Extralegal Area

„Rechtsfreier Raum“

Friedrich Lachmayer
Ljubljana, 29th February 2004

extrajuridical sphere beyond the rule of law

area out of legal scope

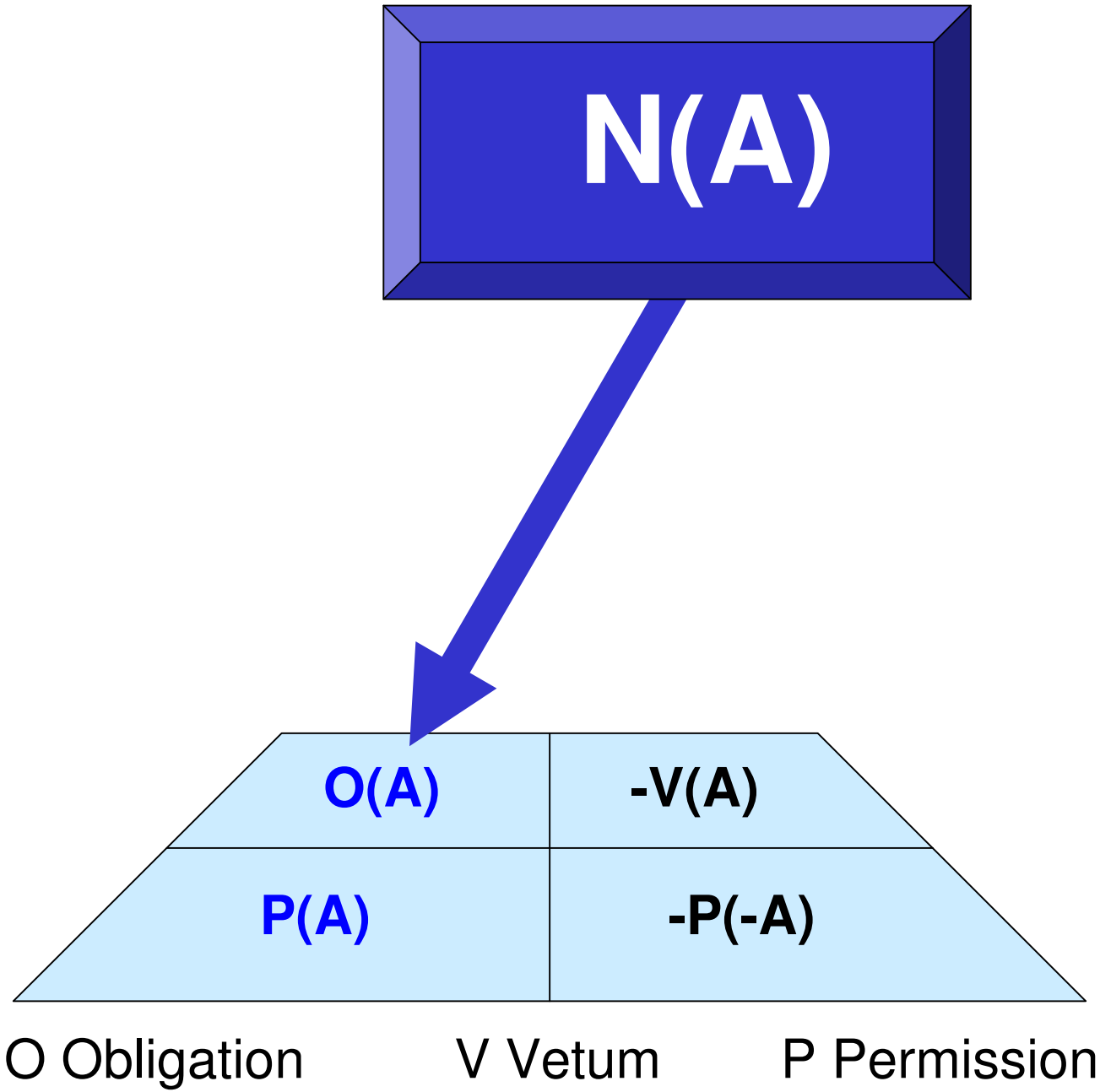
translegal area

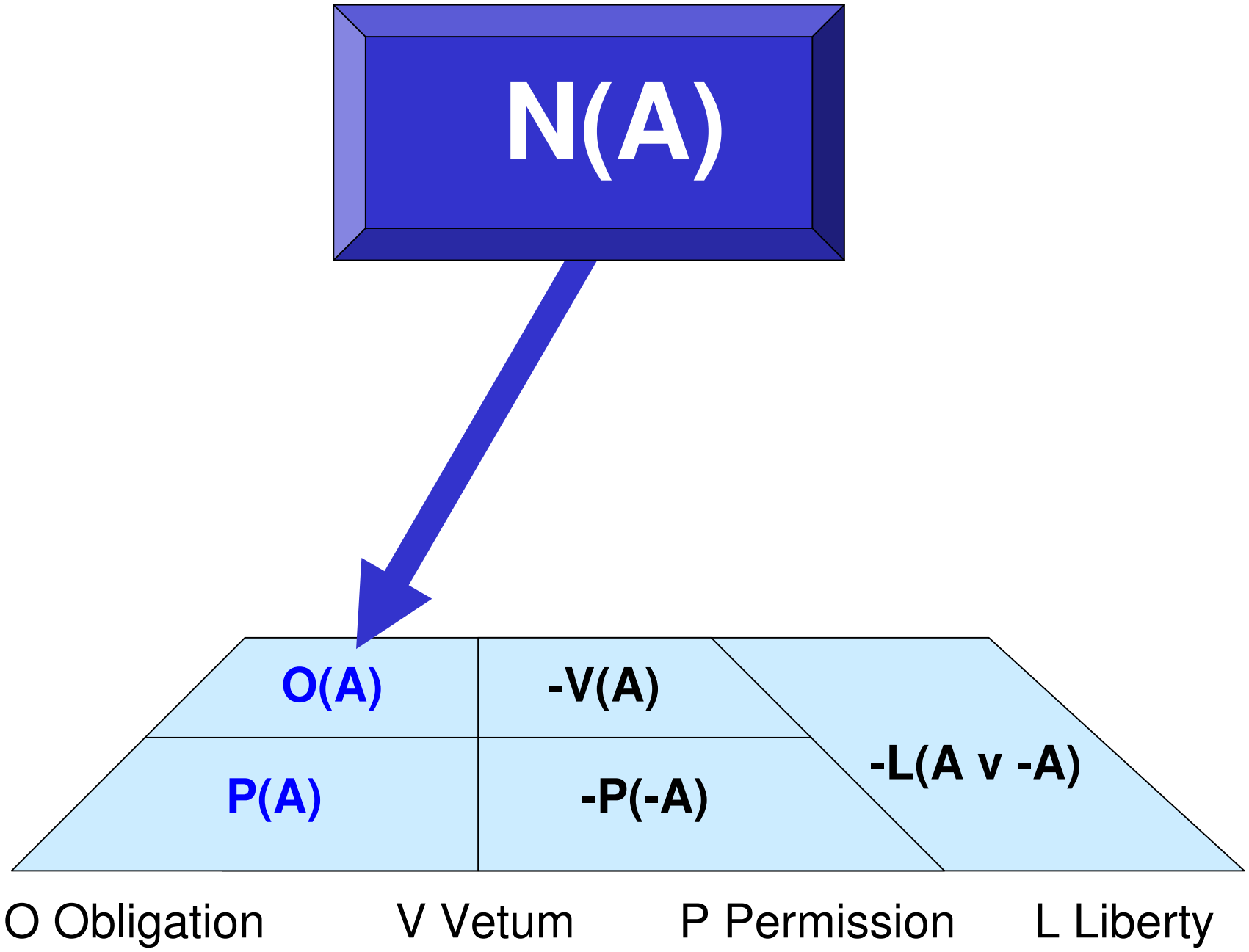
an area not submitted to law

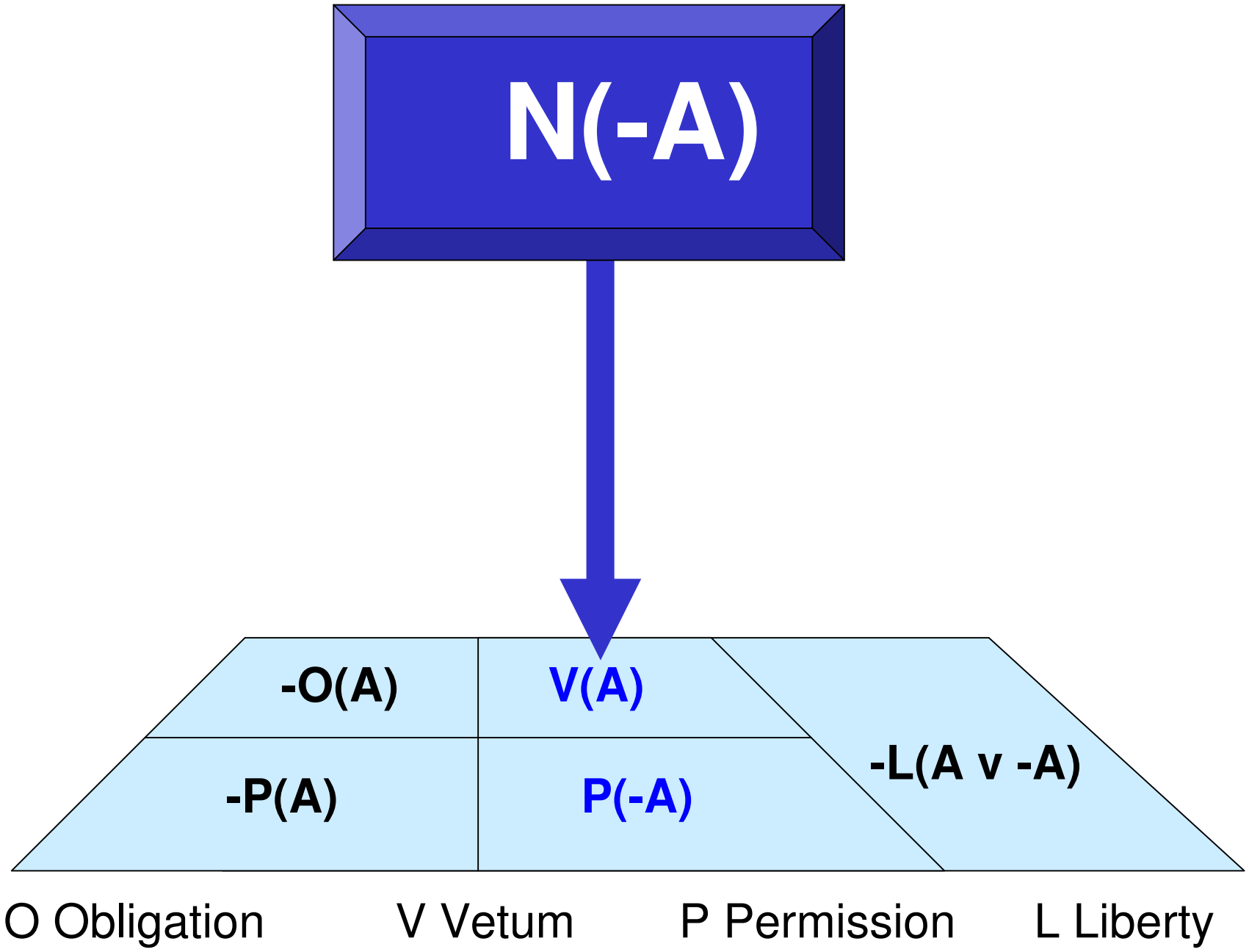
non legally qualifiable area/action

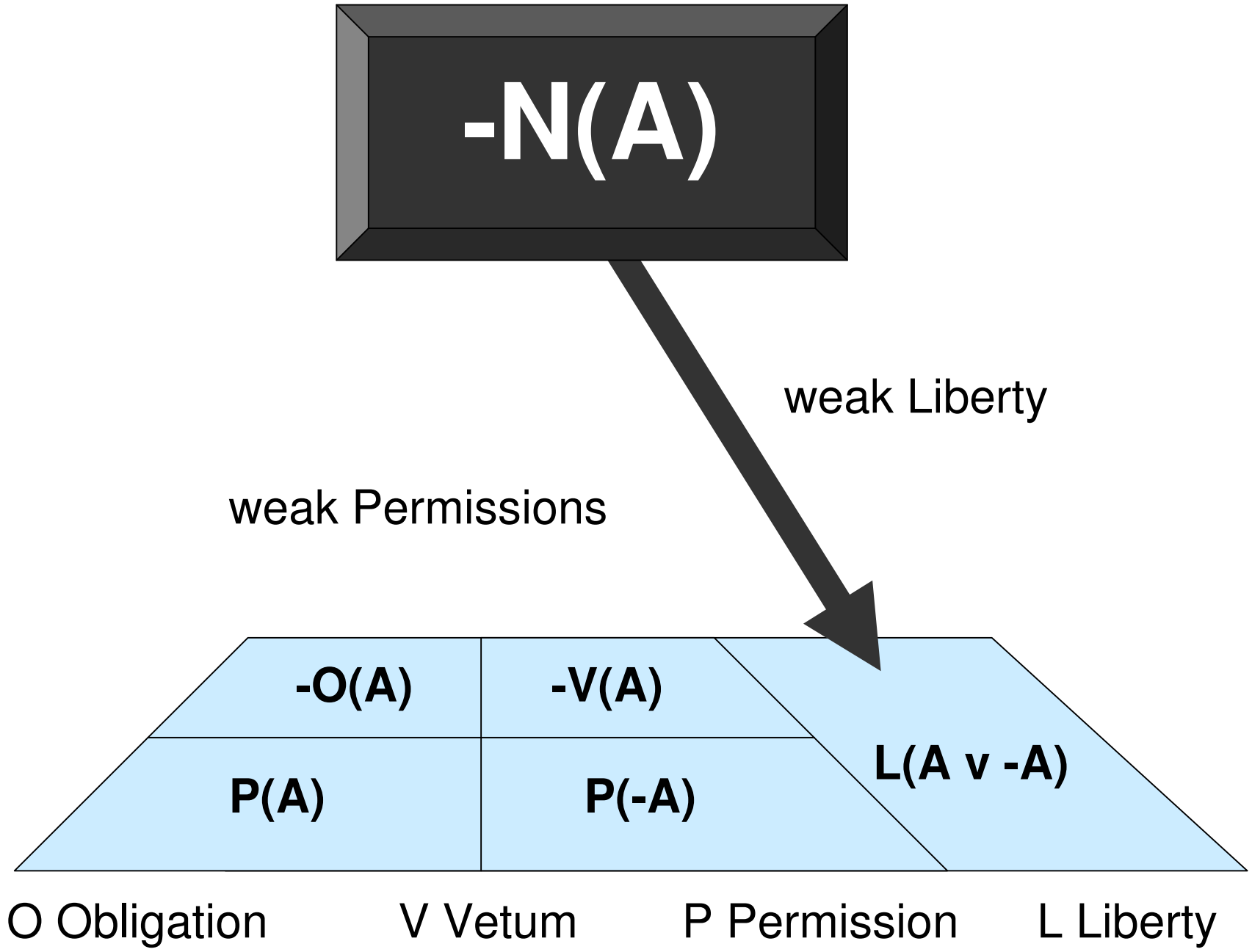
1.

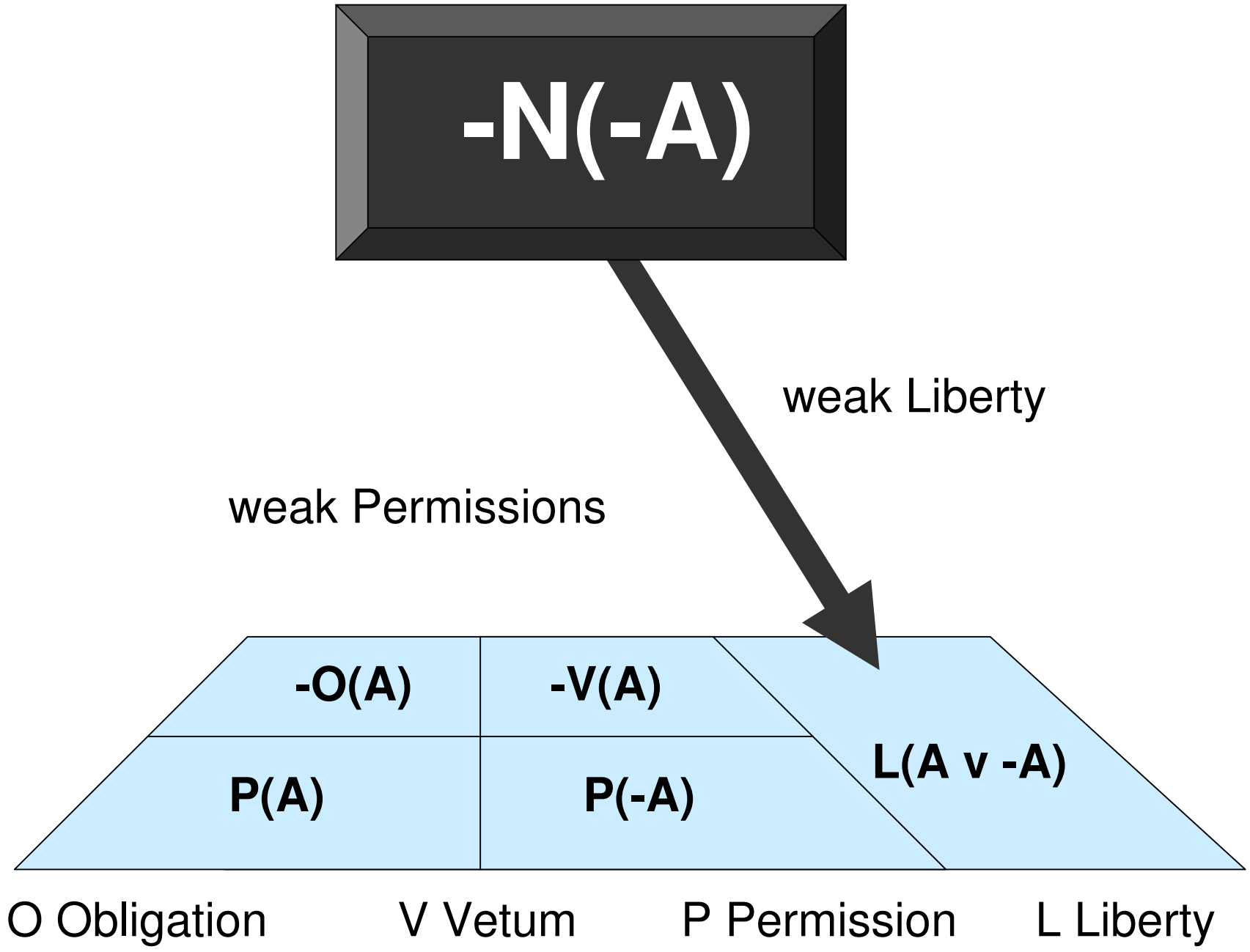
Deontic Field


N(A)
O(A)
-V(A)
P(A)
-P(-A)
O Obligation
V Vetum
P Permission

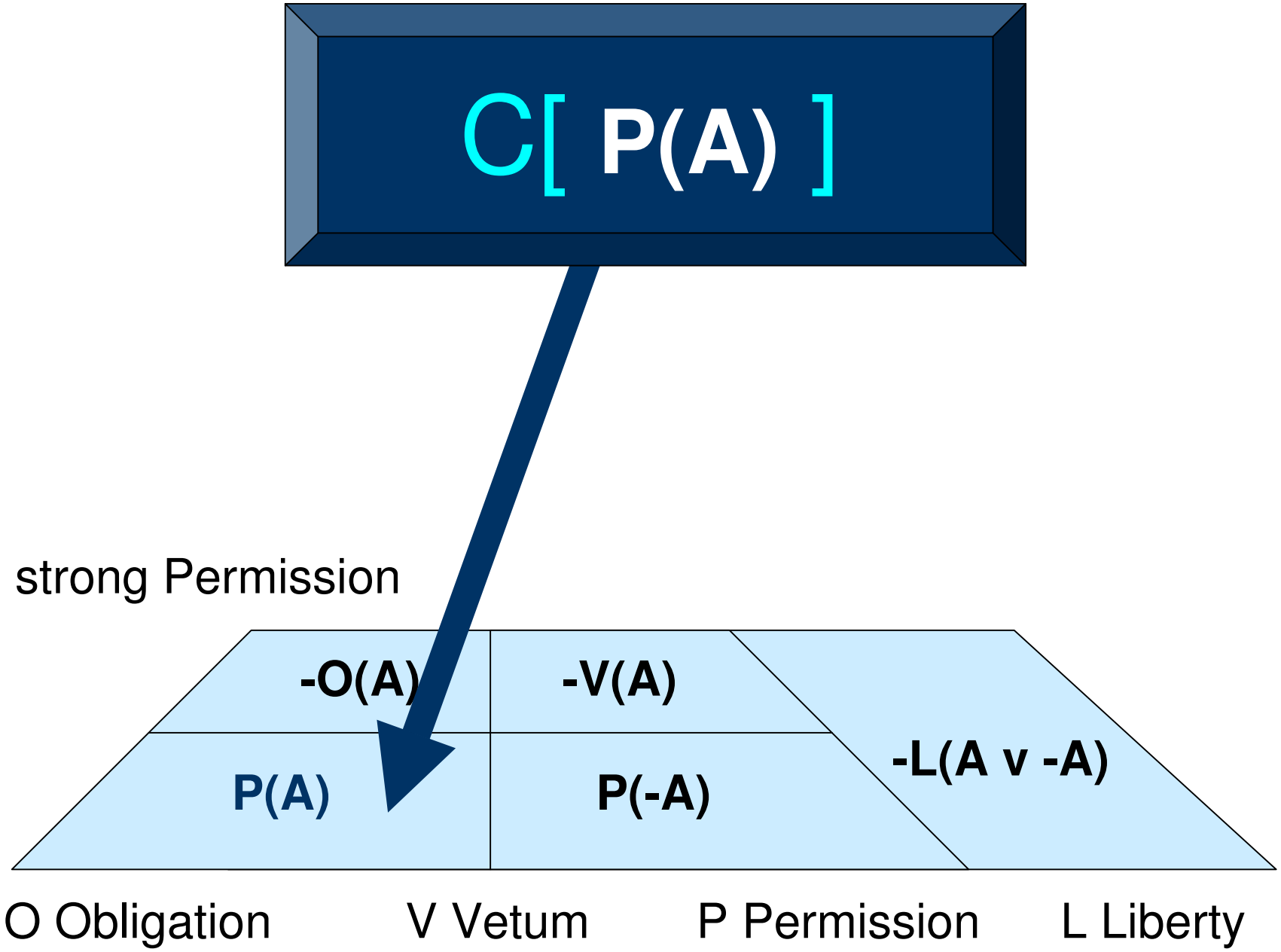

N(A)
O(A)
-V(A)
P(A)
-P(-A)
-L(A v -A)
O Obligation
V Vetum
P Permission
L Liberty


N(-A)
-O(A)
V(A)
-P(A)
P(-A)
-L(A v -A)
O Obligation
V Vetum
P Permission
L Liberty

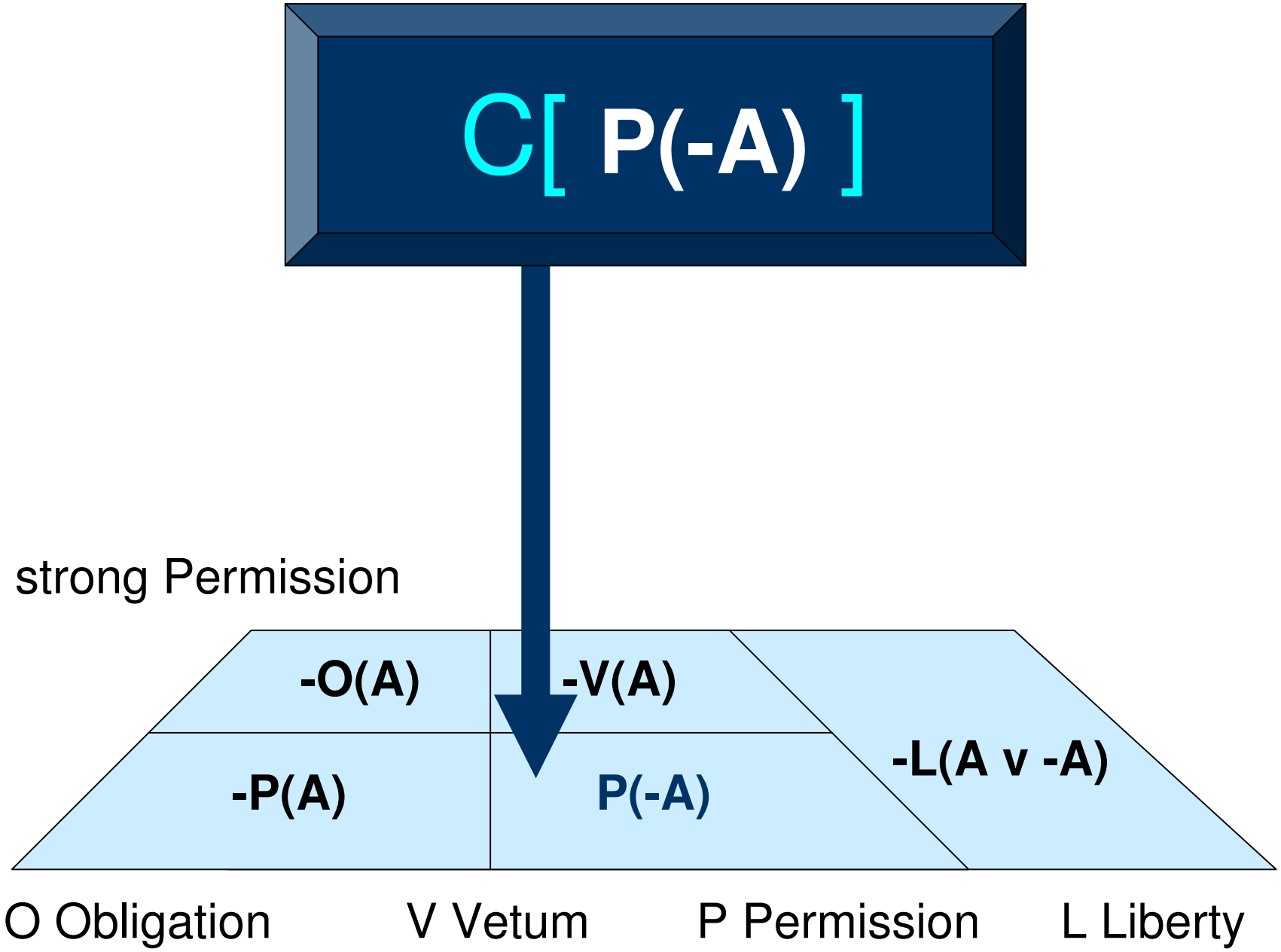

-N(A)
weak Liberty
weak Permissions
-O(A)
-V(A)
P(A)
P(-A)
L(A v -A)
O Obligation
V Vetum
P Permission
L Liberty


