Pegasus

A newsletter for the Caux Round Table Network
looking at business above the clutter and confetti

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Moral Capitalism At Work

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INTRODUCTION

This July issue of Pegasus presents you with several challenges to the practical enhancement of ethical conduct in line with the Caux Round Table Principles for Responsible Business and ethical government.

First, I was recently introduced to Professor James Davison Hunter of the University of Virginia. Prof. Hunter is a sociologist of religion and he spoke to a small group of us on the possible impossibility of finding grounding for responsible conduct in secular cultures that disdain all discourse about religion and religious insight. Quite taken by his concerns, I then read his books, *The Culture War* and *The Death of Character*. These two books, of many years ago now, focus exclusively on American culture and the growing polarization of Americans between traditional Christian beliefs in immutable values and a rising secular perspective that roots all values in the preferences of individuals. Reading Prof. Hunter's studies of my country, which I found to be very accurate and well documented, caused me to think, yet again, on the difficulties our modern world has in finding truth values in various common beliefs.

Consequently, the first comment in this issue consists of my attempt to put forth an approach to truth which can support common cultures of ethics and moral responsibility.

Second, the claim of self-sovereignty over truth is made with particular passion by sovereign governments. Who guards our public guardians? International law? An attempt is being made under the banner of business and human rights to set up businesses as adversaries of governments when governments abuse their powers and violate contrary to international norms and human rights. But this attempt falls short when it comes to enforcement. Governments have authority over businesses, not vice-versa. So remedies have been sought in courts by human rights activists to find some lever over government officials. One such

favored venue has been sought in the United States through invoking an 18th century law on torts under international law committed by aliens later found within the jurisdiction of the United States. In an important recent opinion included in this issue, the United States Supreme Court closed the door on this approach to sanctions, leaving other sovereign governments where they were - largely immune from accountability.

However, standards of conduct to be applied to sovereign governments continue to be developed, though their effective enforcement lags far behind. In one such instance of self-regulation, the G-8 governments recently stepped up their responsibilities in an important area. In a recent declaration, motivated by the need of governments for more tax revenues, the G-8 now requires disclosure by companies of their beneficial owners, thus inhibiting both tax evasion and the movement of corrupt funds from poor and developing countries to money centers. The G-8 declaration is included in this issue.

Finally, included are my remarks to the Spanish Chapter of the European Business Ethics Network at a recent conference at Comillas University in Madrid. Given the high unemployment rates in parts of the European Union, including Spain and most cruelly for youth, and the seeming inability of governments and the private sector on their respective parts to generate adequate levels of economic growth, what can advocates of business ethics and corporate social responsibility do constructively? Is their role only that of by-standers? I argue that thought-leadership is a foundational contribution to better practical outcomes. Being a professional implies action, as well as the accumulation of expertise through scholarship, fact-finding and reporting results in academic journals.

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TRUTH

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We expect the discipline of morality and ethics to constrain our behaviors, placing the self in some serving relationship to other sources of value. Morality – rules for conduct – and ethics – consideration of consequences – provide for some level of transcendence over selfish autonomy and isolation. Morality and ethics constructively unite an individual living in time and space with what lies beyond both his or her physical person and his or her psychological homestead.

In our time, the most effective challenges to morality and ethics arise from various forms of relativism; a denial that standards of conduct do, can, or should exist that might constrain our self-seeking. Relativism leaves each person a sovereign authority ruling over a minuscule state with no duties to foreign powers. Relativism legitimates the self in not going along with the moral and ethical standards of others. Relativism also de-legitimates telling others how they should think and act.

The most pervasive form of relativism is psychological absolutism, the claim that each person is autonomous, unique, and need only respond to internal concerns bounded by that separate autonomy. This is an idolatry of the self, where the single person is privileged above all things in the cosmos. The ideal here is self-actualization in separation from all contexts and contingencies spoken of as "self esteem," a psyche freed from guilt and shame, and thus, cut loose from social obligations.

From this perspective arises the argument that nothing should constrain the person other than individually and willfully chosen beliefs and standards. Respect and deference to individual distinctions is then the necessary moral and ethical stance for others.

