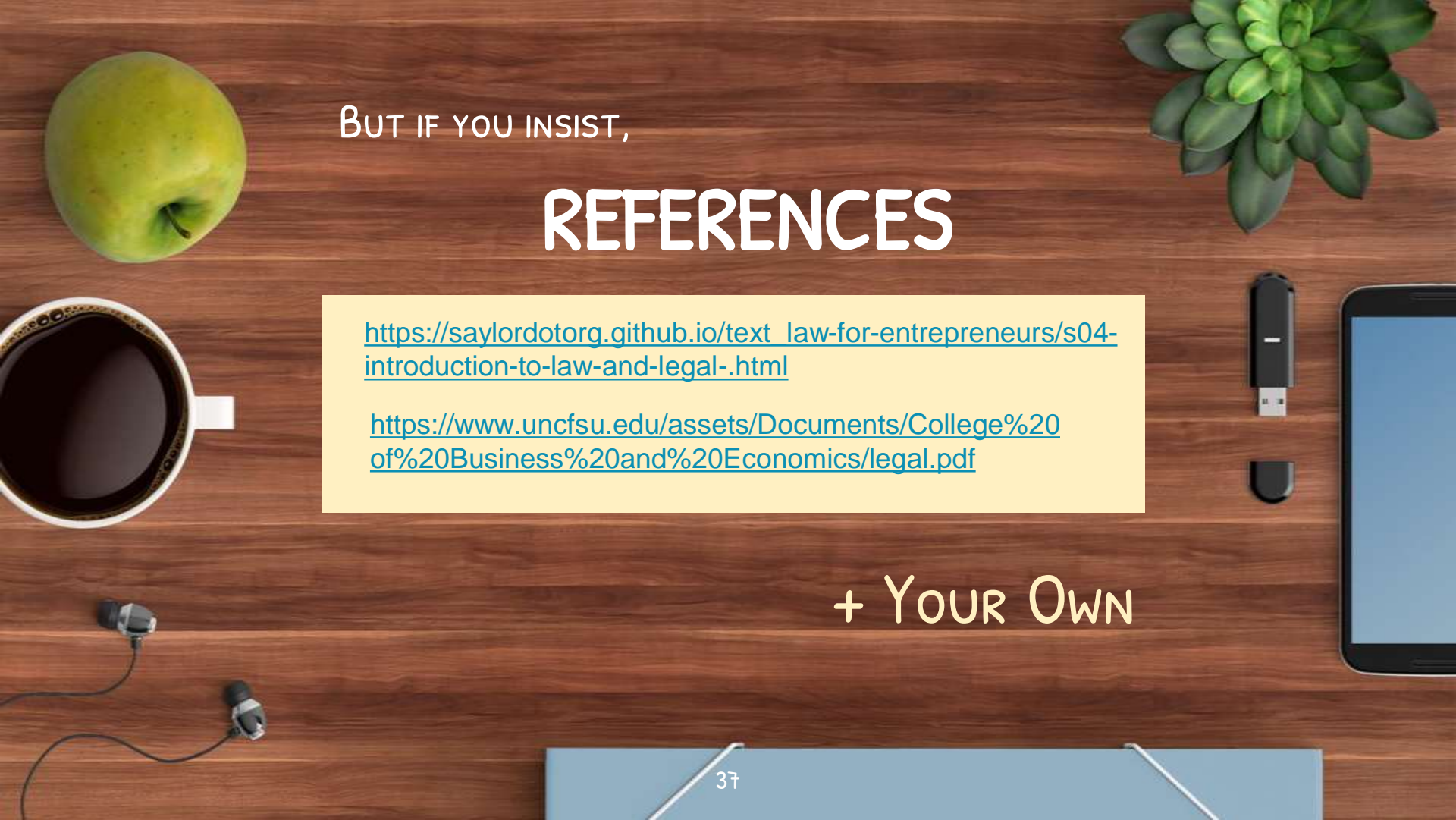
WELL, THAT'S IT!

You may just have some fun to
research for more

BUT REMEMBER

not to get overwhelmed, otherwise...





BUT IF YOU INSIST,

REFERENCES

https://saylordotorg.github.io/text_law-for-entrepreneurs/s04-introduction-to-law-and-legal-.html

<https://www.uncfsu.edu/assets/Documents/College%20of%20Business%20and%20Economics/legal.pdf>

+ YOUR OWN



THANKS!

– Research and Development Division

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