-N(-A)
weak Liberty
weak Permissions
-O(A)
-V(A)
P(A)
P(-A)
L(A v -A)
O Obligation
V Vetum
P Permission
L Liberty

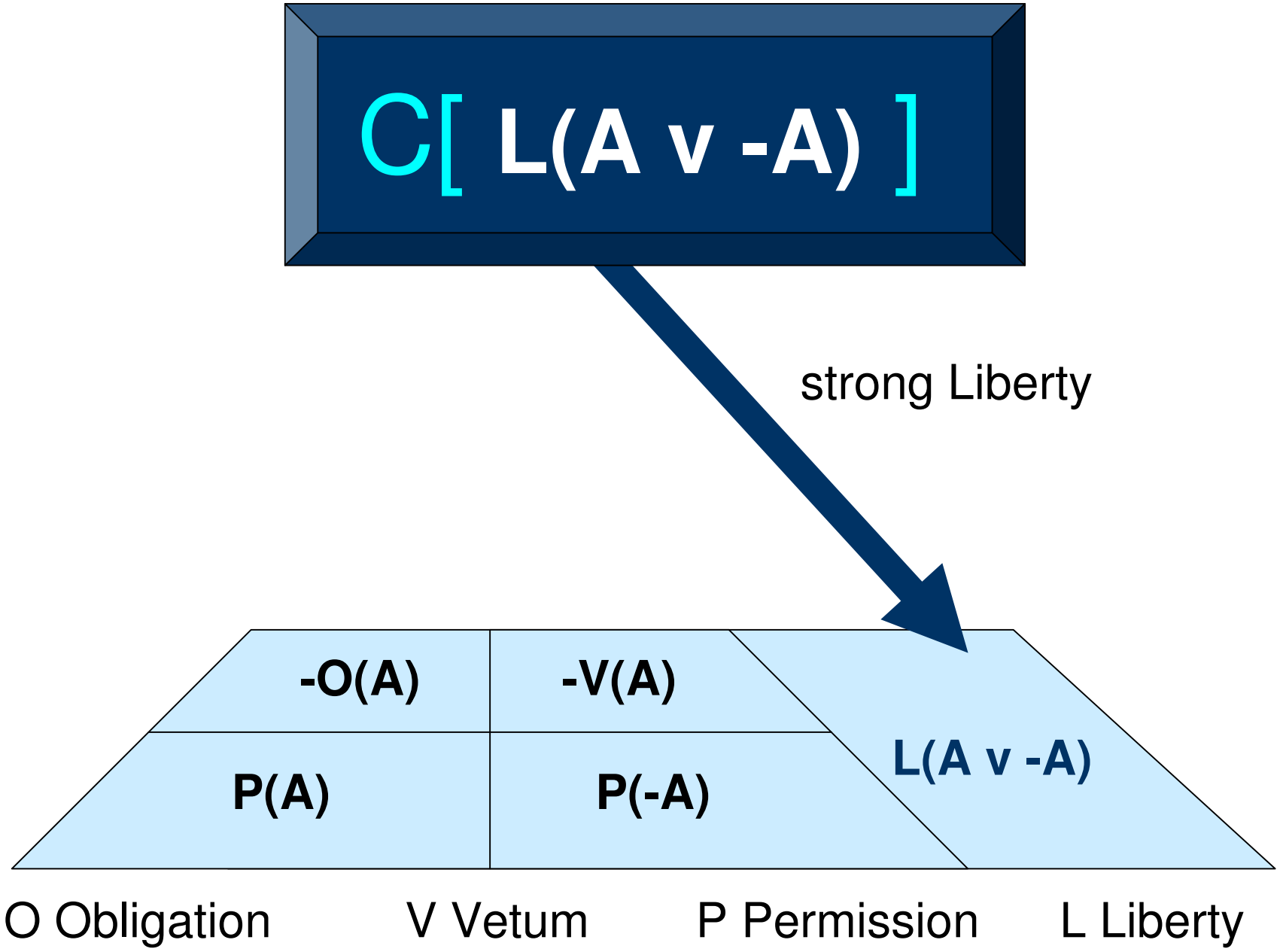
N Norm C Constitution



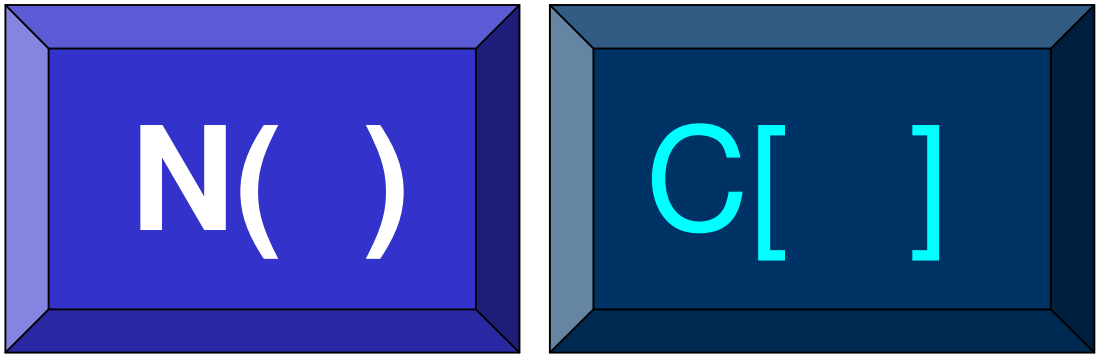
N Norm C Constitution

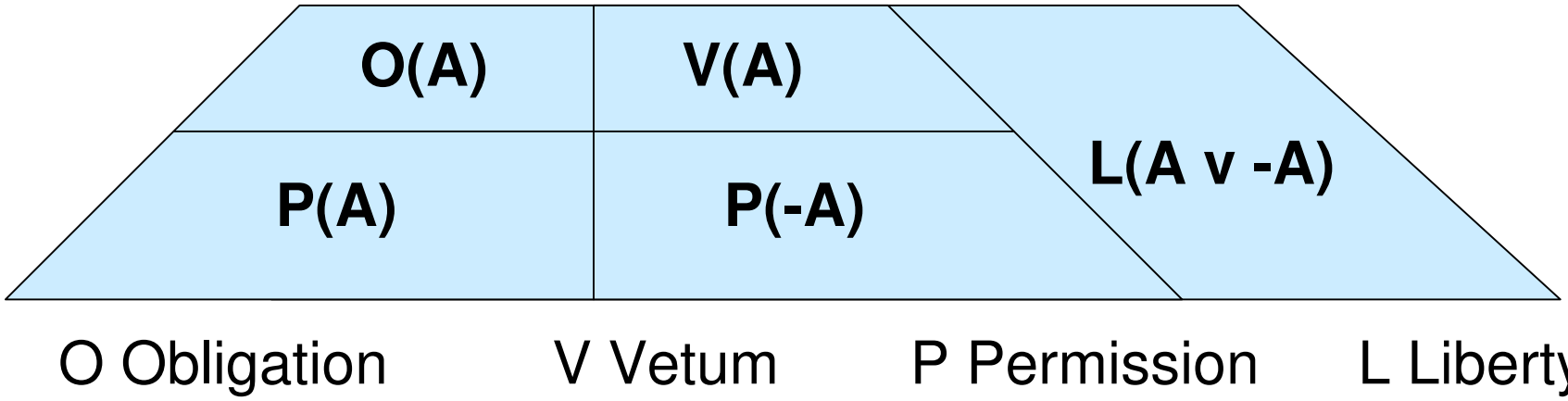


N Norm C Constitution



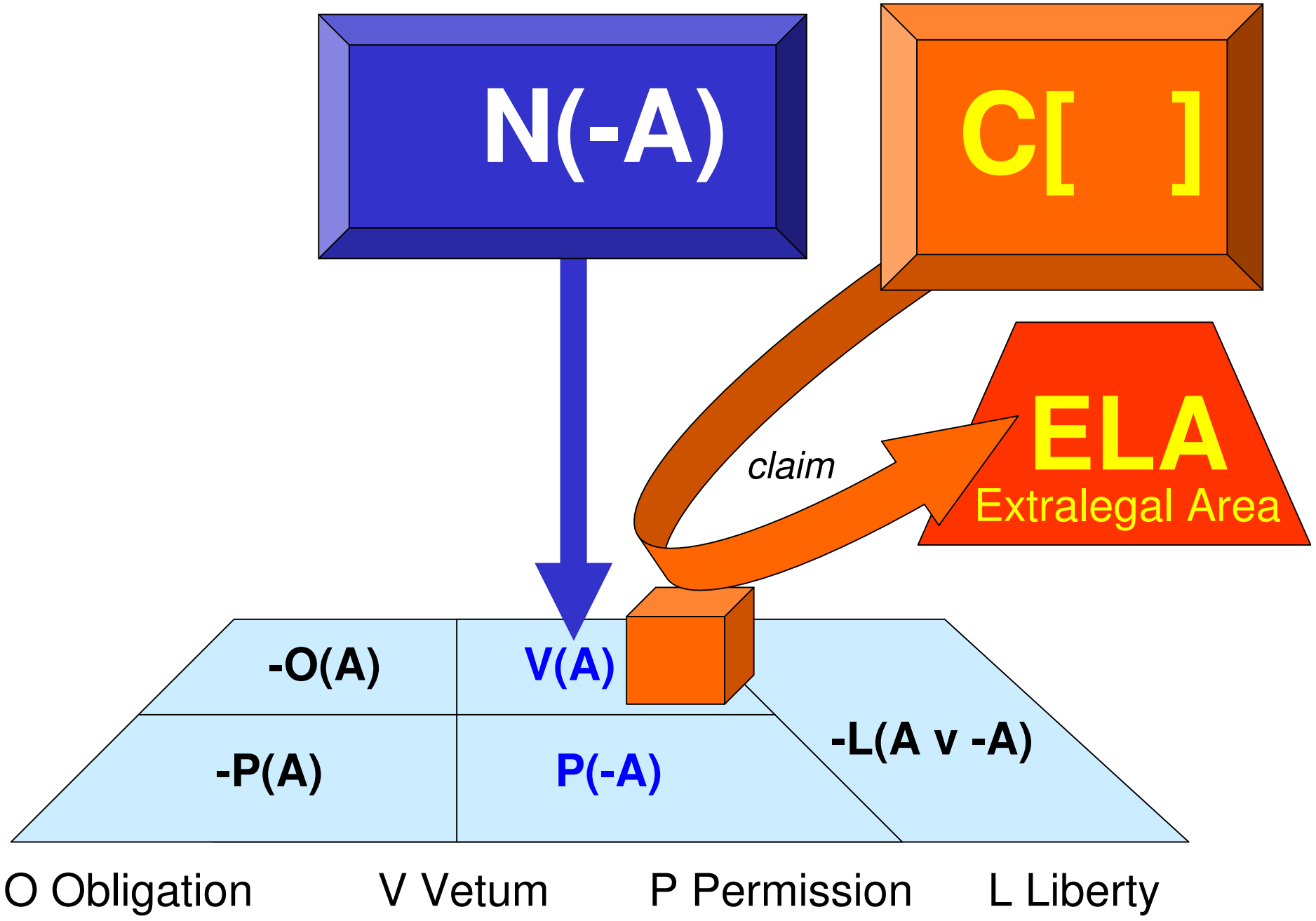
N Norm C Constitution

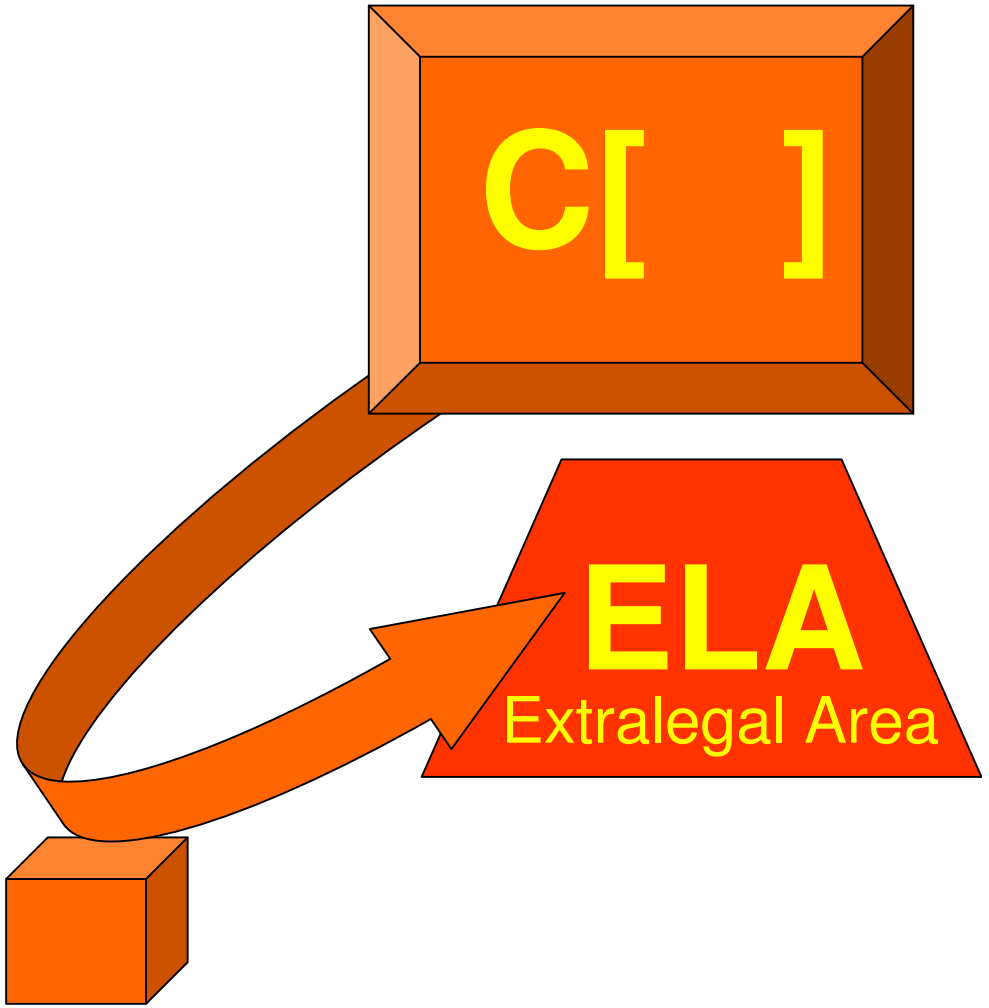




Indian/Tibetanian Logic: the quite another

forum internum
private sphere
content of art

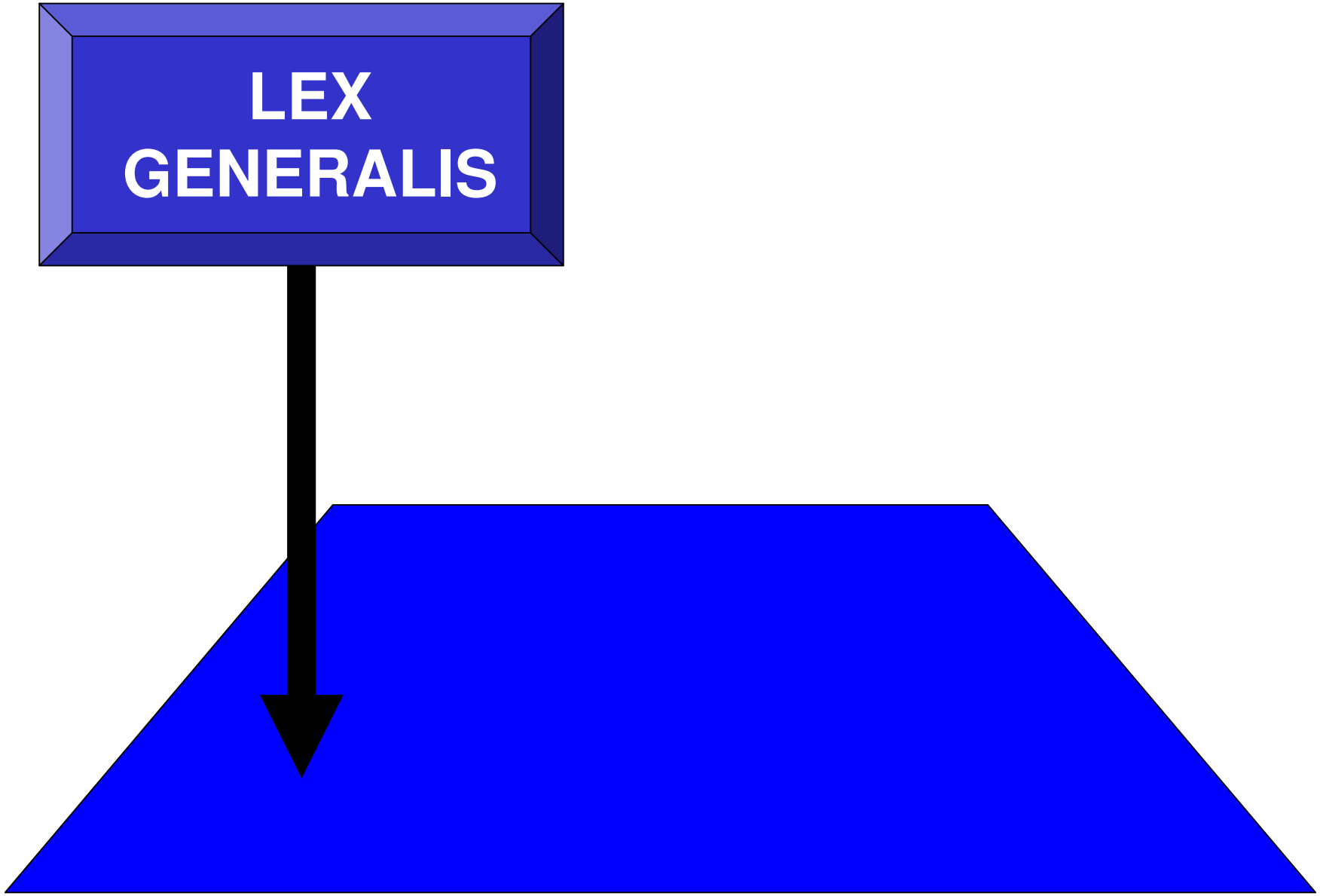

N(-A)
C[ ]
claim
ELA
Extralegal Area
-O(A)
V(A)
-P(A)
P(-A)
-L(A v -A)
O Obligation
V Vetum
P Permission
L Liberty

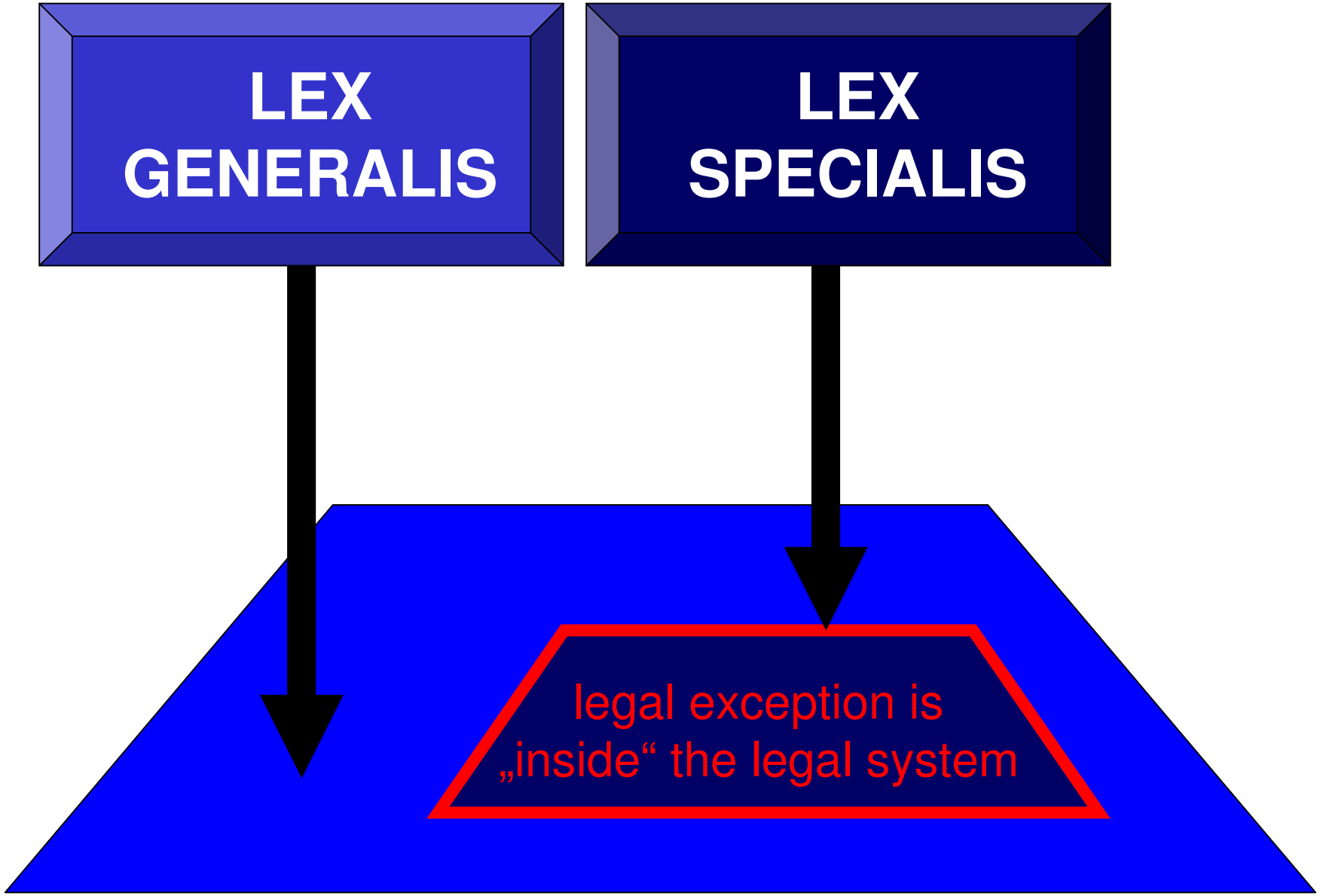

C[ ]
ELA
Extralegal Area

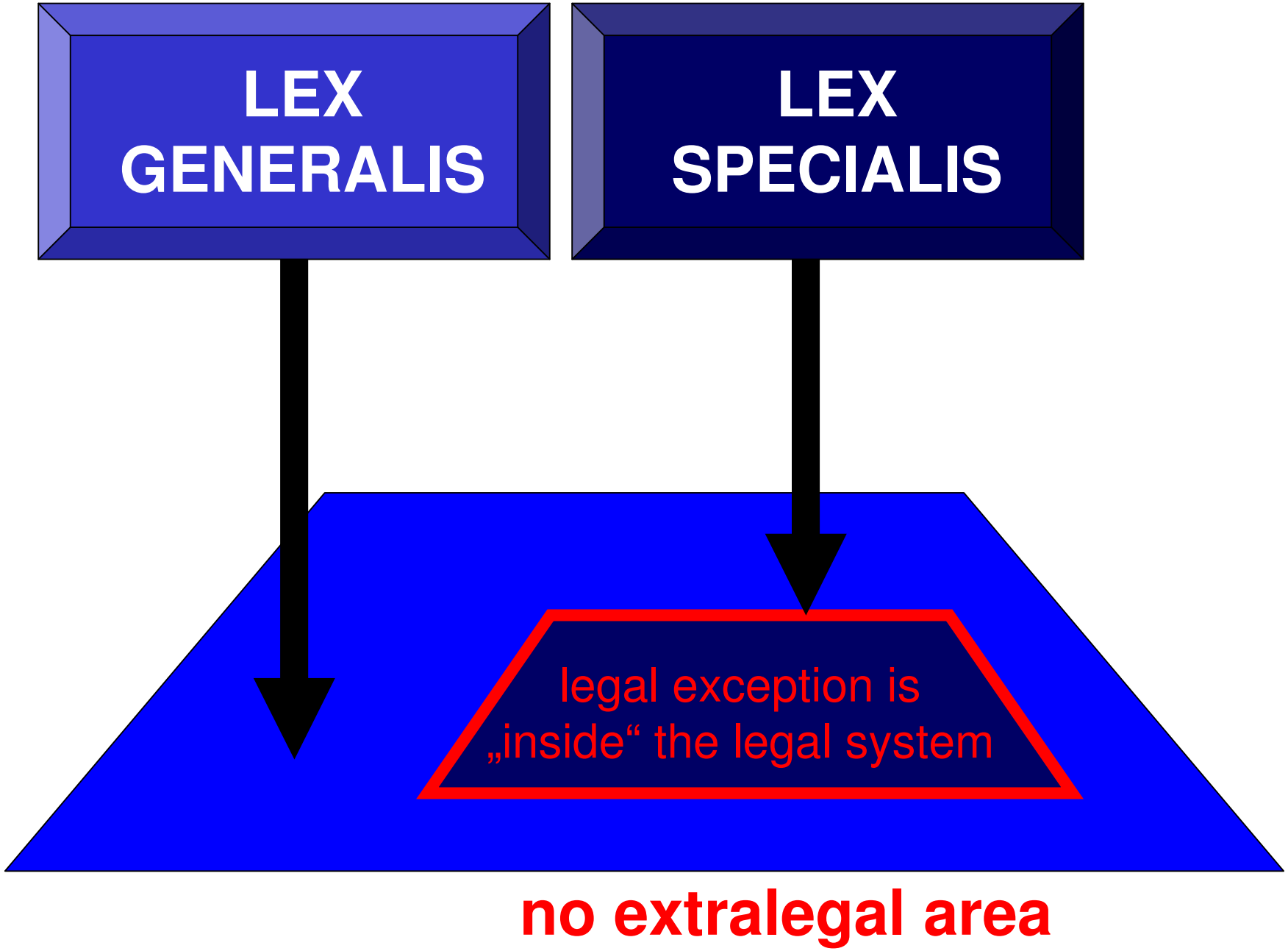
2.