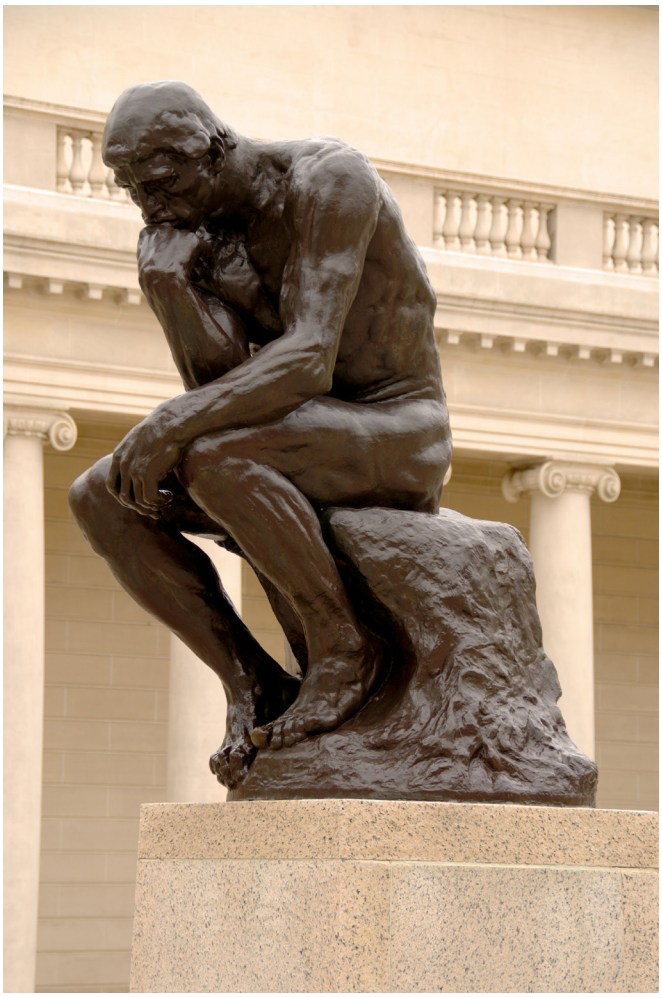
Any common good must arise from the voluntary assent of individuals, who are completely free in their feelings and thinking to adopt any value or behavior that extends their personality as they see fit.

A second pervasive form of relativism arises from the claims of Reason as a personal thought process to critique every possible proposition, and in so doing, to have the last word in our minds. This flows from the claim of every individual to be enlightened, to challenge convention, authority, the reasoning of others, and to have freedom of conscience. In an enlightened age, there can be no convention, no tradition, no authority, no canon, which can demand the acquiescence of an individual self. Everything is subject to dis-establishment, deconstruction, and possible rejection.

The third pervasive form of relativism arises from the observation that our use of Reason is often conditioned by our religion, our race, our gender or sexual orientation, our social class, our ethnic culture. Thus, the conclusions reached by Reason in only one such social or cultural context, it is said, cannot be taken as giving rise to authoritative thinking for any other culture or social setting. Given this necessary parochialism in our thinking, we are said to be intellectually precluded from offering insights into anything functionally transcendental.

Further, it has been argued that our beliefs are conditioned by self-interest to defend and protect our social and cultural privileges and practices. Thus, assertions of right and wrong, of good and bad, can be deconstructed to reveal nothing more than self-interest at work, a revelation that permits us to dismiss and disdain such assertions by others when selecting our own perspectives on life. All arguments can thus be undermined by an *ad hominem critique*.

Thus, today, we are equipped with a variety of compelling points of view that marginalize the workings of morality and ethics. We are, consequently, left mostly with the self-referential pursuit of power as our guide through life.



The Thinker by Auguste Rodin (1902)

This understanding of the human condition has been made fundamental in financial theory and economic analysis through an assumption called the "agency problem." This is an assumption that people are only self-interested and so cannot bring themselves to be faithful agents or trustworthy partners. Dynamics of fear and greed are therefore sufficient to optimize cooperative undertakings. In such a context, any strenuous call for business ethics or corporate

social responsibility has to be laughable.