LEX GENERALIS

LEX SPECIALIS


LEX
GENERALIS

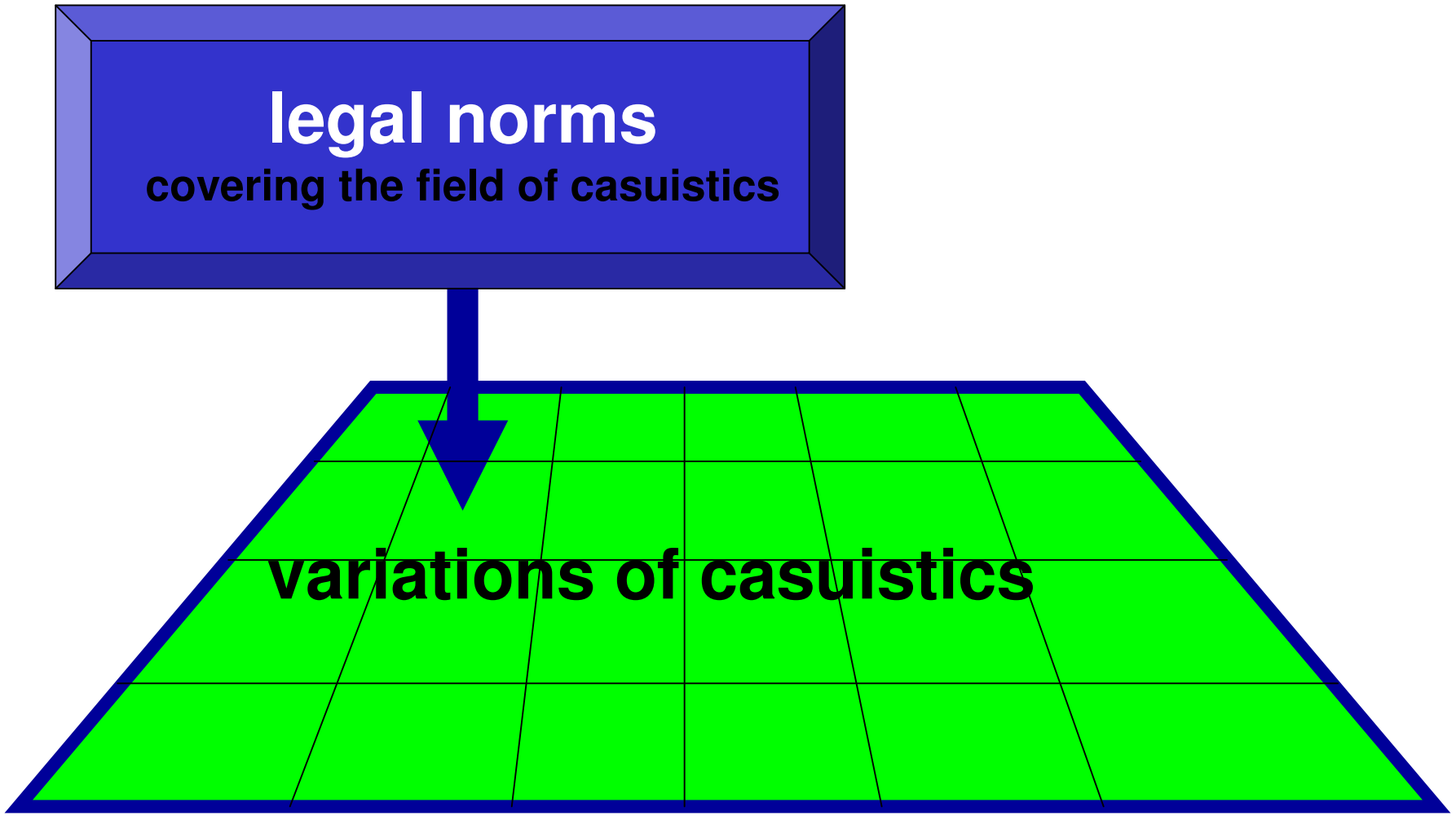

LEX
GENERALIS
LEX
SPECIALIS
legal exception is
„inside“ the legal system

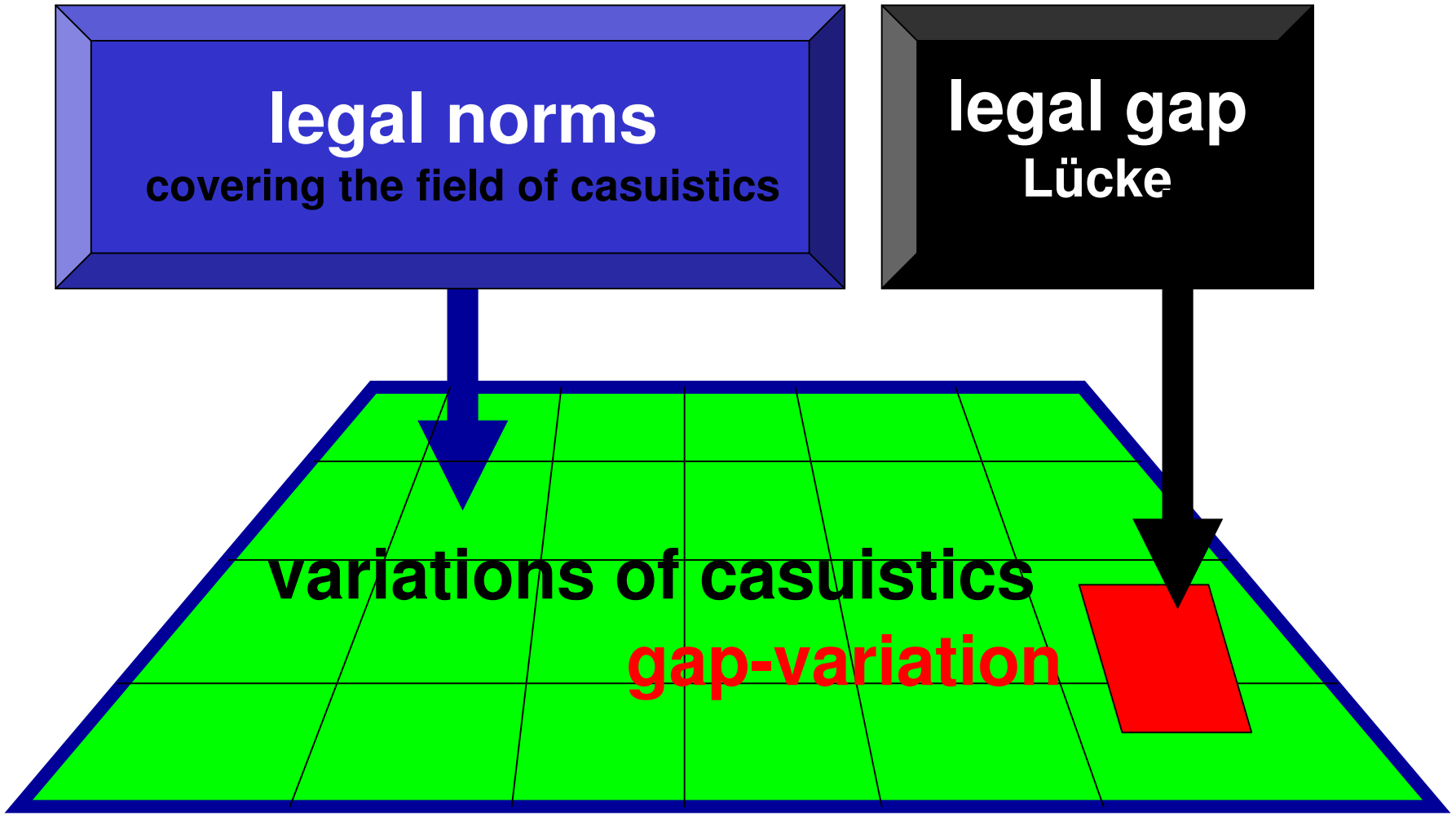

LEX GENERALIS
LEX SPECIALIS
legal exception is „inside“ the legal system
no extralegal area

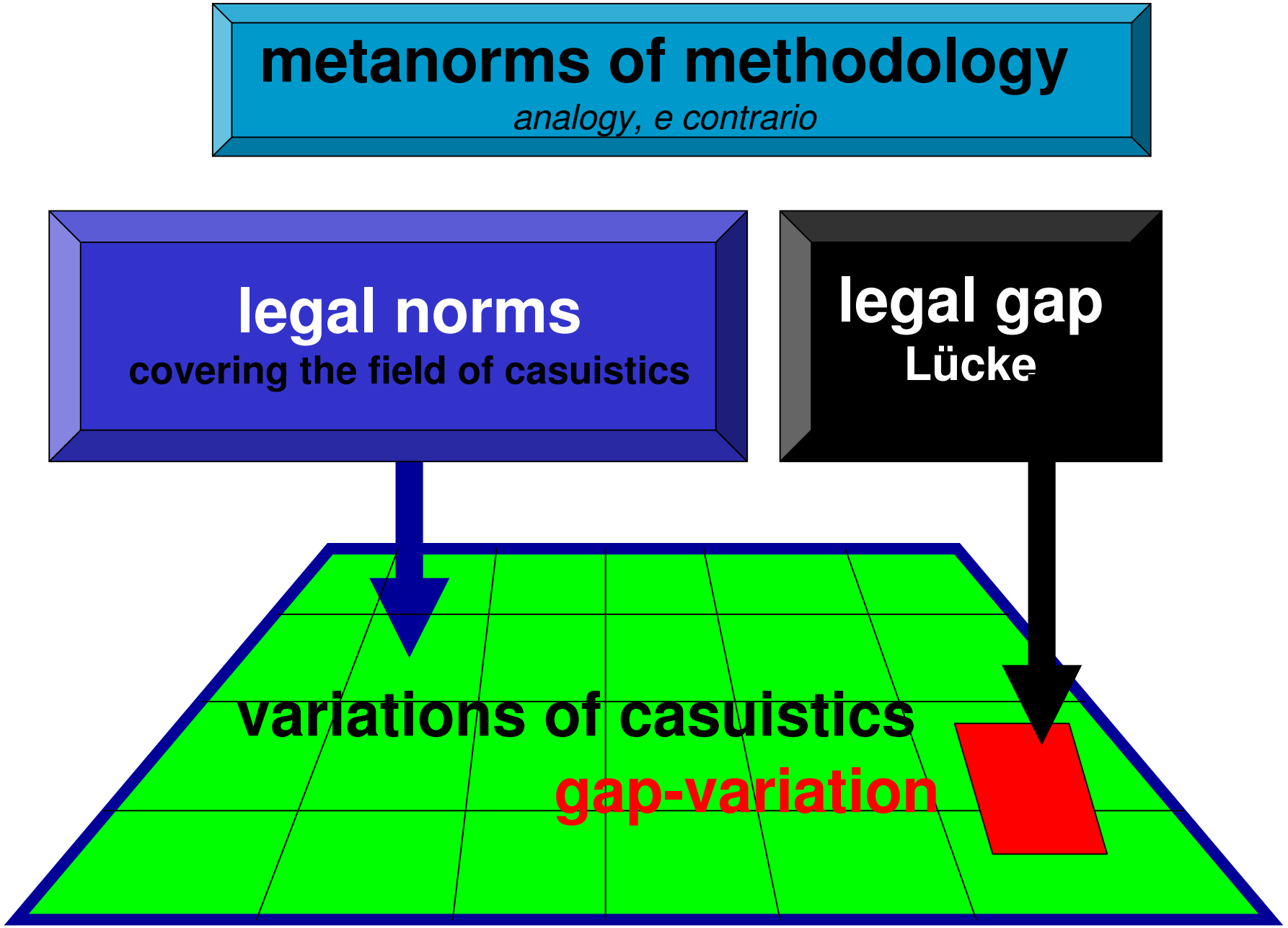
3.

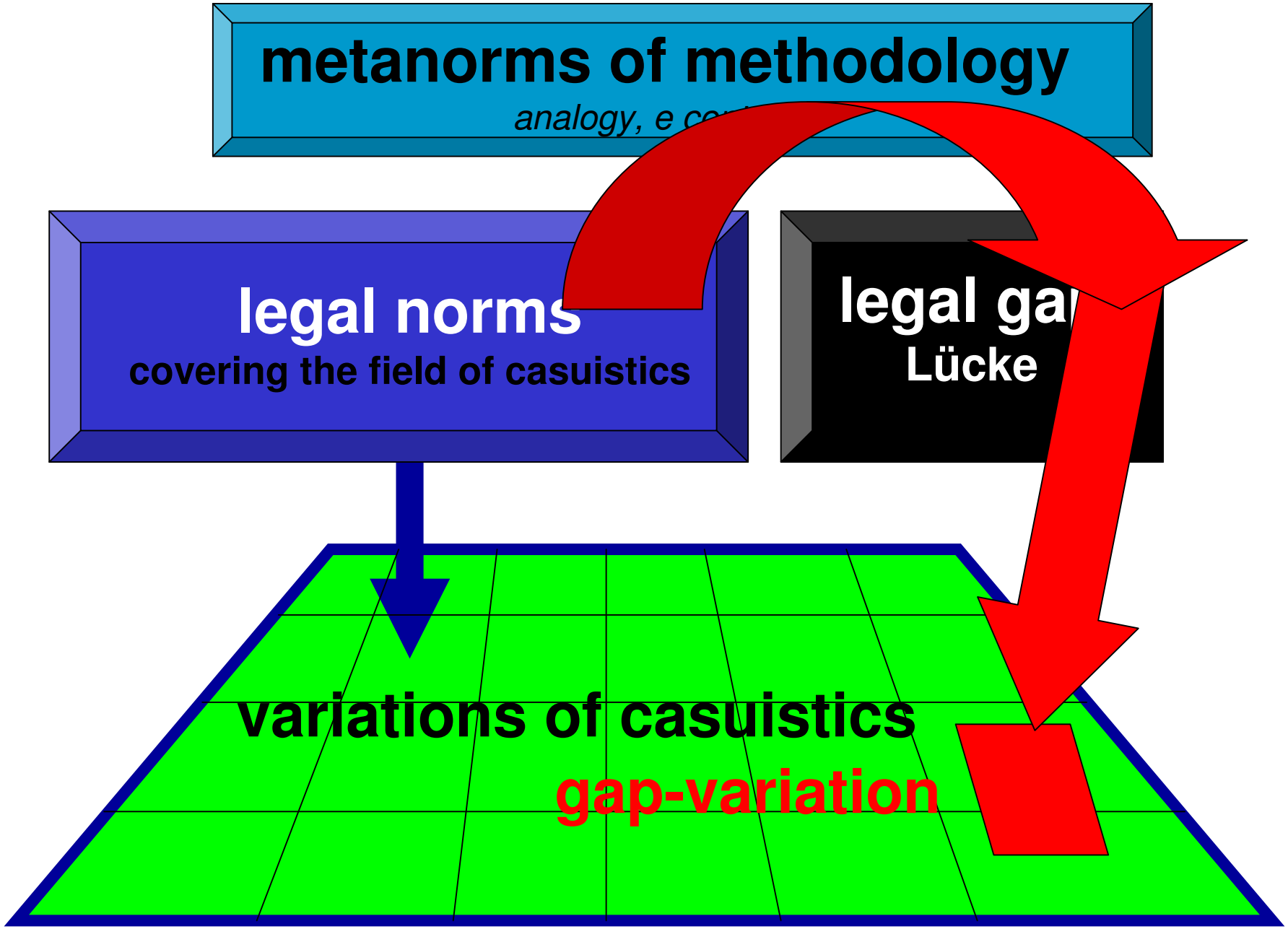
Legal Gap

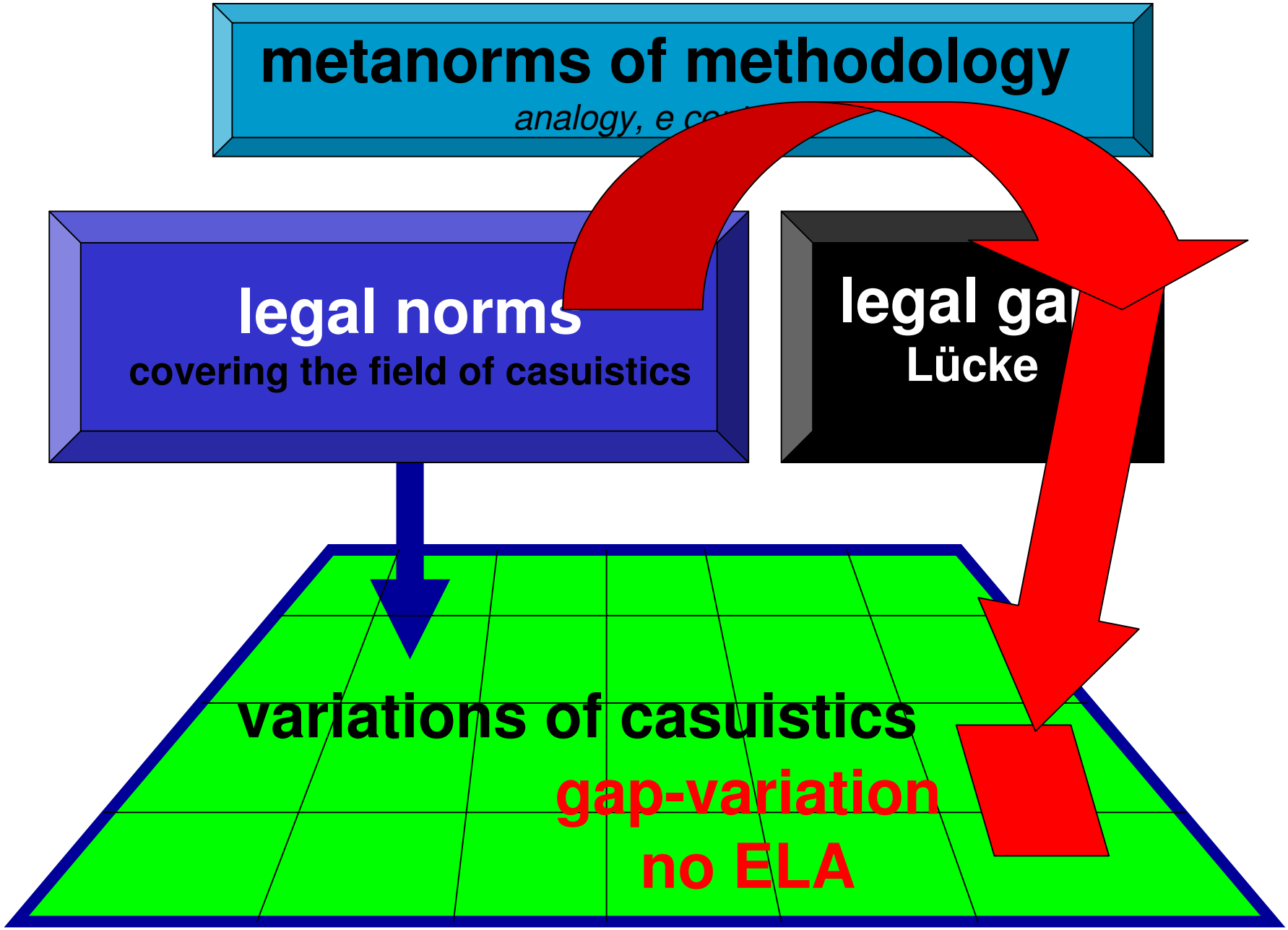
„Rechtslücke“


legal norms
covering the field of casuistics
variations of casuistics


legal norms
covering the field of casuistics
legal gap
Lücke
variations of casuistics
gap-variation

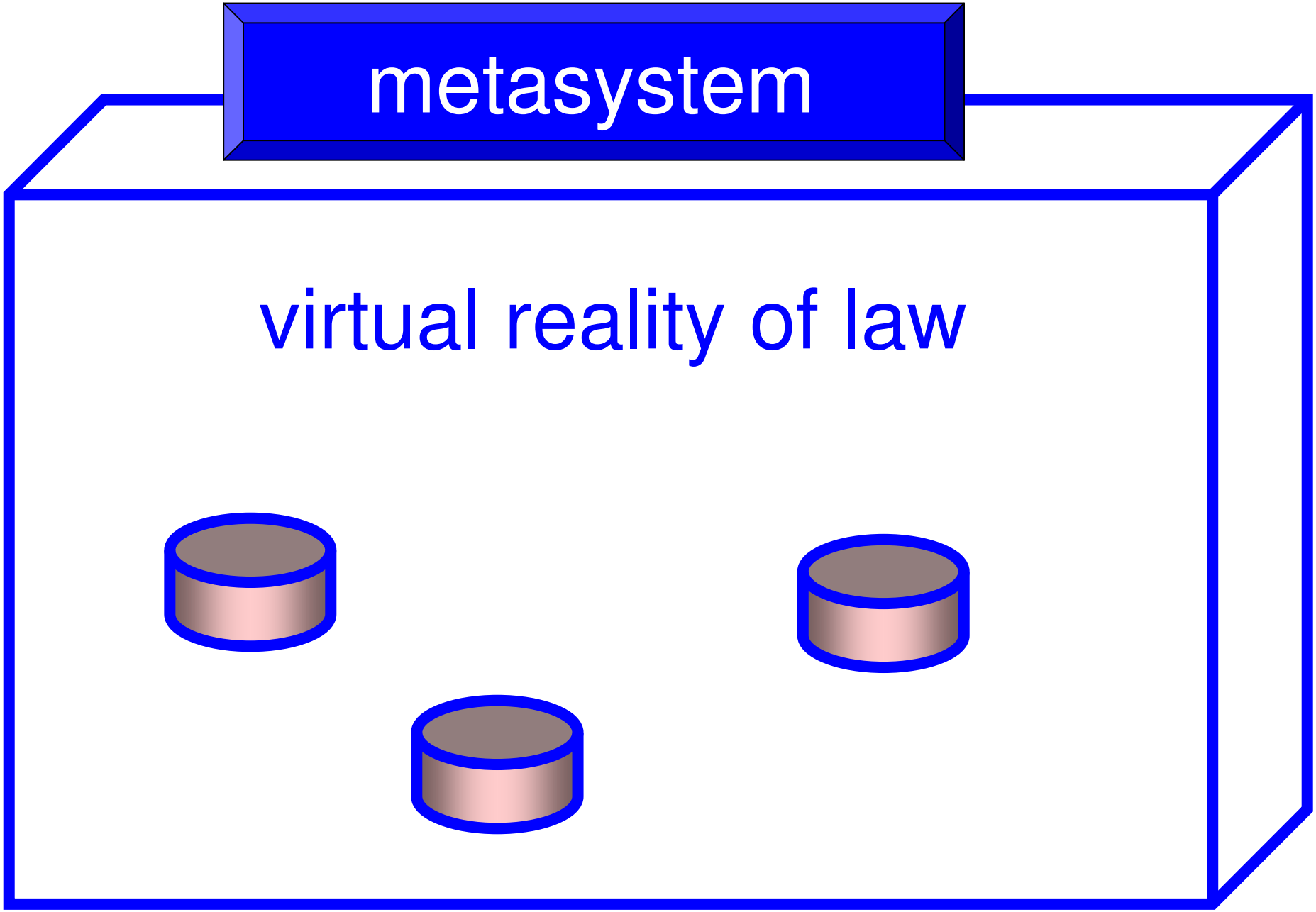

metanorms of methodology
analogy, e contrario
legal norms
covering the field of casuistics
legal gap
Lücke
variations of casuistics
gap-variation

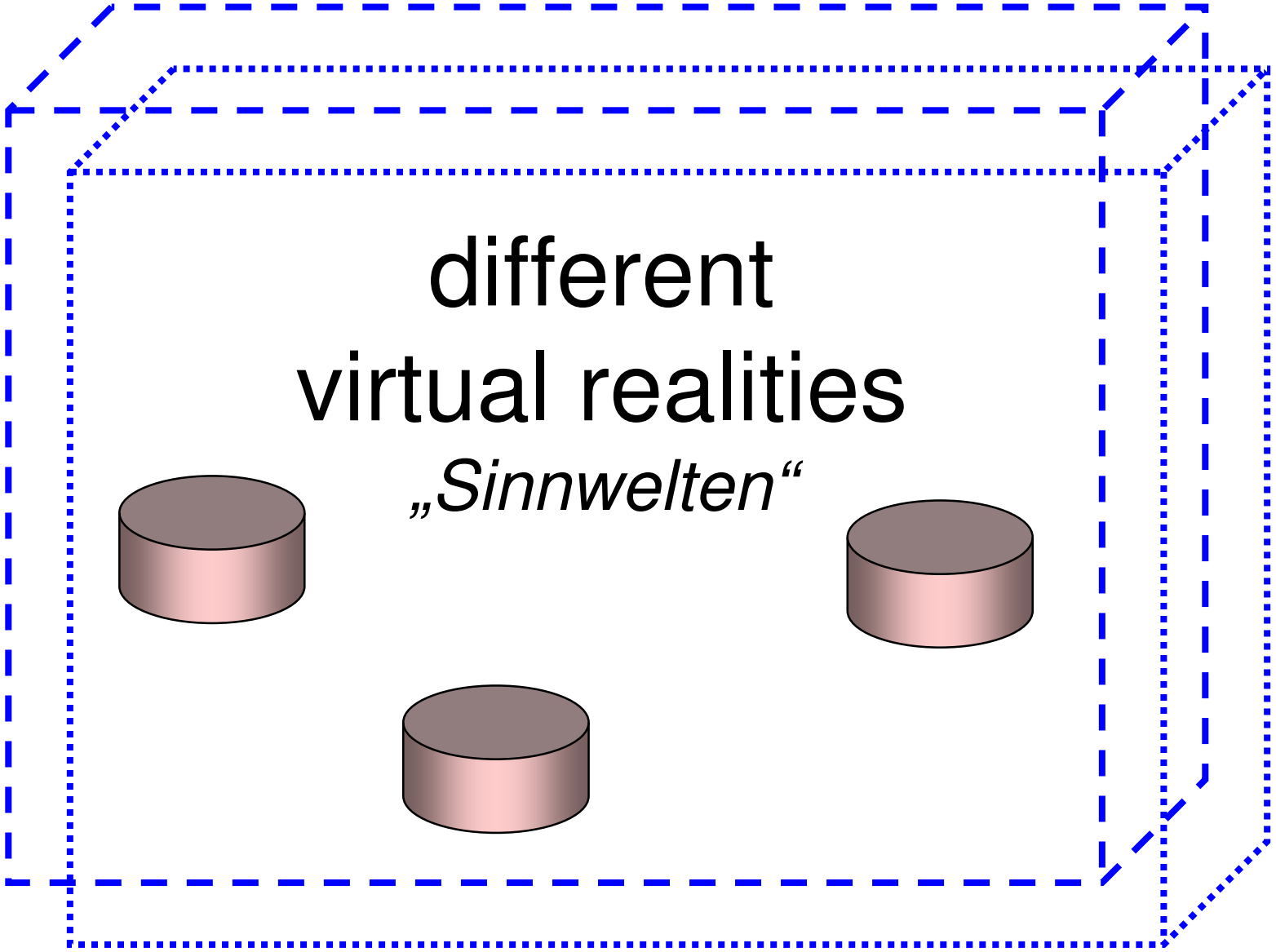

metanorms of methodology
analogy, e
legal norms
covering the field of casuistics
legal ga
Lücke
variations of casuistics
gap-variation

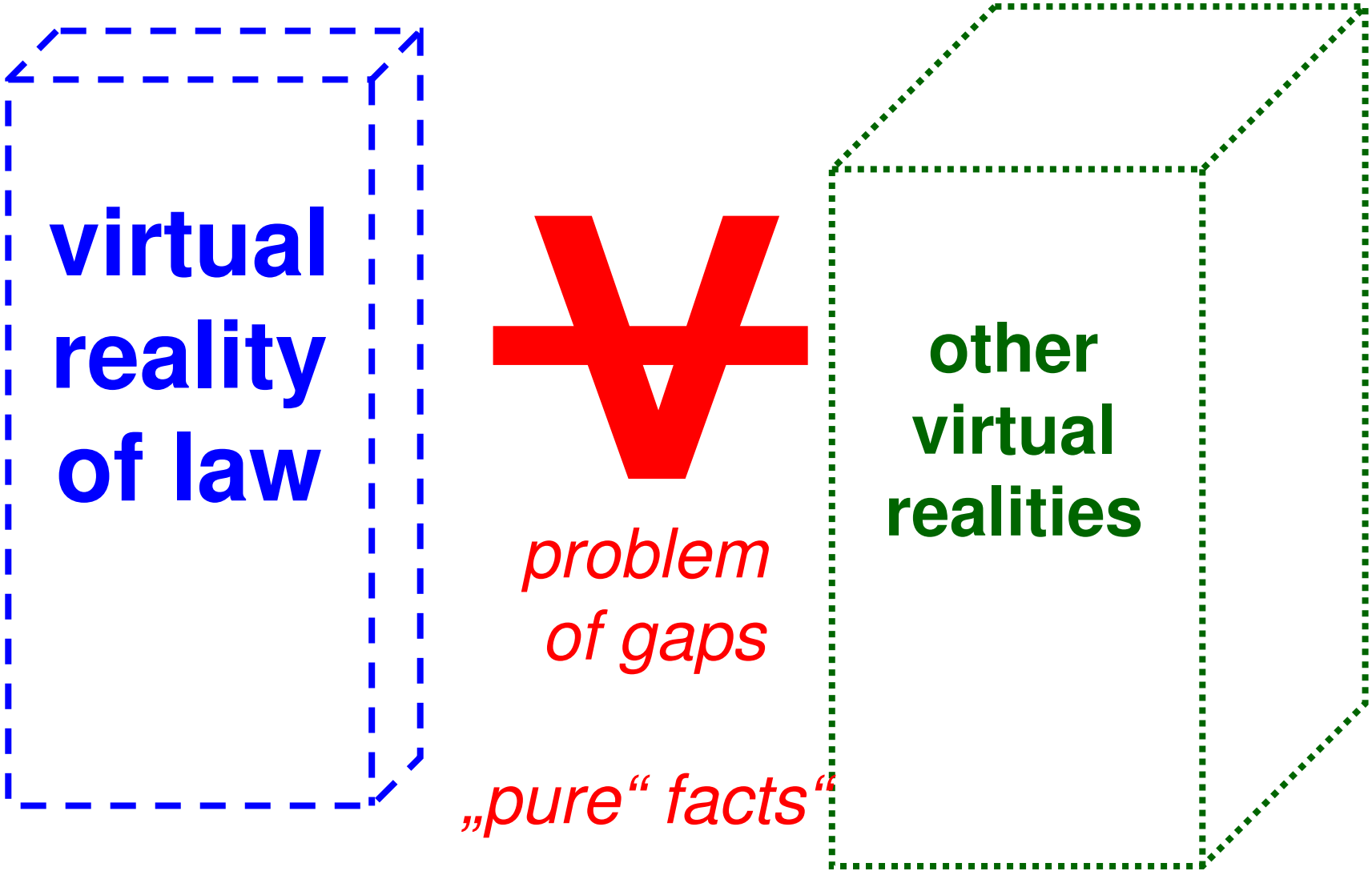

metanorms of methodology
analogy, e
legal norms
covering the field of casuistics
legal ga
Lücke
variations of casuistics
gap-variation
no ELA

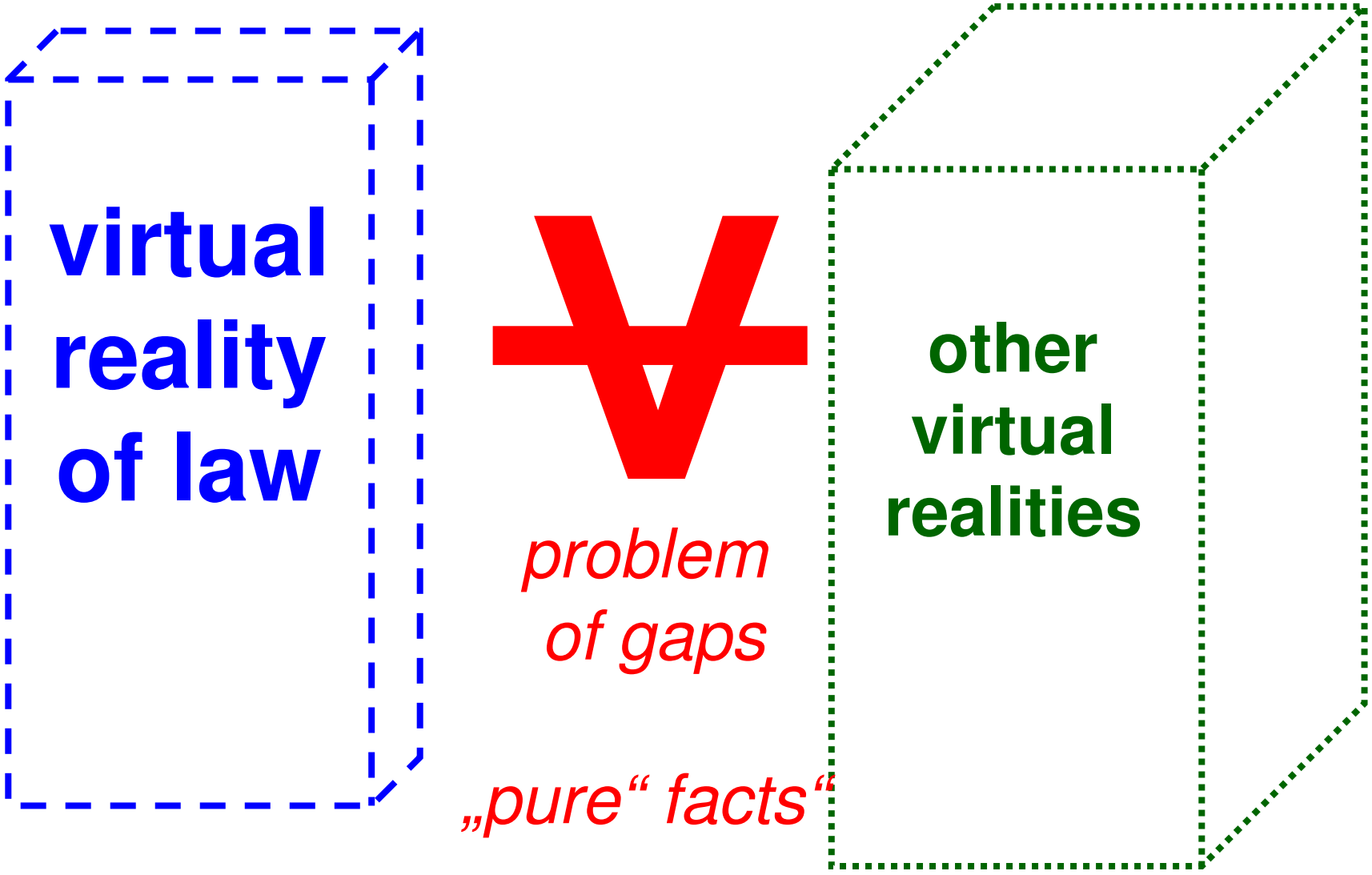
4.

Virtual Reality of Law


metasystem
virtual reality of law


different
virtual realities
„Sinnwelten“


virtual
reality
of law
problem
of gaps
„pure“ facts“
other
virtual
realities



ELA extralegal area: „pure facts“ or another meaning?

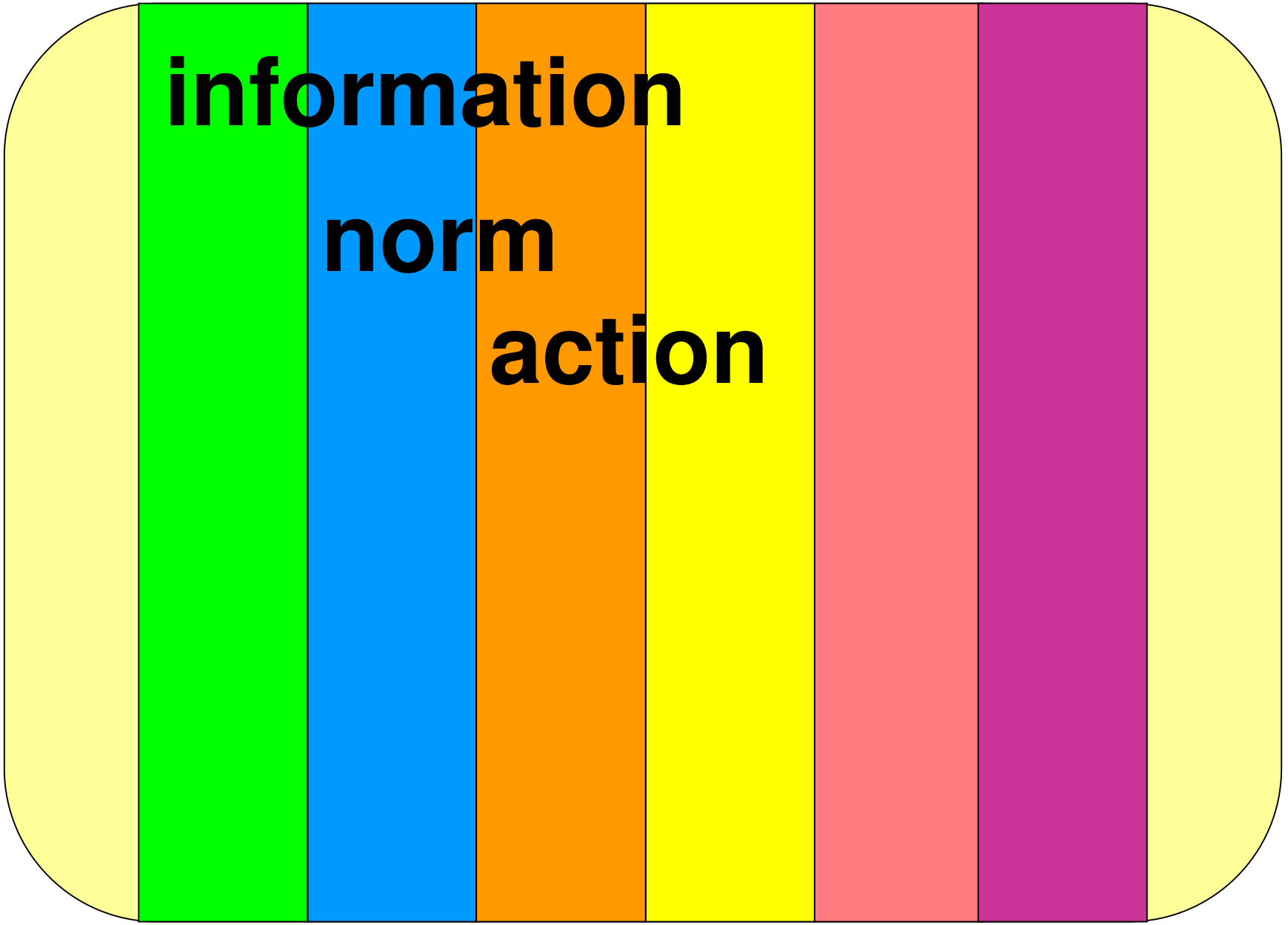
universal semiotical frame:
languages - symbols

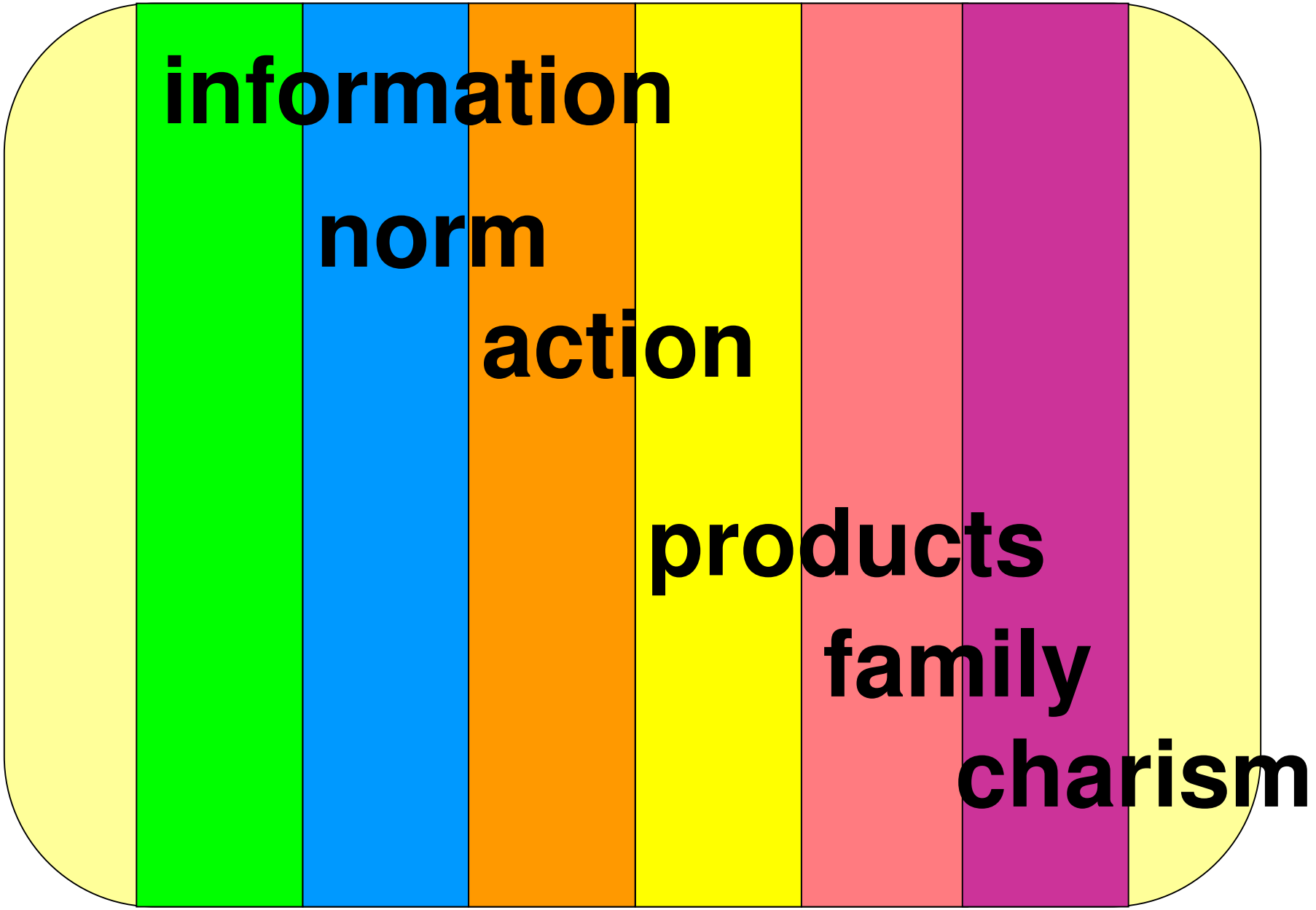
problem of „pure“facts

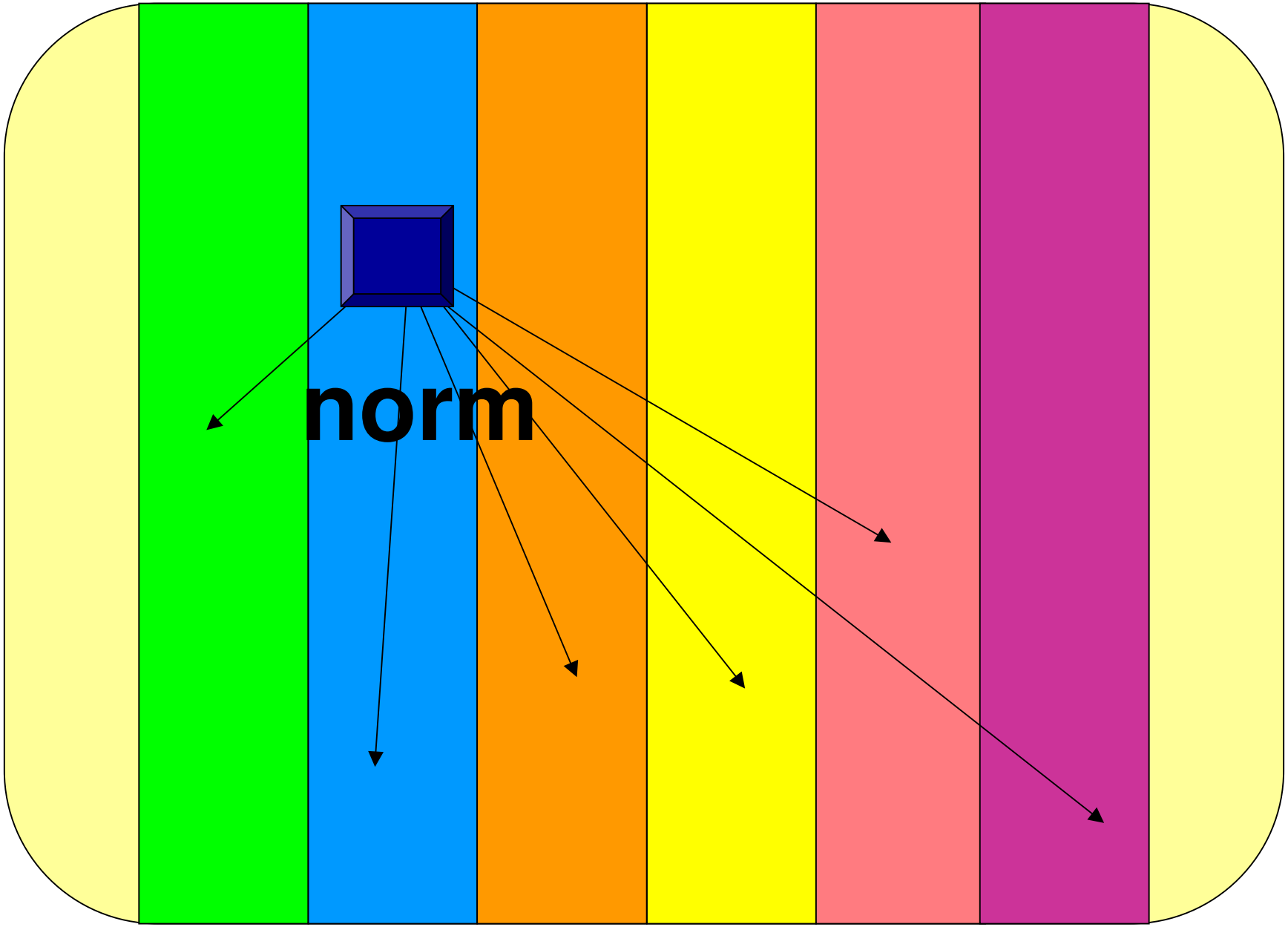
5.