Relativism gives us a dark and depressing vision indeed, but one often supported by observations of human conduct. Thomas Hobbes spoke of the life of man as "solitary, poor, nasty, brutish and short."

The influential, but now overlooked Chinese jurist MoZi (470-391 BC), insisted that "everyone approved of his own views and disapproved the views of others, and so arose mutual disapproval among men. Everyone worked for the disadvantage of the others with water, fire and poison. Surplus energy was not spent on mutual aid; surplus goods were allowed to rot without sharing; learning about the Tao was kept secret. The disorder in the human world could be compared to that among birds and beasts" ("Identification with the Superior I," Y.P. Mei, *The Works of Motze,* 55).

Napoleon Bonaparte quipped that, "Men are moved by two levers only – fear and self-interest."

Freud once complained that "the problem before us is how to get rid of the greatest hindrance to civilization – namely, the constitutional inclination of human beings to be aggressive towards one another." Thus for him, the "fateful question for the human species" was to what extent its "cultural development will succeed in mastering the disturbance of [its] communal life by the human instinct of aggression and self-destruction"(*Civilization and its Discontents,* 89, 92). In short, Freud tied the future of humanity to its capacity to effectively realize morality and ethics without showing us how to walk that road towards justice.

But if there were to be truth that could compel our acceptance of its certainty, morality and ethics would be empowered. The possibility of collectively distinguishing between right and wrong, good and bad, would seem more feasible. The alignment of self with something more transcendent would become more cogent, undercutting resistance to reaching out for such alignment within each person.

Might there, then, be such a truth function discoverable in our age of relativism?

By truth function here I mean something different from many philosophical speculations and religious teachings on what conceptions are true.

First, I do not include in my concept of a truth function any so-called truth revealed in an act of religious insight. I put into a separate category of propositions all truths that we may or may not accept, but which we can come to accept through a personal act of willing belief of a revelation to us. It could be a belief in the Christian God, in the Prophet-hood of Joseph Smith, the charisma of a political leader, or that our spouse is intelligent and charming, etc. Each of these propositions is open for acceptance or rejection on our part, as well as on the part of others. Our belief in its truth has no compelling force on the need for others to agree with us.

And, if we choose not to believe, the idea in question loses its importance as to how we live our lives. Our perception of the world simply evolves in a contrary direction. If we choose not to accept the revelation, it carries no truth value for us.

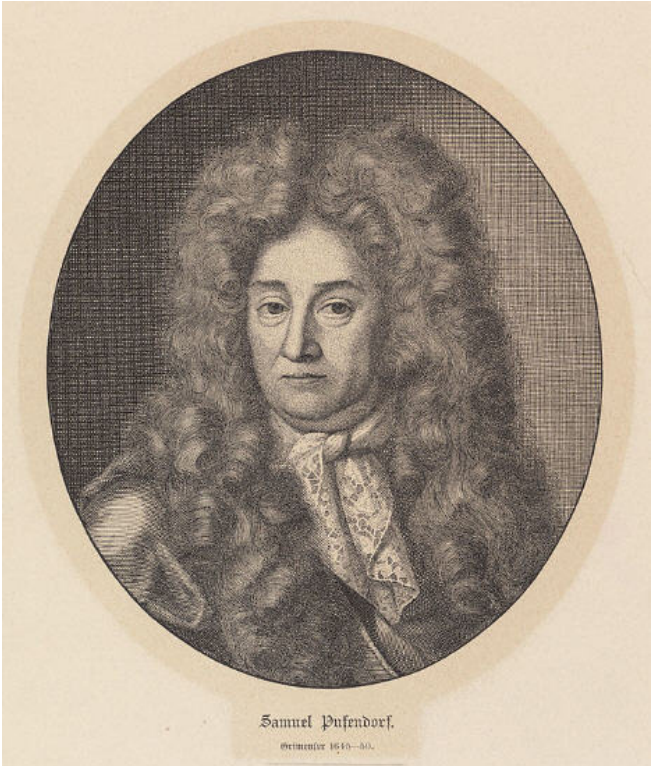
Such revealed truths are consistent with relativism – each to his or her own way in religion and philosophy, and similarly, with judgments about taste.