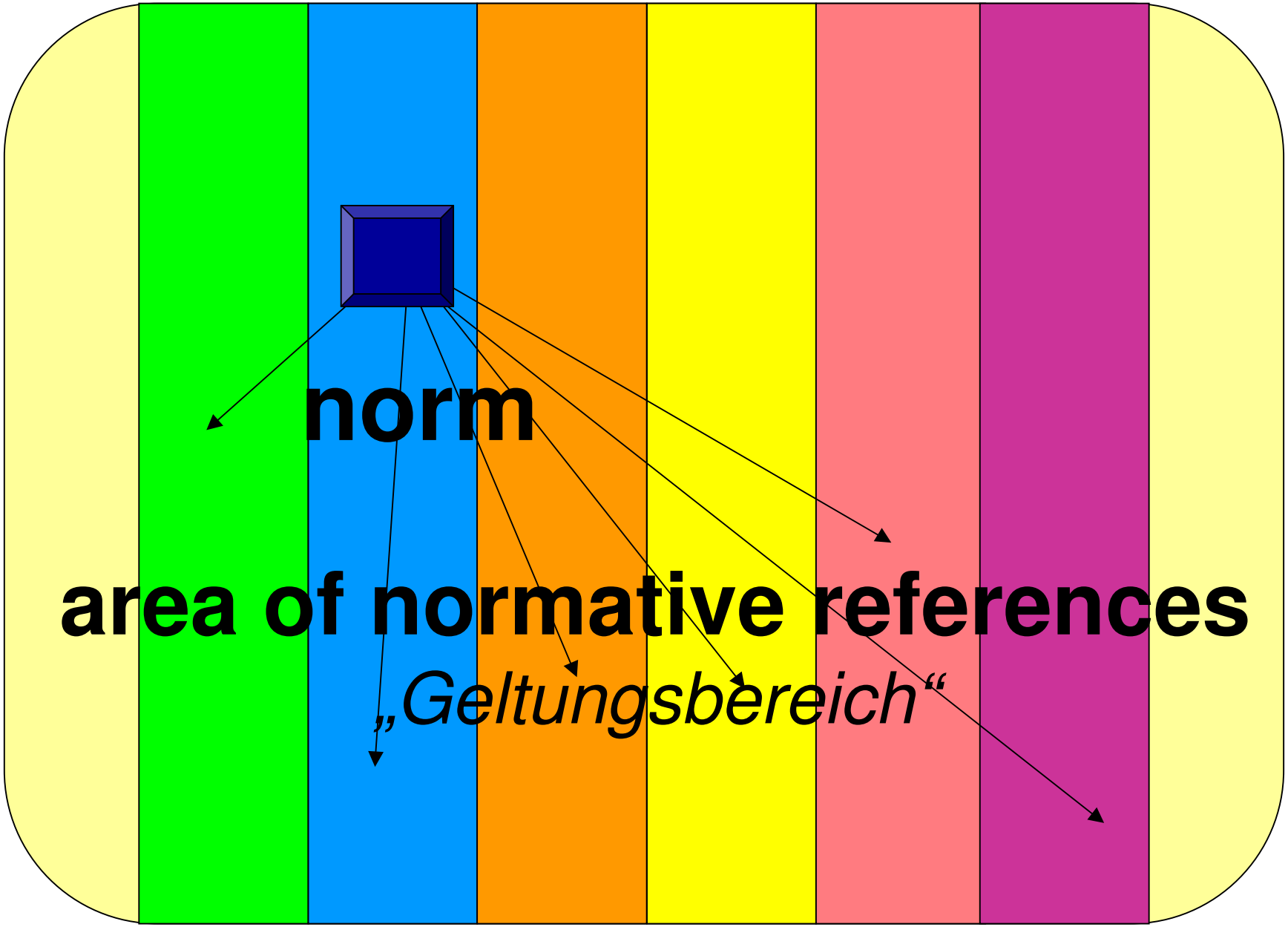
Societal Sectors

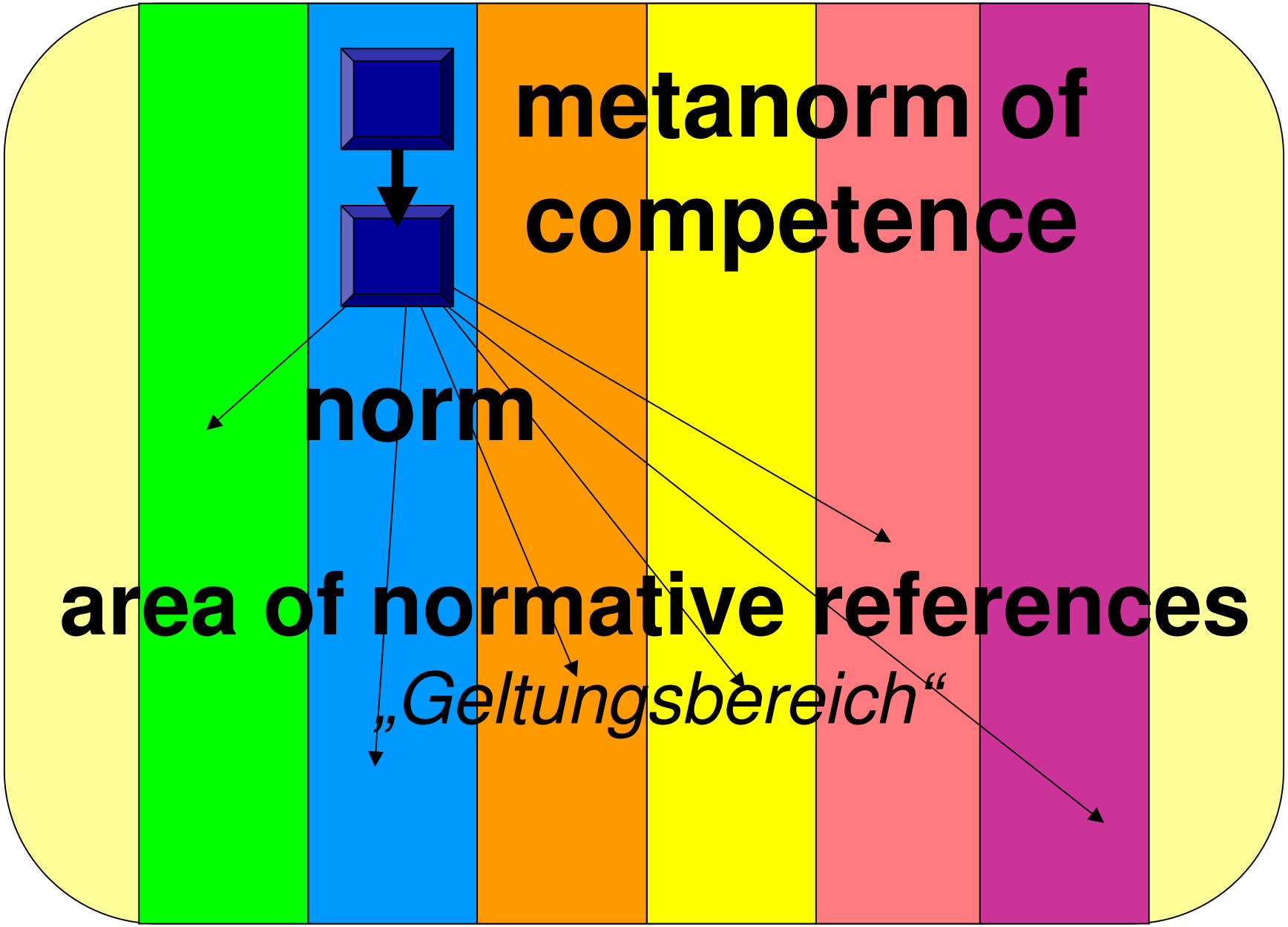
societal sectors

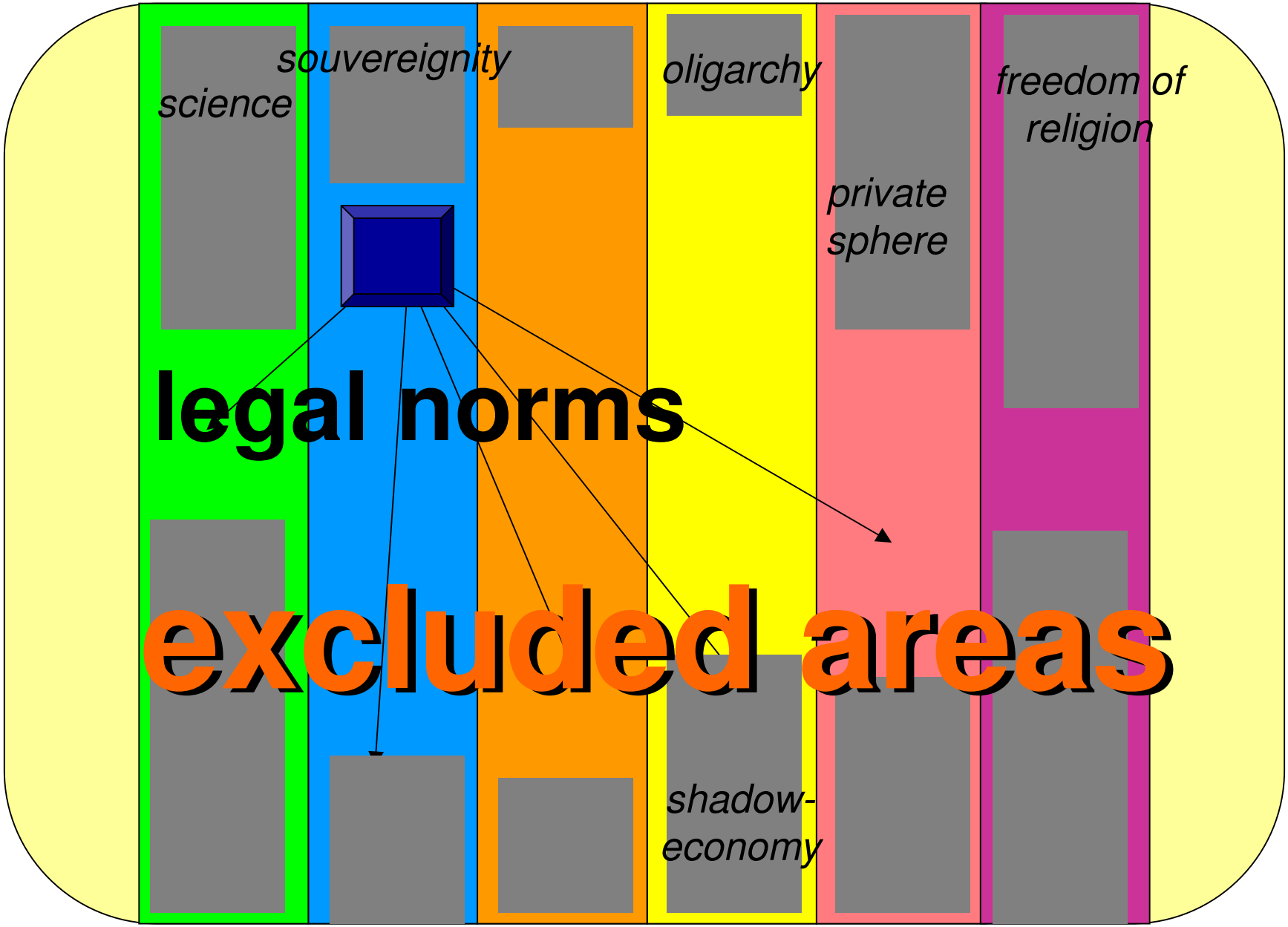

information
norm
action

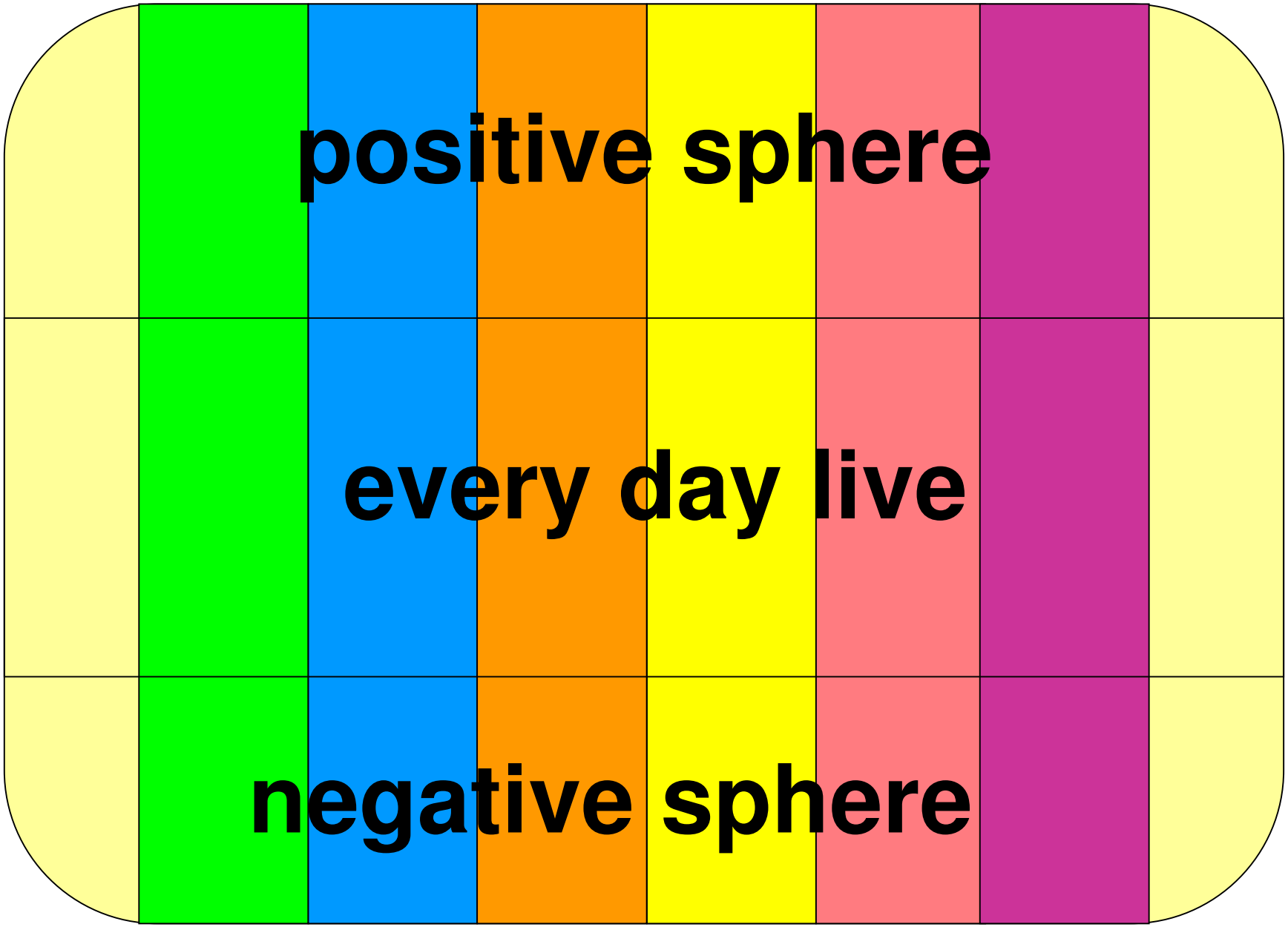

information
norm
action
products
family
charism

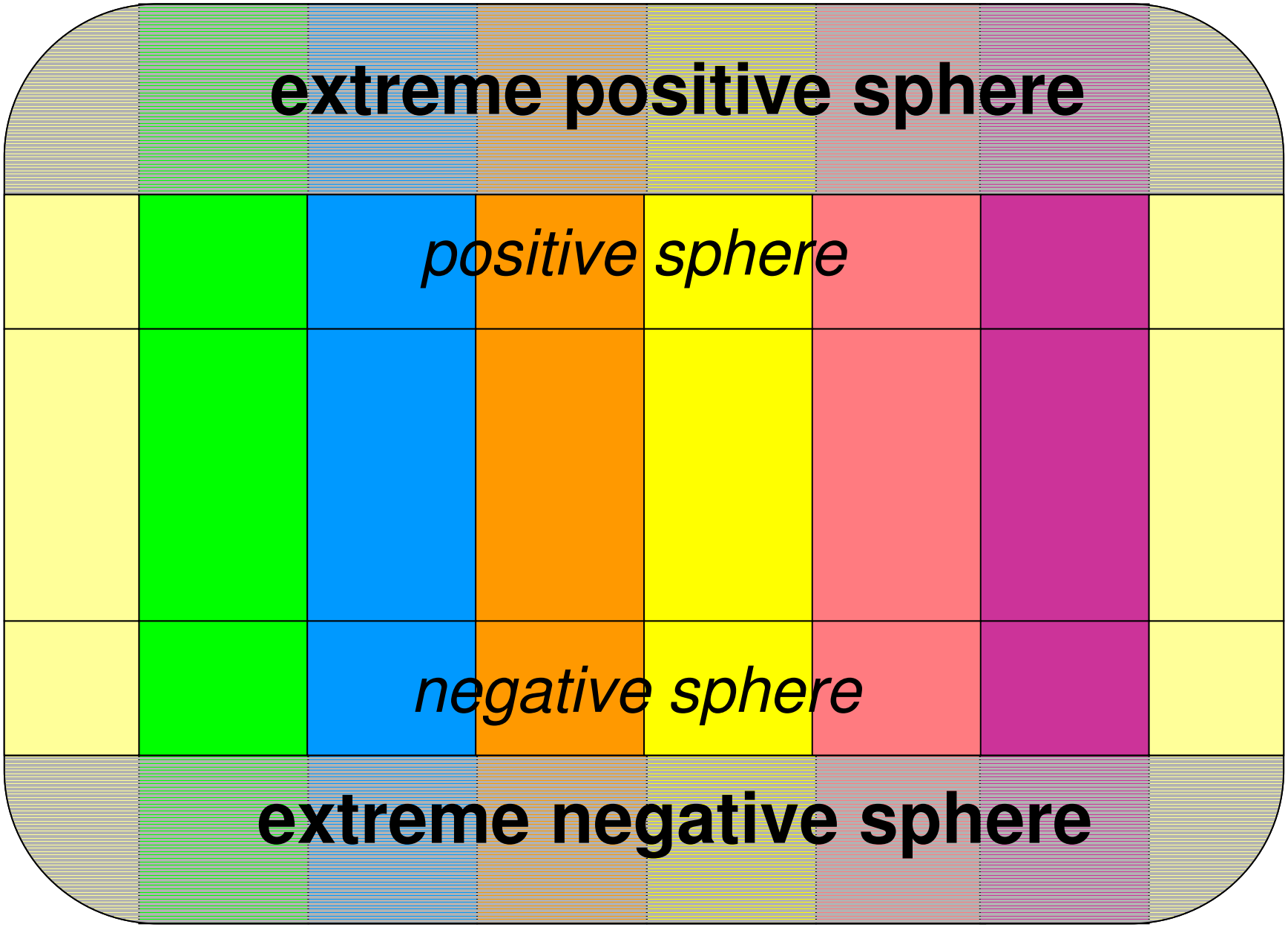

norm

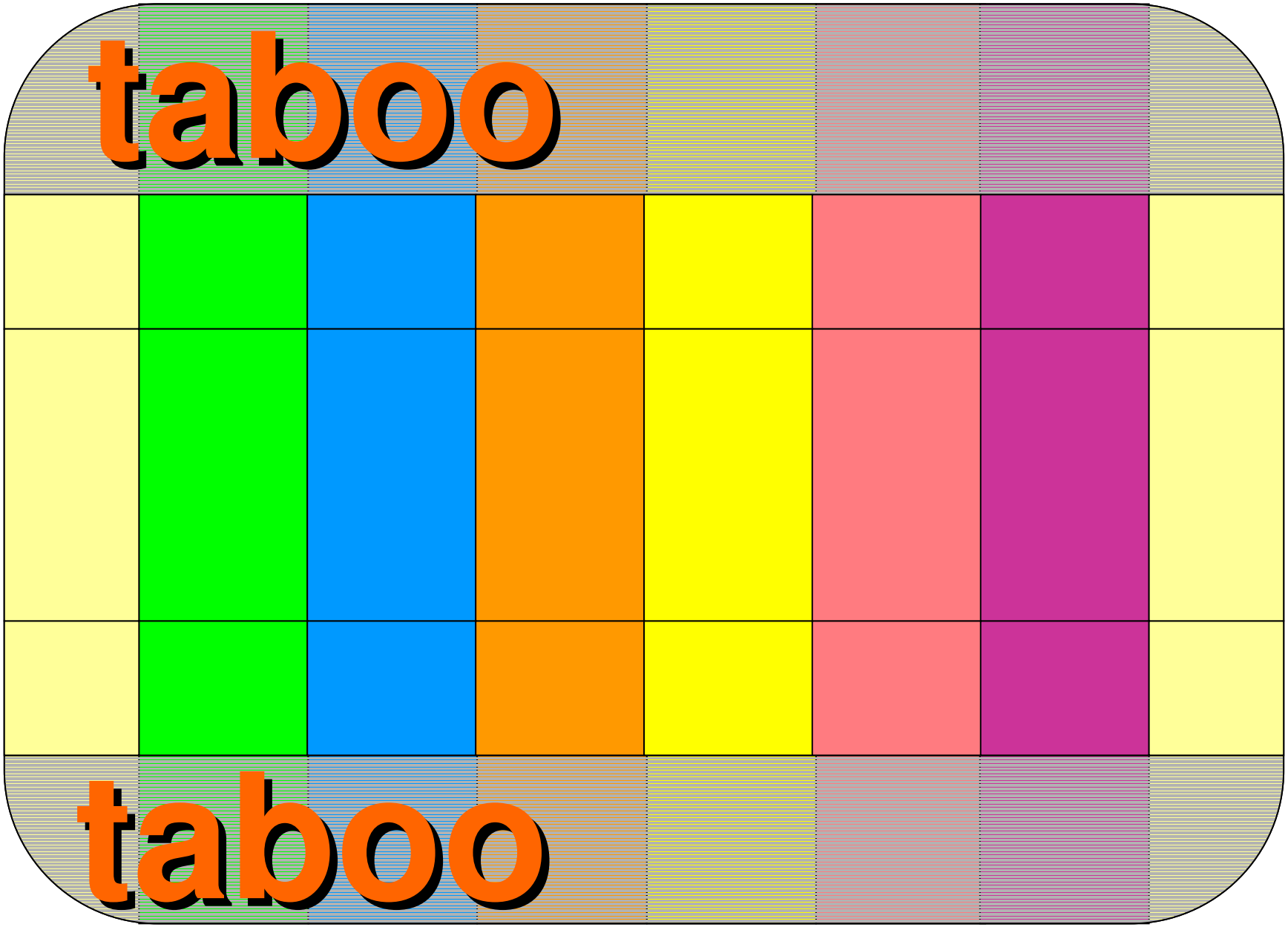

norm
area of normative references
„Geltungsbereich“

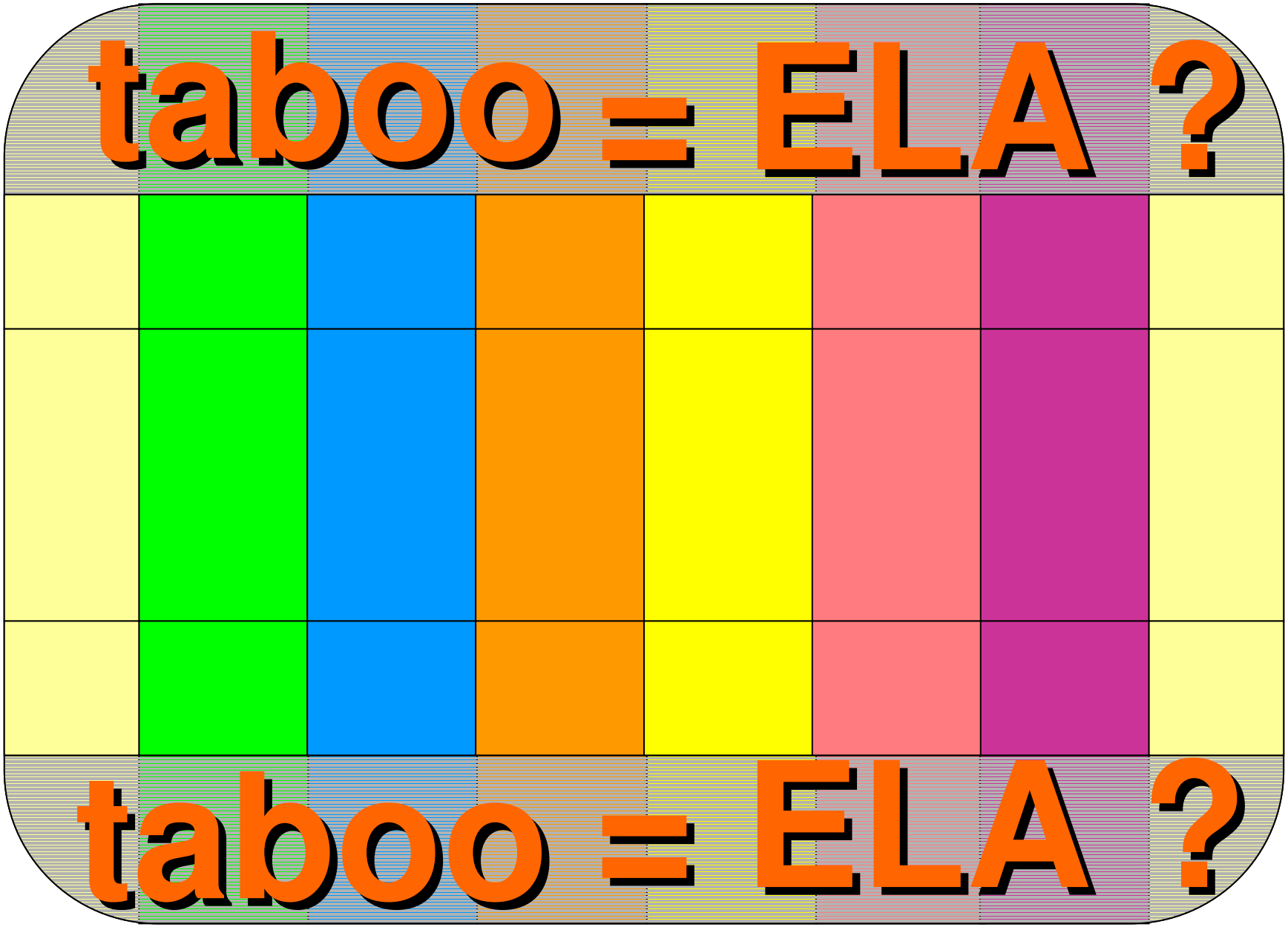

metanorm of competence
norm
area of normative references
„Geltungsbereich“


science
souvereignity
oligarchy
private sphere
freedom of religion
legal norms
excluded areas
shadow-economy


positive sphere
every day live
negative sphere

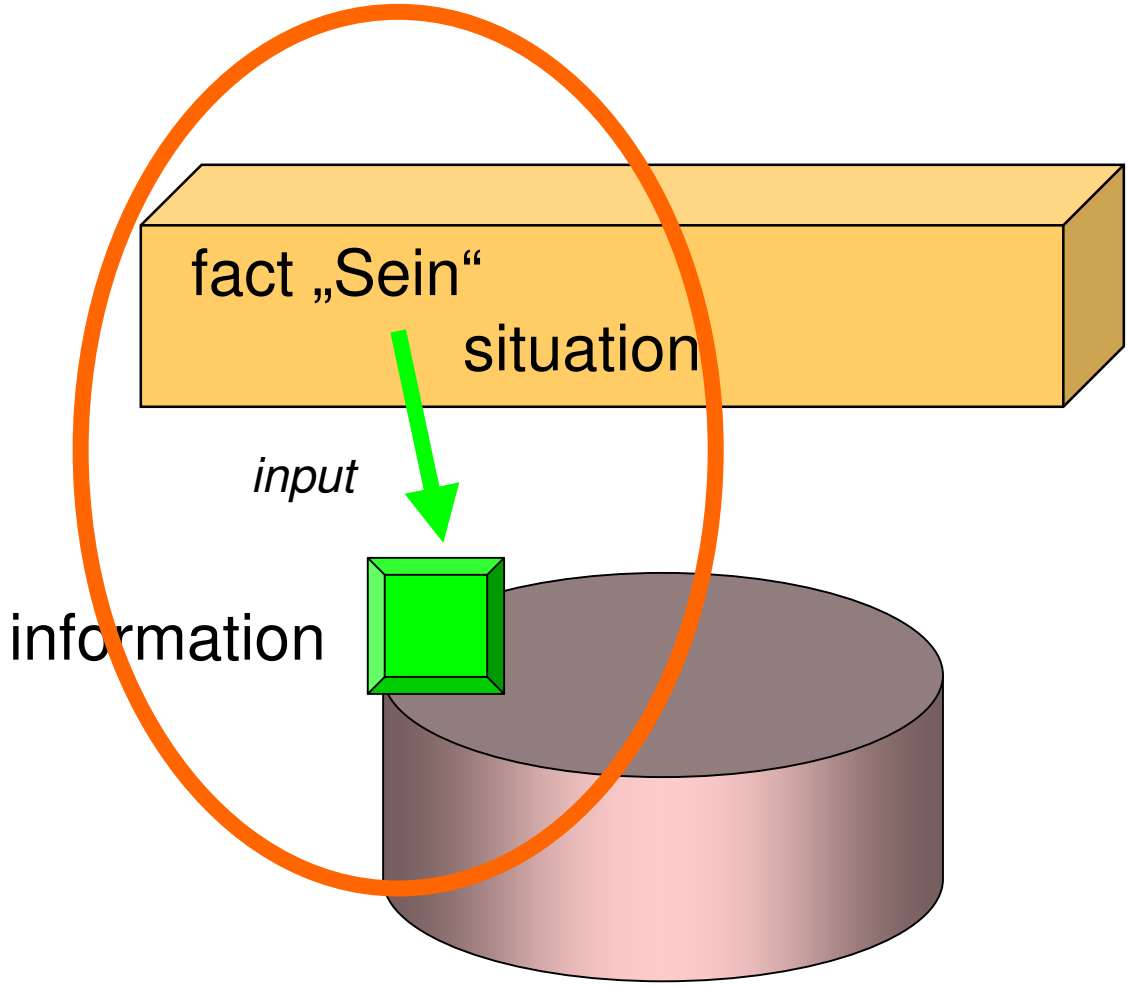

extreme positive sphere
positive sphere
negative sphere
extreme negative sphere

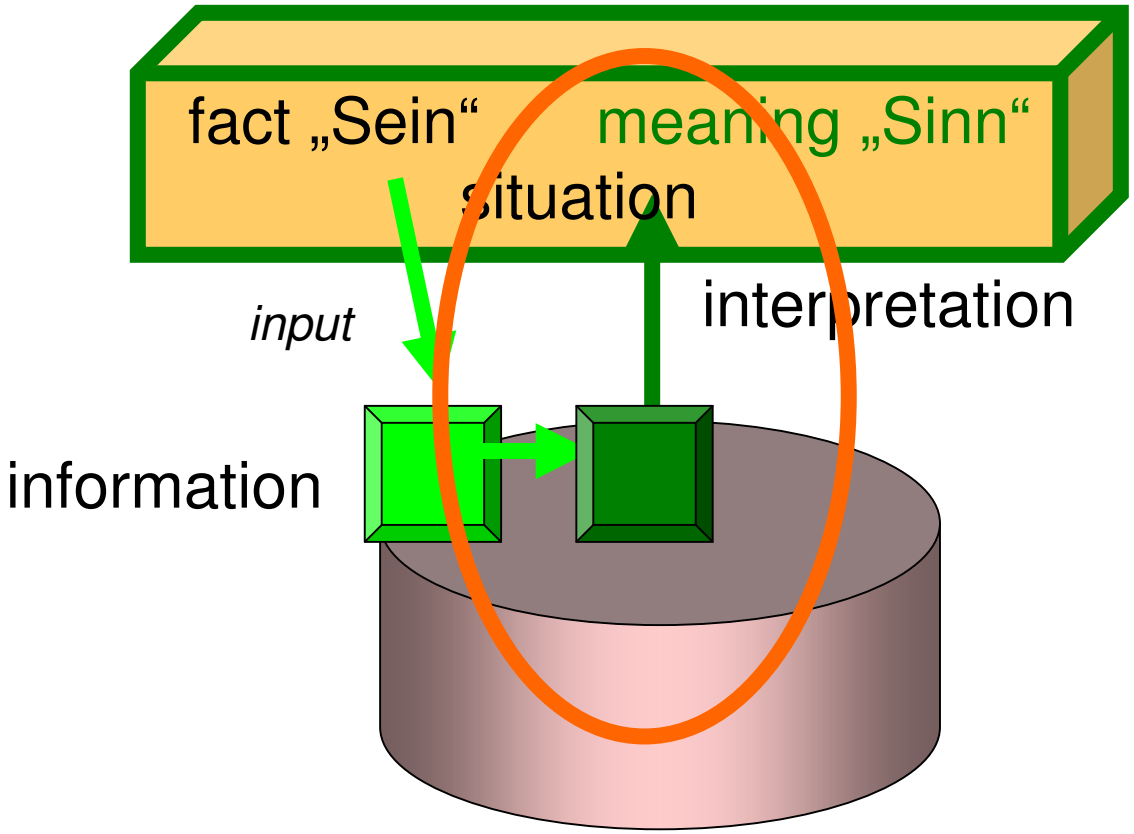

taboo
taboo

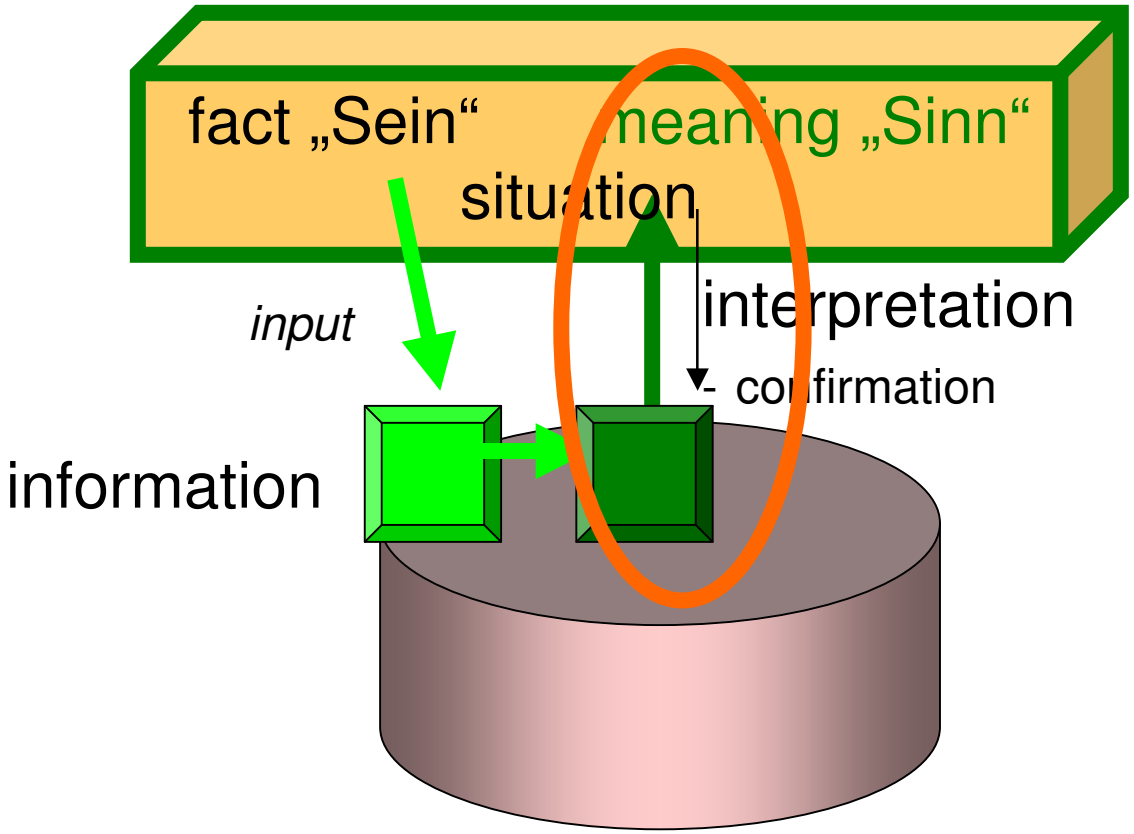

taboo = ELA ?
taboo = ELA ?

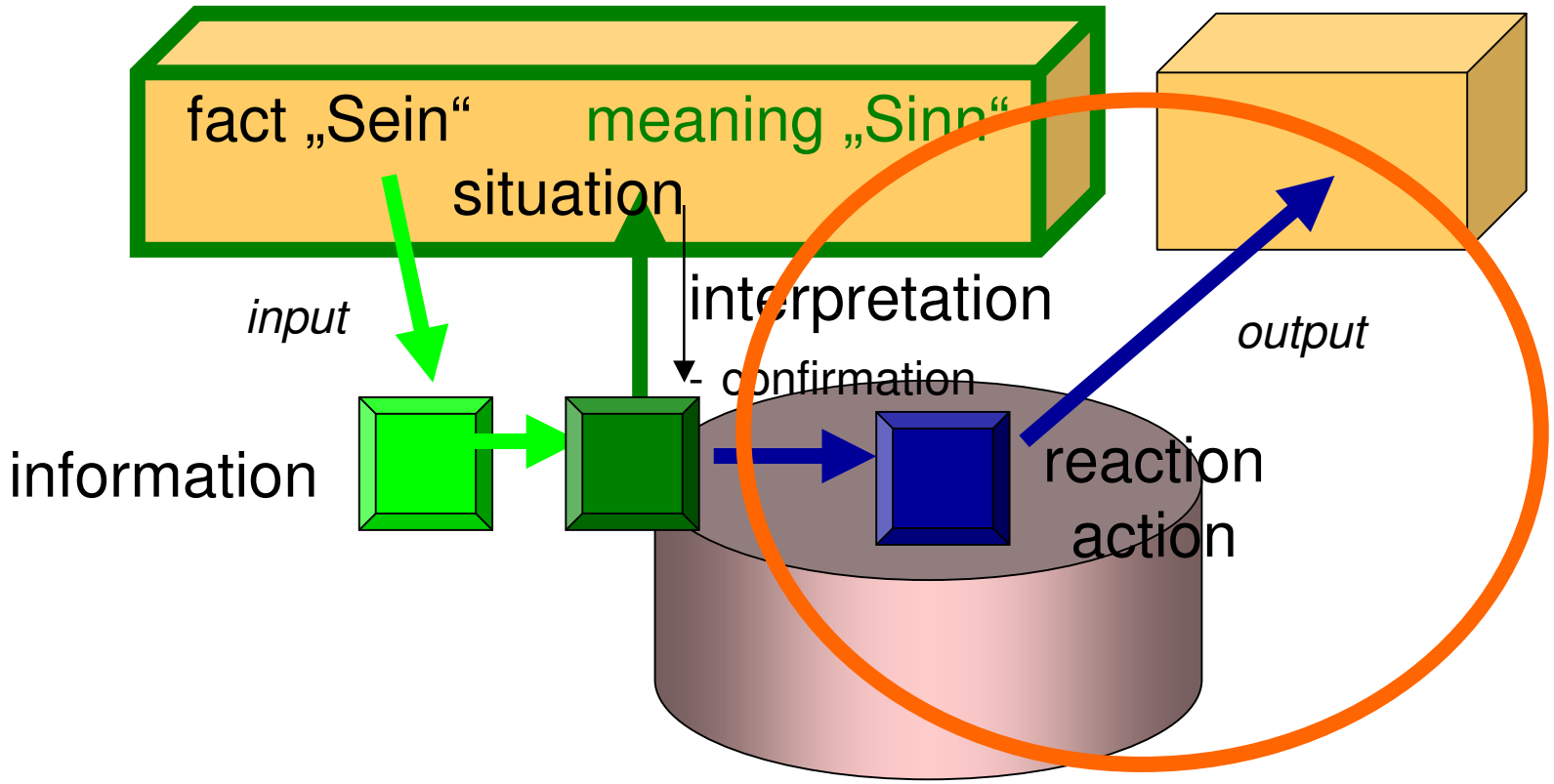
6.

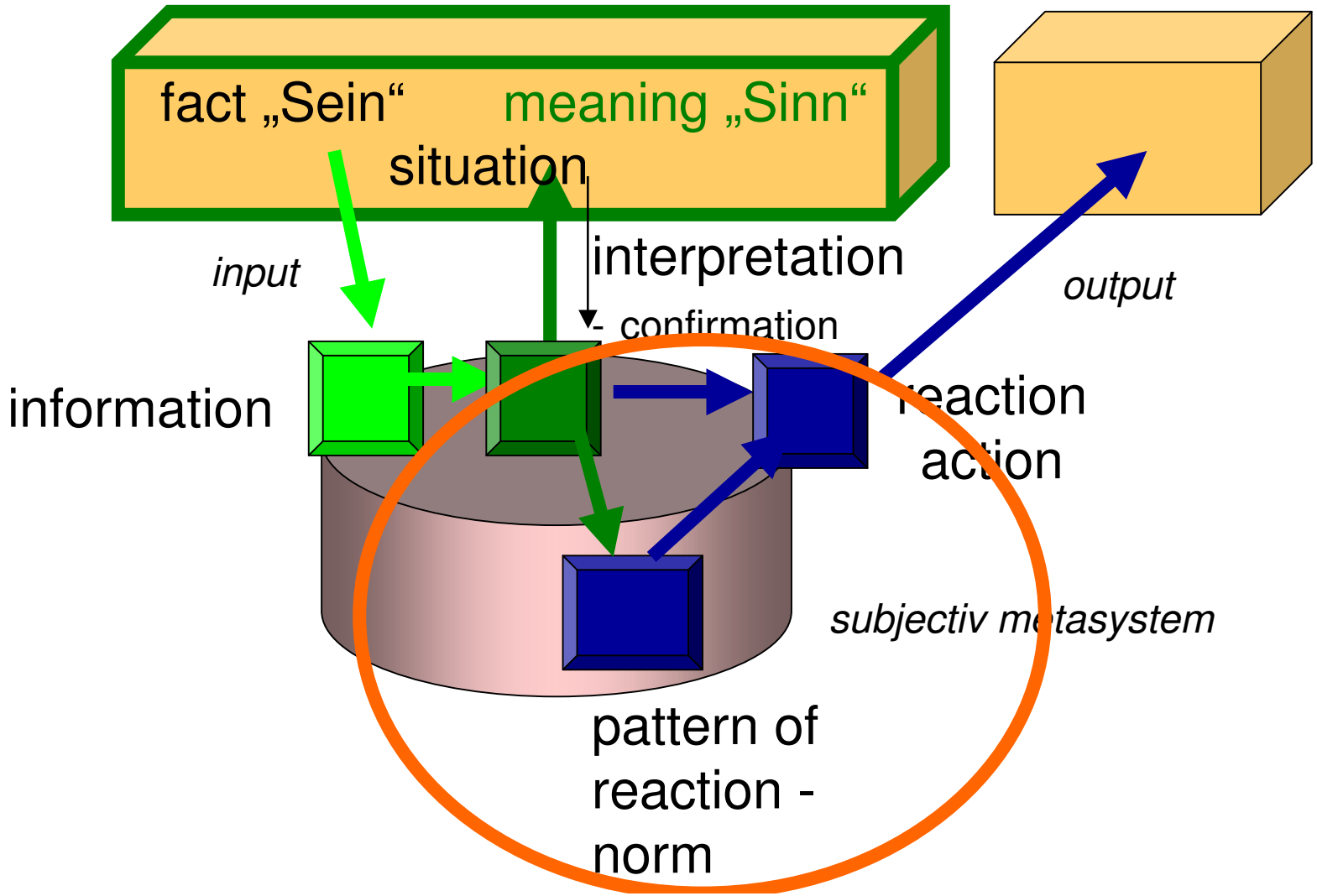
Situative Interpretation

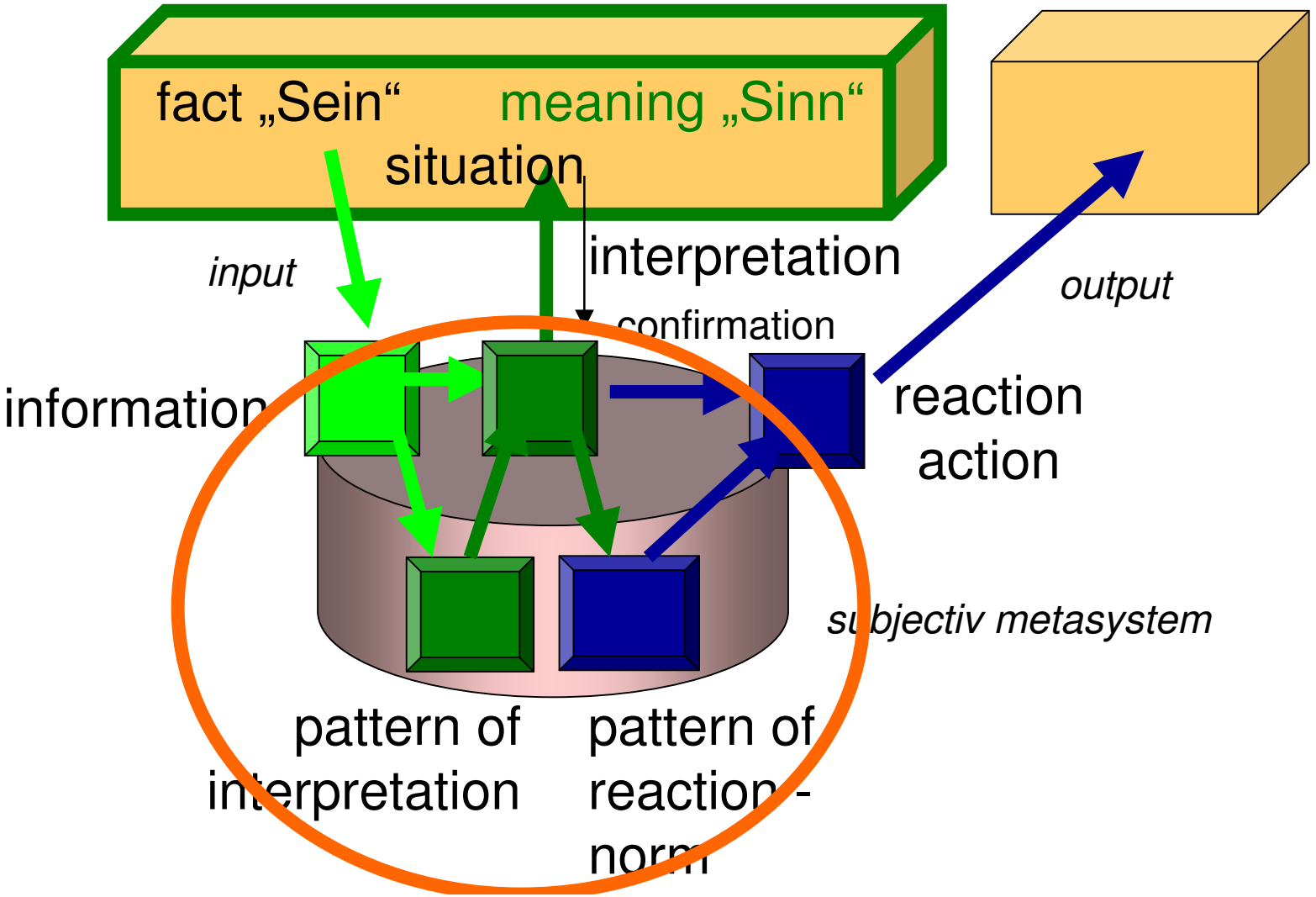

fact „Sein“
situation
input
information

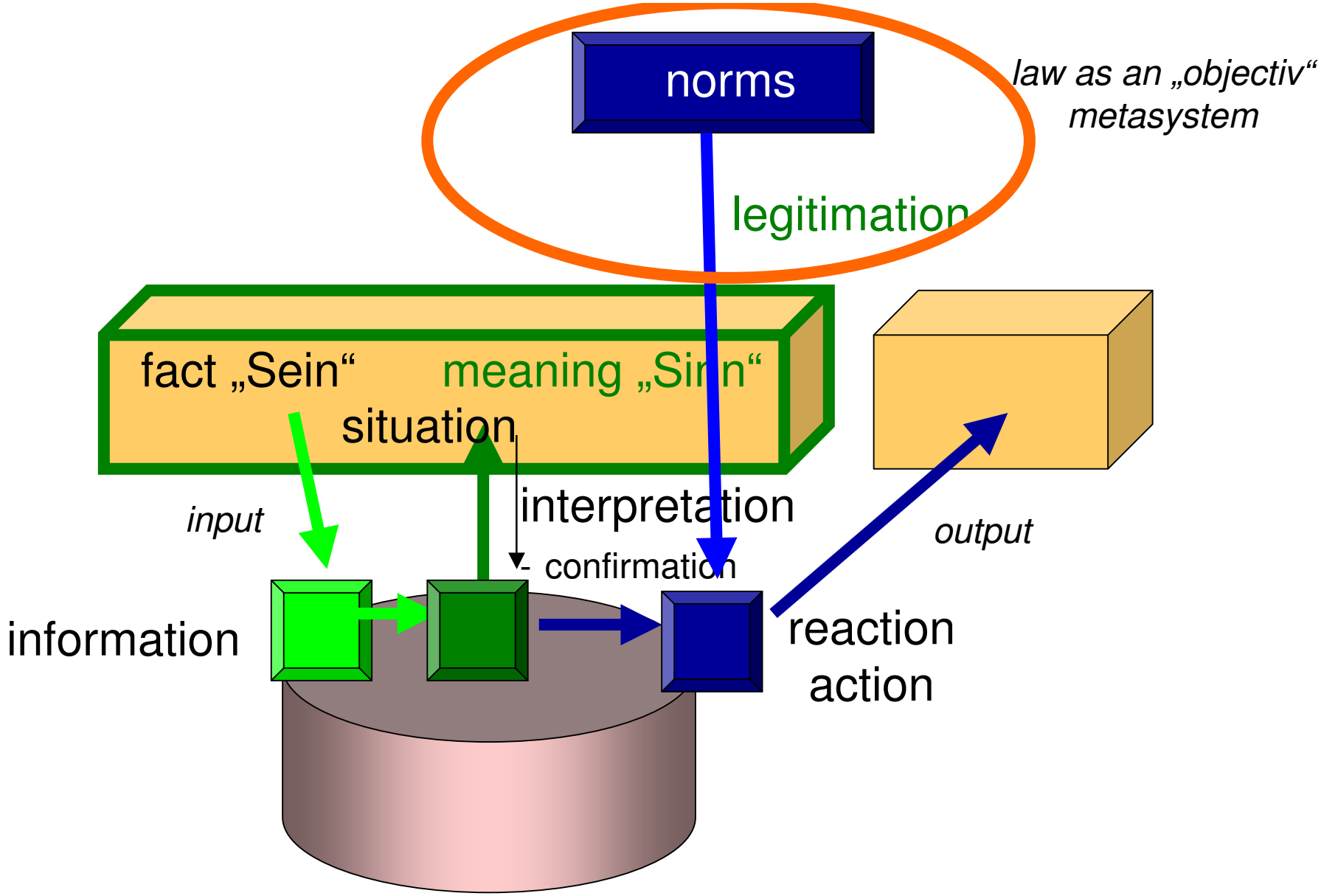

fact „Sein“
meaning „Sinn“
situation
input
interpretation
information

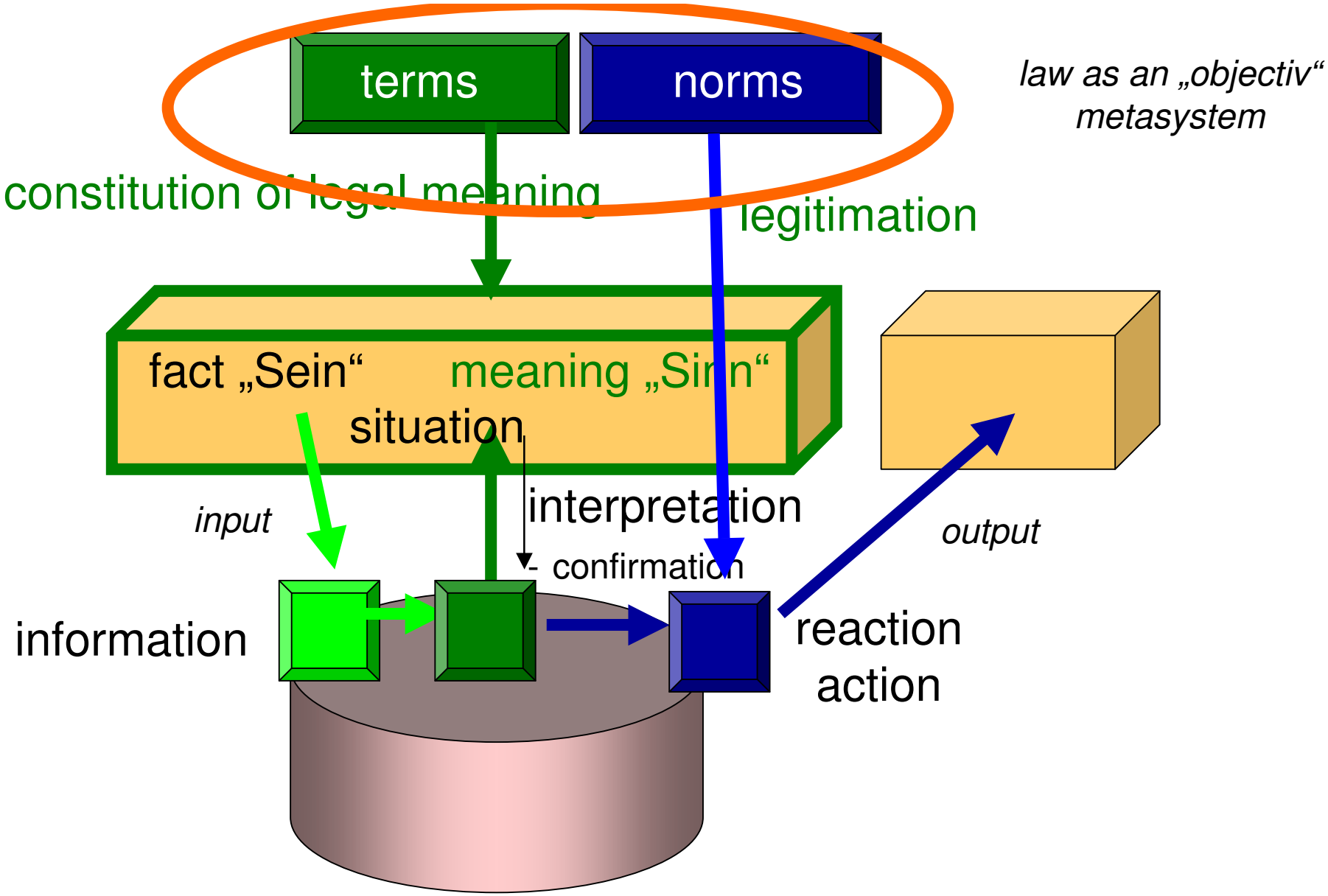

fact „Sein“
meaning „Sinn“
situation
input
interpretation
confirmation
information

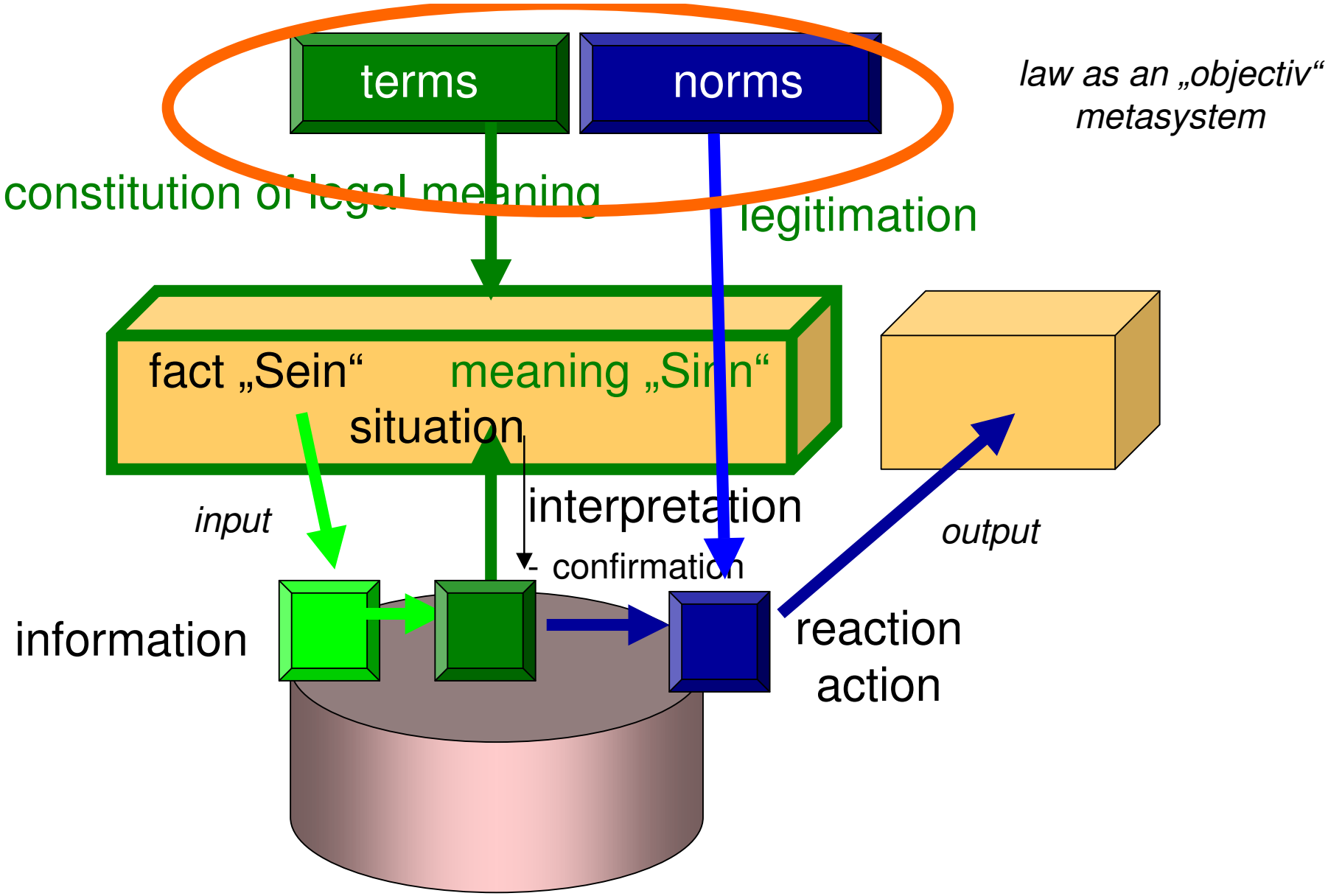

fact „Sein“
meaning „Sinn“
situation
input
interpretation
confirmation
output
information
reaction
action

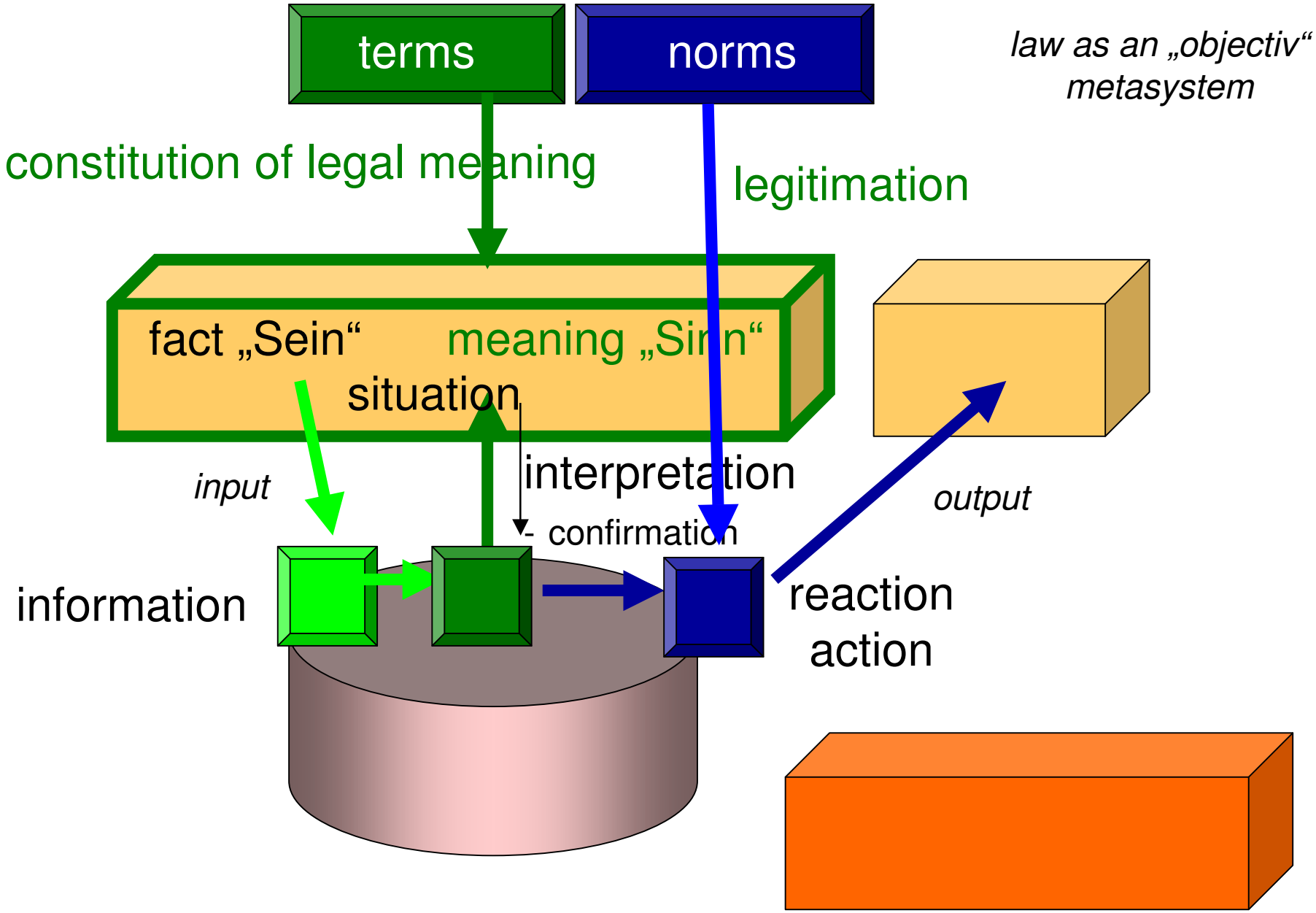

fact „Sein“
meaning „Sinn“
situation
input
interpretation
confirmation
output
information
reaction
action
subjectiv metasystem
pattern of
reaction -
norm


fact „Sein“
meaning „Sinn“
situation
input
interpretation
confirmation
output
information
reaction
action
subjectiv metasystem
pattern of
interpretation
pattern of
reaction -
norm

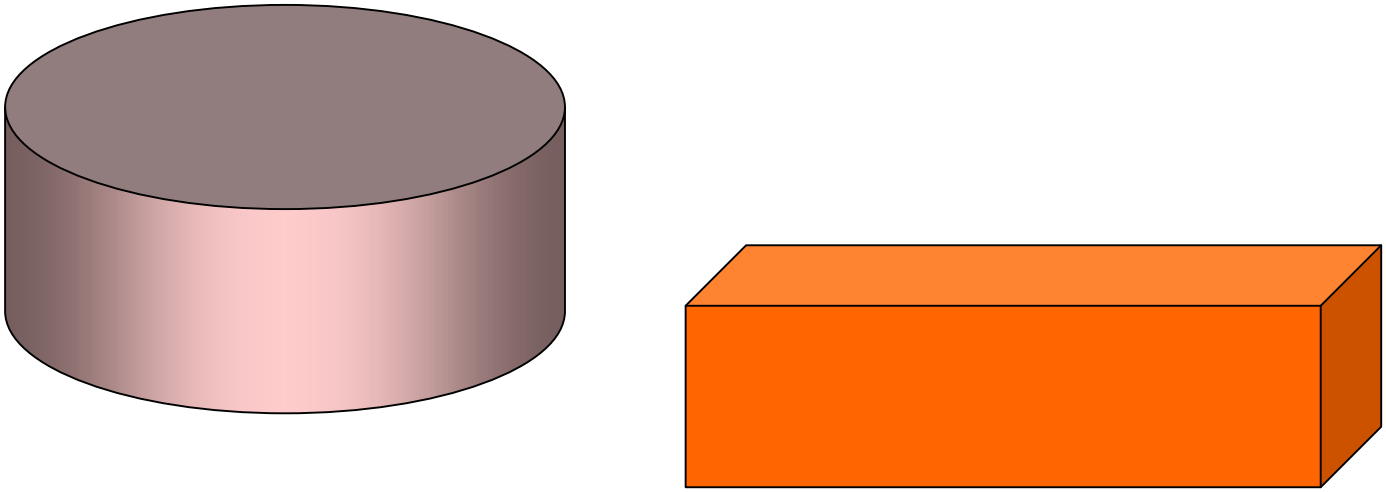

norms
law as an „objectiv“
metasystem
legitimation
fact „Sein“
meaning „Sinn“
situation
input
interpretation
confirmation
output
information
reaction
action


terms
norms
law as an „objectiv“ metasystem
constitution of legal meaning
legitimation
fact „Sein“
meaning „Sinn“
situation
input
interpretation
confirmation
output
information
reaction
action


terms
norms
law as an „objectiv“ metasystem
constitution of legal meaning
legitimation
fact „Sein“
meaning „Sinn“
situation
input
interpretation
confirmation
output
information
reaction
action



ELA = problem of „pure“ facts

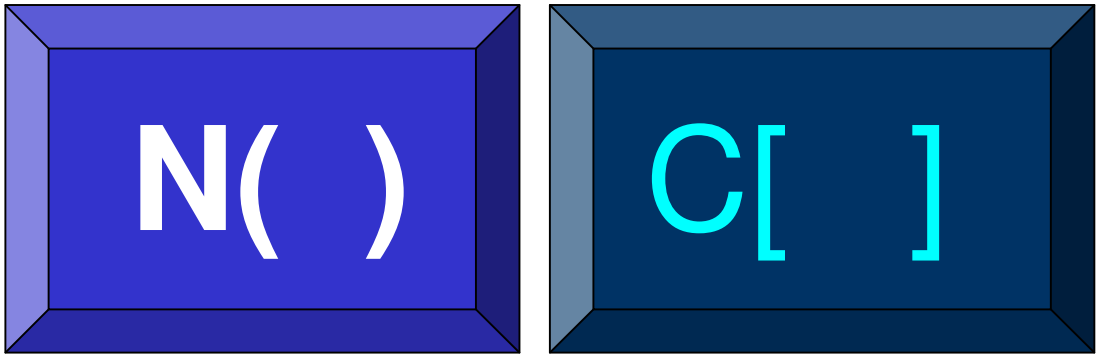


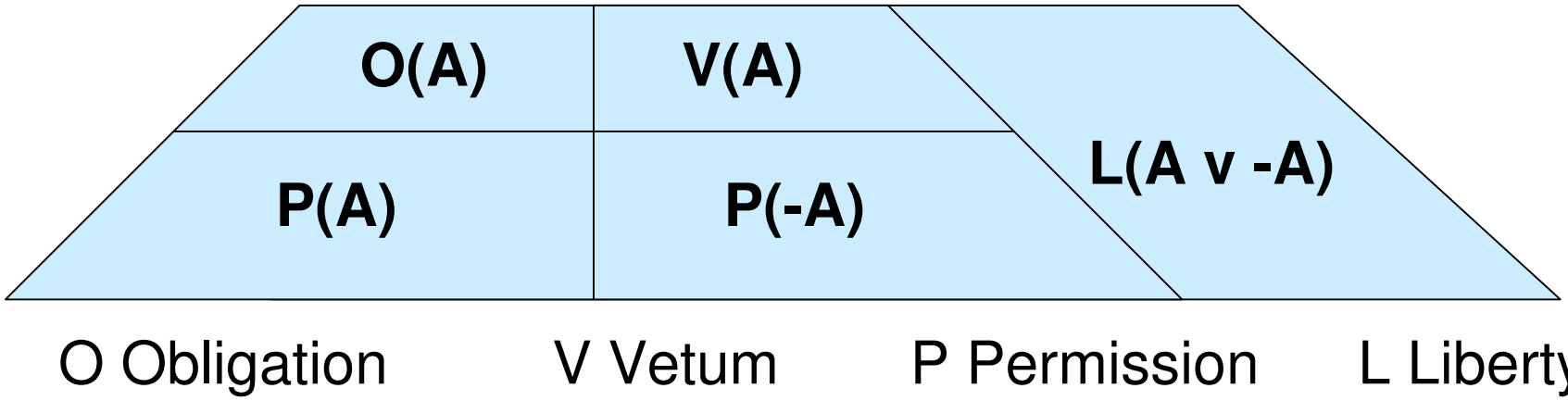
ELA = problem of „pure“ facts

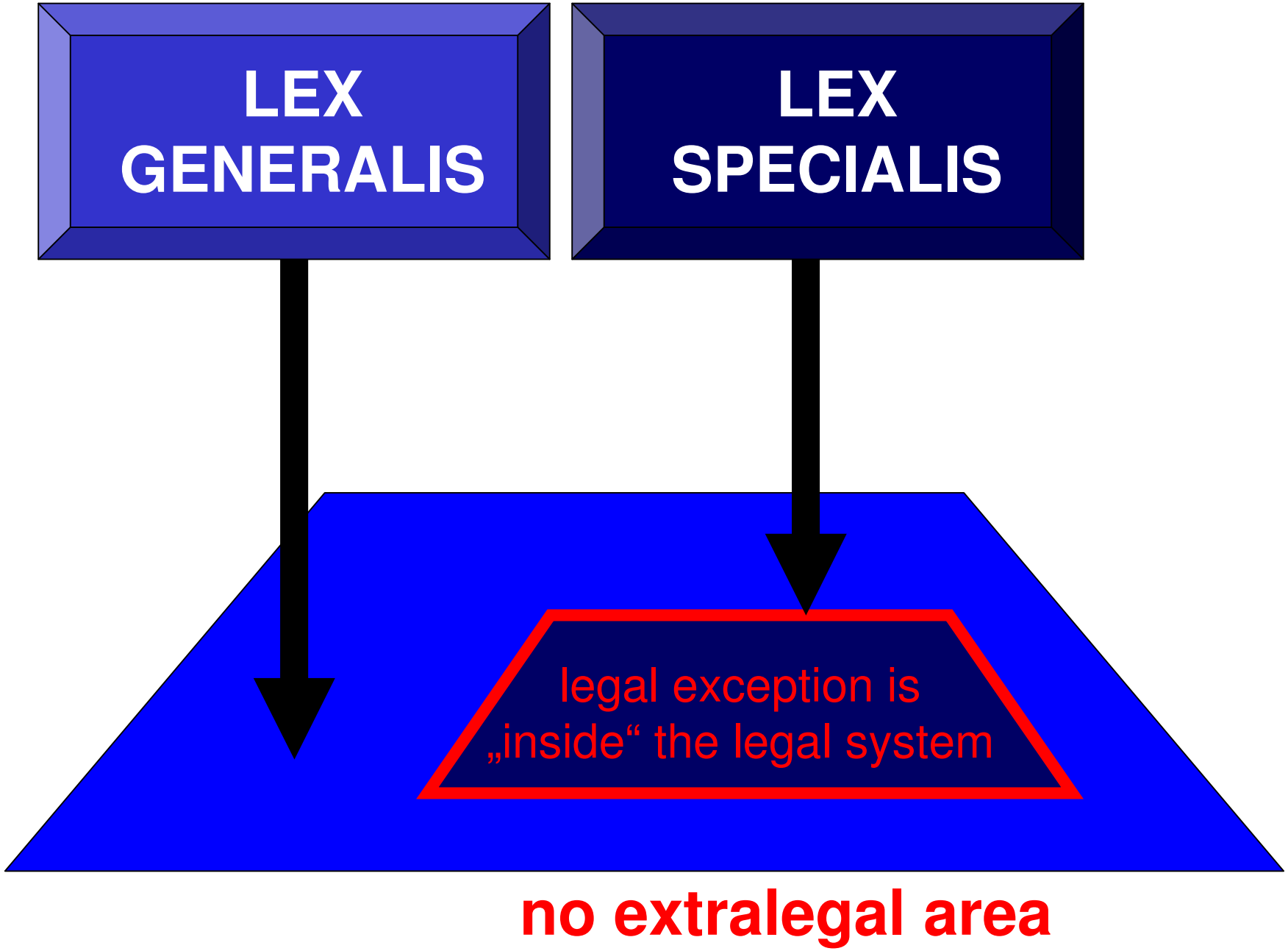
7.

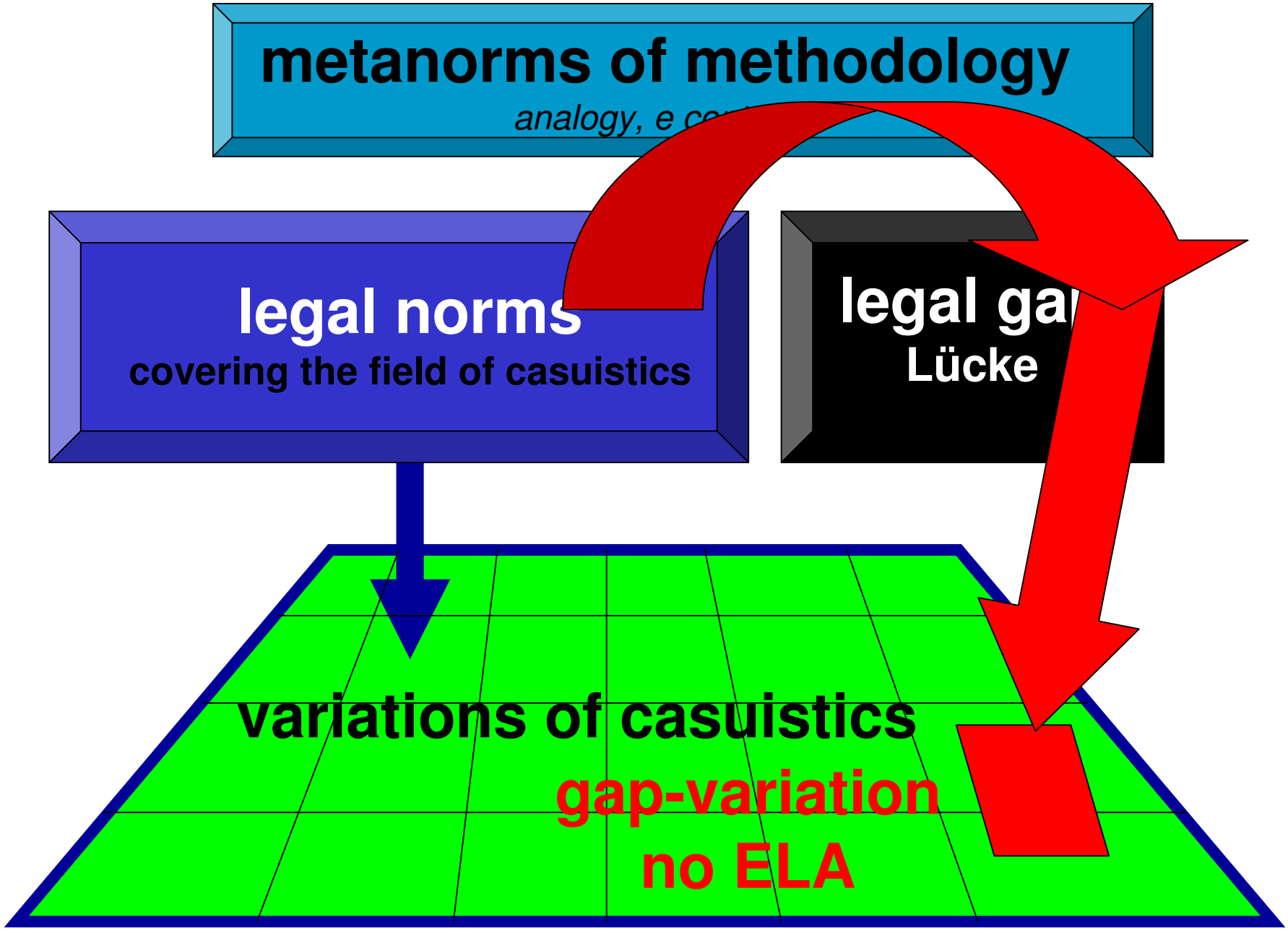
Summary

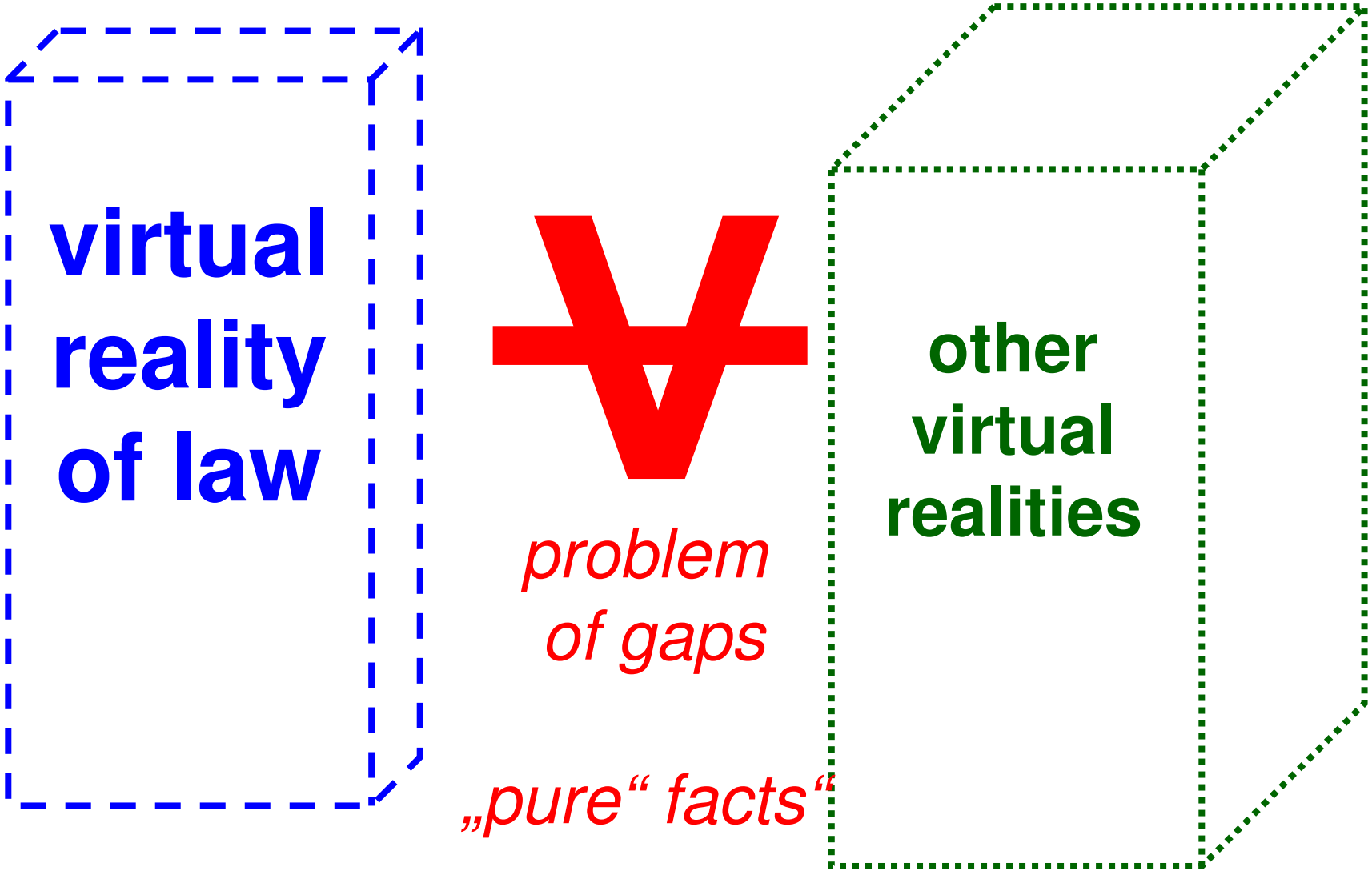
N Norm C Constitution






LEX GENERALIS
LEX SPECIALIS
legal exception is „inside“ the legal system
no extralegal area


metanorms of methodology
analogy, e
legal norms
covering the field of casuistics
legal ga
Lücke
variations of casuistics
gap-variation
no ELA

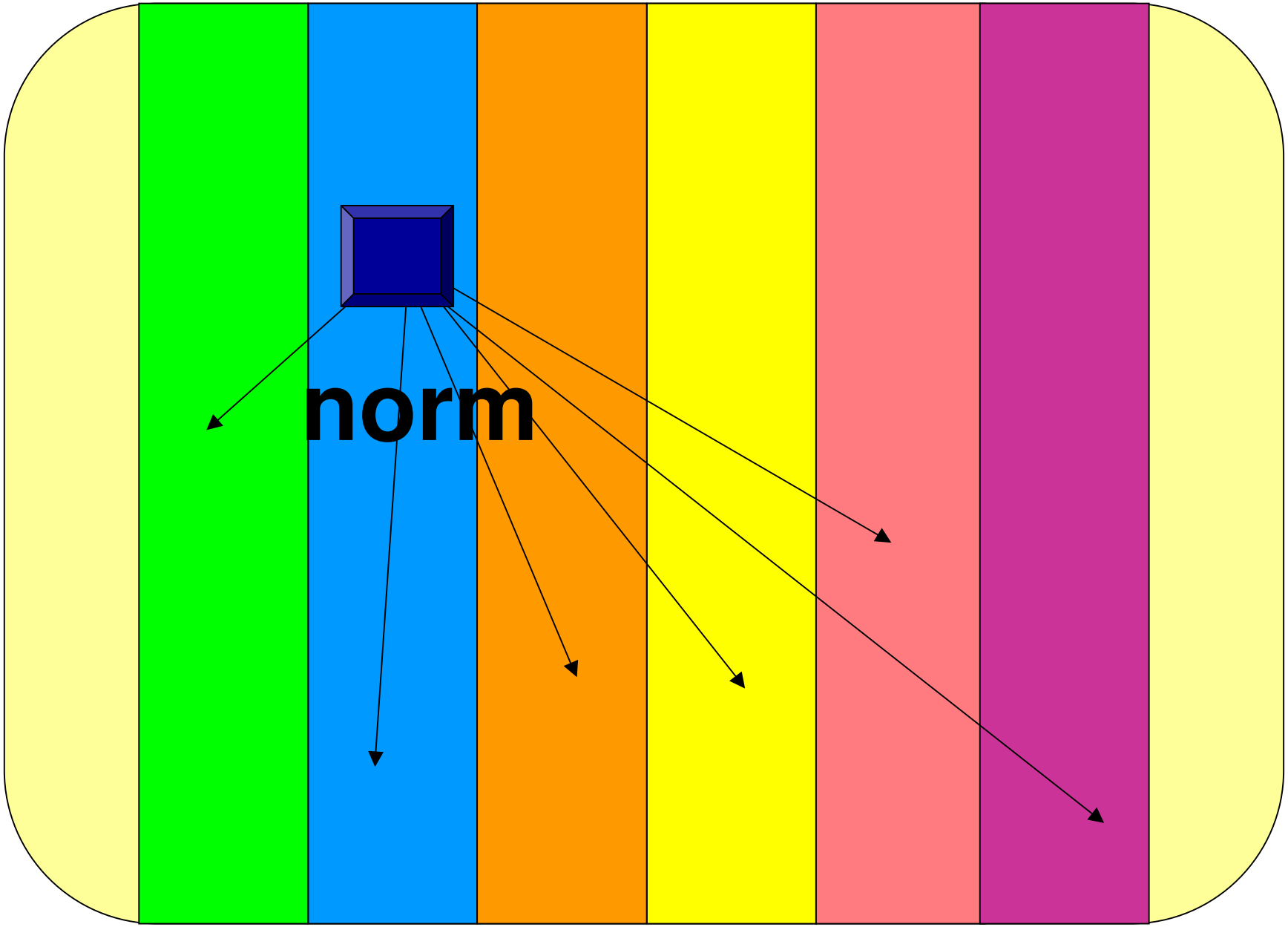


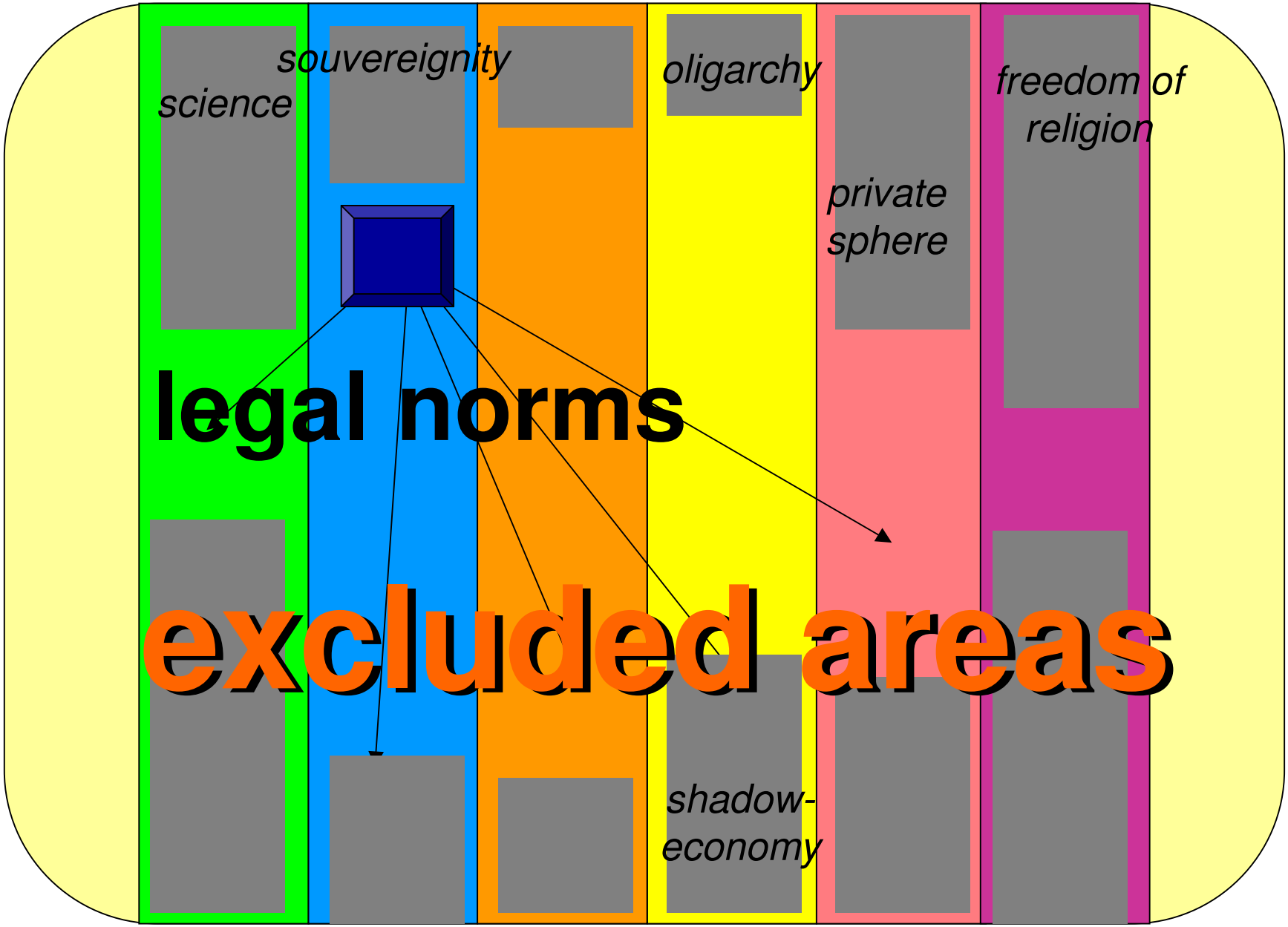
ELA extralegal area: „pure facts“ or another meaning?

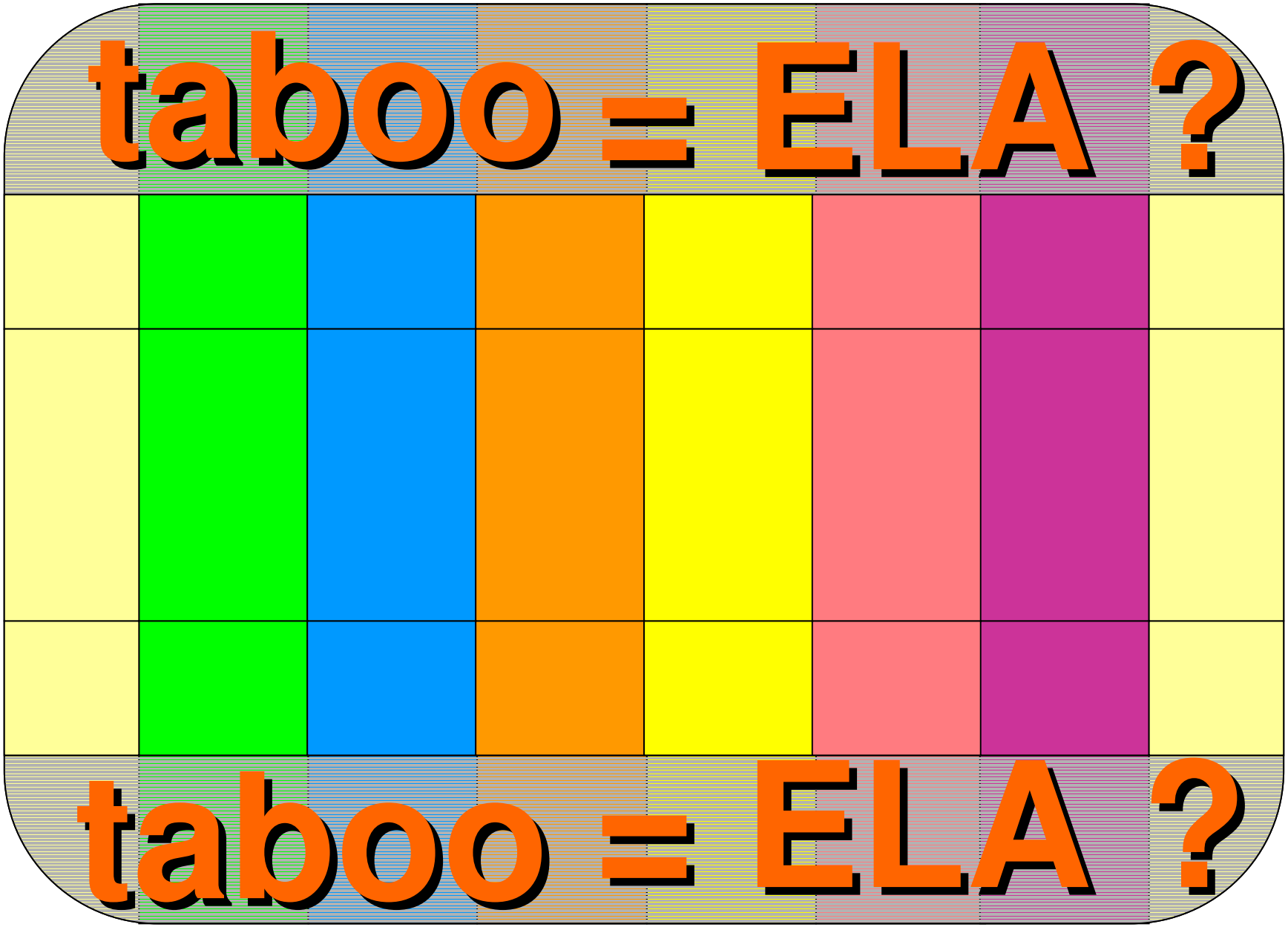
universal semiotical frame:
languages - symbols

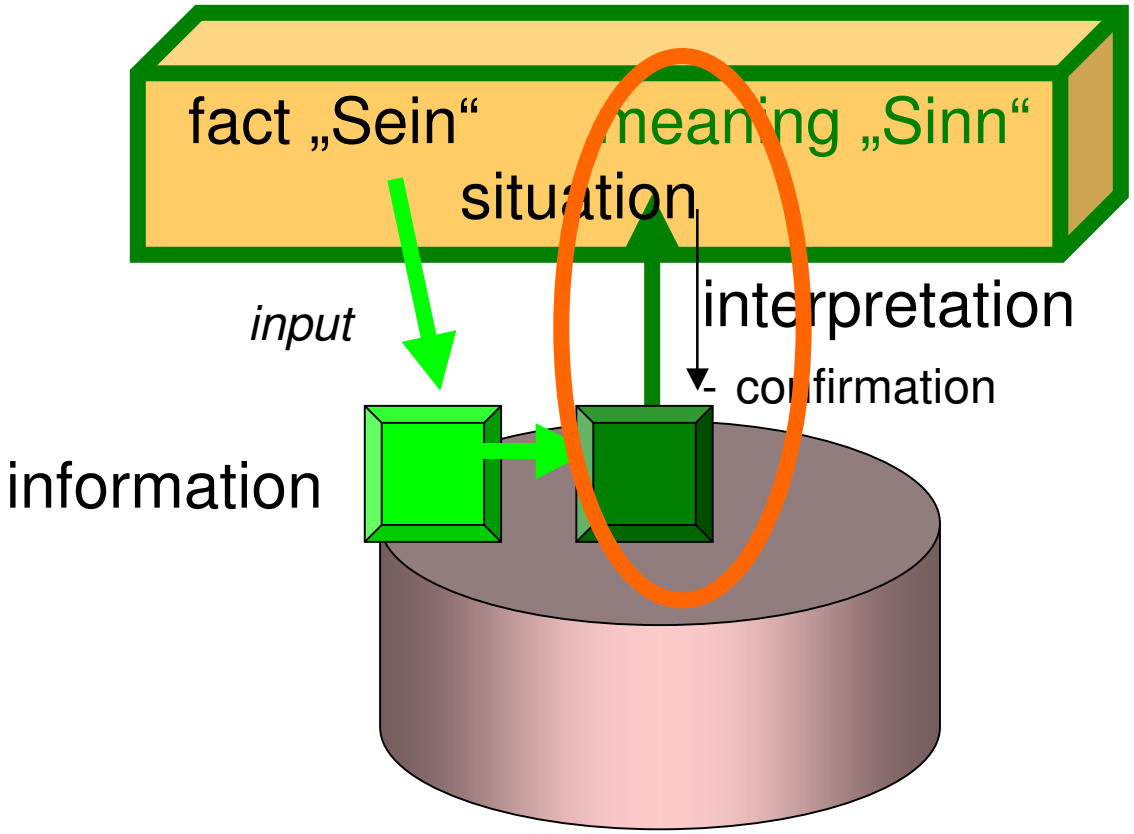
problem of „pure“facts

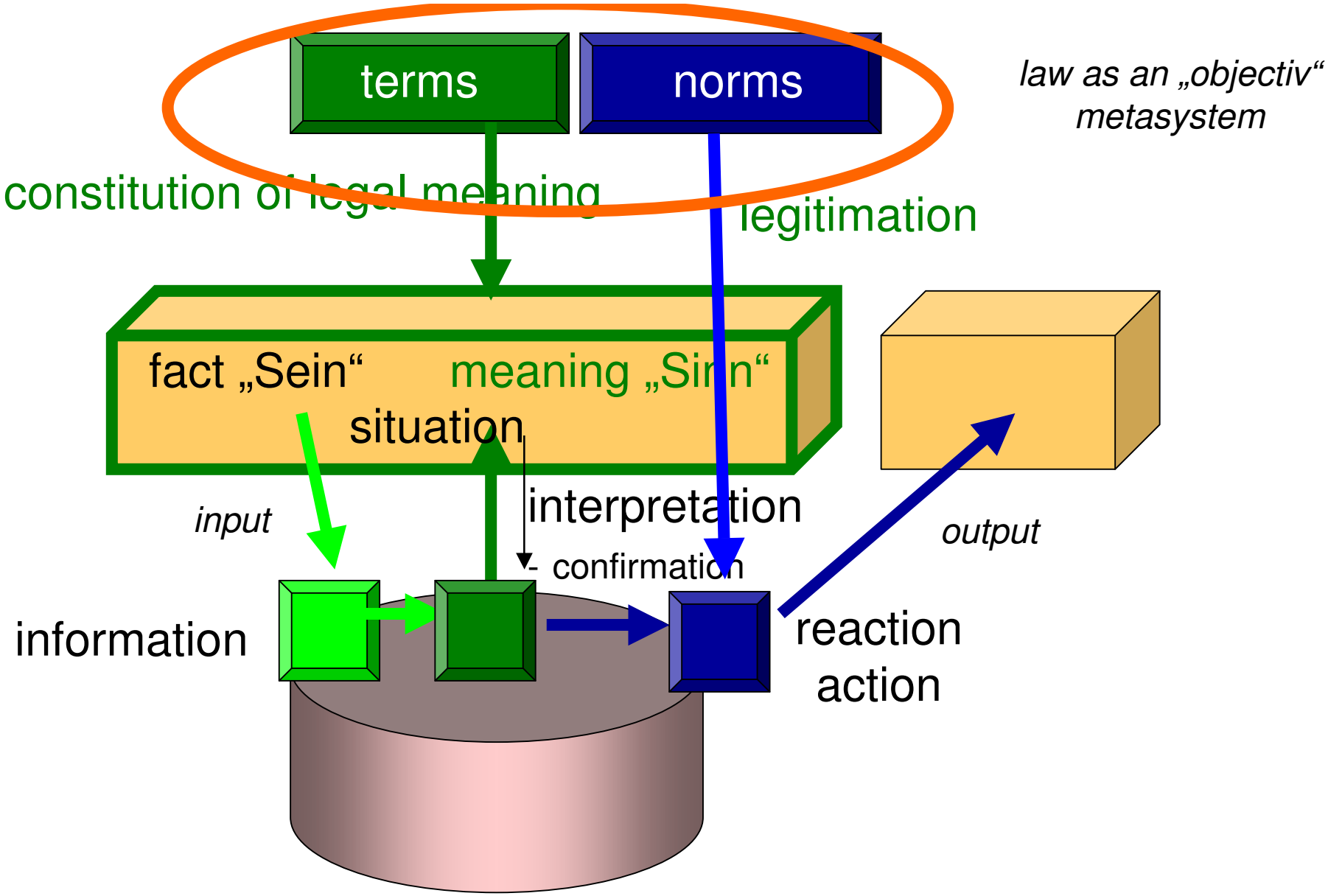
societal sectors

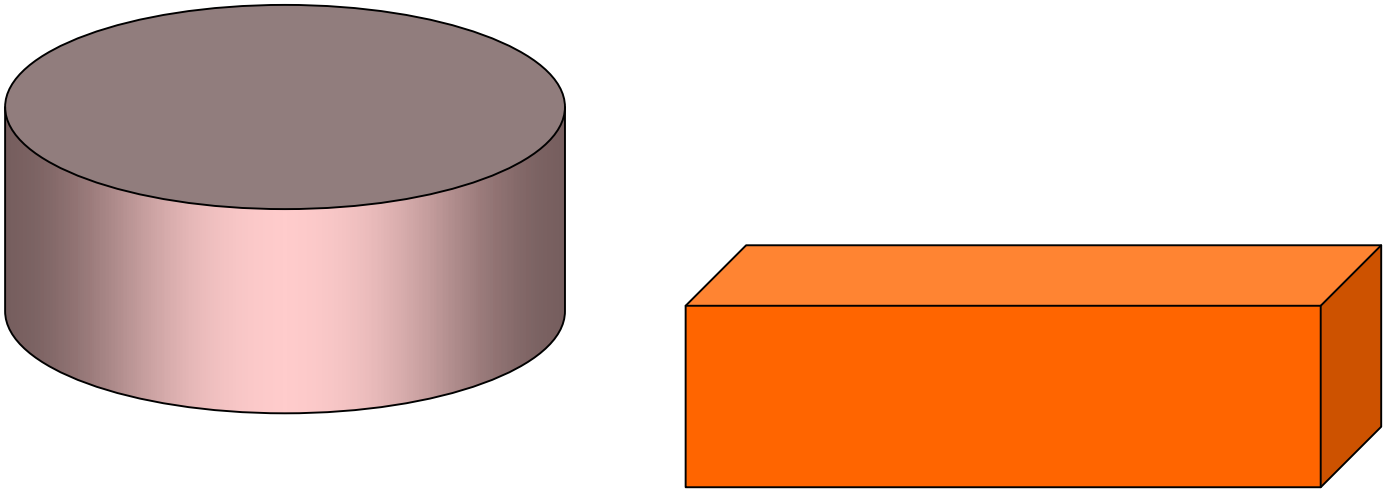

norm


science
souvereignity
oligarchy
private sphere
freedom of religion
legal norms
excluded areas
shadow-economy


taboo = ELA ?
taboo = ELA ?


fact „Sein“
meaning „Sinn“
situation
input
interpretation
confirmation
information


terms
norms
law as an „objectiv“ metasystem
constitution of legal meaning
legitimation
fact „Sein“
meaning „Sinn“
situation
input
interpretation
confirmation
output
information
reaction
action



ELA = problem of „pure“ facts

Thank you
for your attention

lachmayer@chello.at