No, for a truth function I am searching for something more collectively compelling than mere revelation.

I would like to suggest that actually, there are propositions or beliefs, facts so to speak, that lie beyond our powers to eliminate from life. They constrain our willfulness in thinking and feeling. They can pinch our selfishness and intrude into our psyches, confronting us with that which we cannot change, even though we would like to. We may want to run from them, but, given their nature, we can't secure such separation. We are in their thrall, just as we are subject to gravity.

I am referring now to what was once called "Natural Law" by writers in international law and politics. So-called "Natural Law" thinkers were seeking a basis for common justice after uncompromisable sectarian warfare broke out between Catholic and Protestant Christians in Europe in the 16th century. With Protestant revelation at odds with the separately revealed Magisterium of the Catholic Church, neither set of insights and beliefs needed to admit its inferiority to the other. Each stood on its own ground of presumed truth. Compulsion by one party was met with resistance by the other.

Since the intellectual claims to authority of revealed religion were no longer compelling, writers such as Hugo Grotius, Samuel Pufendorf, and John Locke turned to more secular observations in order to find legitimacy



Samuel von Pufendorf (1632 – 1694)

for laws making distinctions between right and wrong. They moved away from revelation.

They pointed to circumstances that did not vary with human preferences and desires, to conditions that transcended individual willfulness. From this transcendence of certain conditions, they argued that belief in such circumstances and in what could be rationally deduced or intuited from their existence provided a basis for the superiority of some obligations over other, more self-referential behaviors. From the superiority of these obligations a common culture could be conceptualized and placed into institutional arrangements. Our lives would gain structured limitations from conventions derived from natural conditions beyond our control. We could be social in mind, as well as in fact. An interesting case for moral and ethical certainty was made by James Wilson, a member of the

James Wilson (1742–1798)

Constitutional Convention of 1789. He wrote: "Order, proportion, and fitness pervade the universe. Around us we see, within us, we feel; above us, we admire a rule, from which a deviation cannot, or should not, or will not be made . . . In every period of our existence, in every situation in which we can be placed, much is to be known, much is to be done, much is to be enjoyed. But all that is to be known, all that is to be done, all that is to be enjoyed, depends upon the proper exertion and direction of our numerous powers. In this immense ocean of intelligence and action, are we left without a compass and without a chart? Is there no pole star, by which we may regulate our course?" (*The Works of James Wilson*, Belknap Press, 1967, 97).

Wilson suggested in his 1790 lectures on law that everyone has a faculty which enables them to "trace the connection between actions and their effects, and our actions are nothing else but the steps which we take, or the means which we employ, to carry into execution the effects which we intend" (100).

Here, Wilson was following the observation earlier proffered by Cicero in *De Officis:* "Now there is this special difference between men and brutes: that the latter are governed by nothing but their senses, never look any farther than just to what strikes and affects them at present, and have a very little or hardly any concern for what is past or to come; but the former are creatures endowed with reason, which gives them a power to carry their thoughts to the consequences of things, to discover causes before they have yet produced their effects" (*De Officis,* London, Dent and Sons, 1953, 6).

A second faculty noted by Wilson was conscience. Following Adam Smith, another Scot moral philosopher, Wilson calls this faculty a monitor within us or over our conduct. He was pointing to a dynamic of constraint whereby some part of our nature evaluates and judges other parts of our liveliness.

Yet, "the science or morals is founded on truths that cannot be discovered or proved by reasoning." Reason begins with truths already known on which arguments can be grounded. Morality and ethics have their intuitive truths, one of which is the power of moral perception

(133). What in particular we consider to be right or wrong, admirable or despicable, is less important than the fact that we each have a capacity to make such distinctions.

Whether or not we accept the fact that we possess a moral sense, it is still there, working away within us, willy-nilly. We can dis-acknowledge the fact that we have such an internal capacity only at some loss to ourselves of happiness accompanied by an inward perception of alienation from our most workable self.

We can close our minds to the process of morality and ethics, but our natures do not thereby abandon the capacity to do so. James Wilson noted that "without this controlling faculty, endowed as we are with such a variety of senses and interfering desires, we should appear a fabric destitute of order out of joint with the order and proportion surrounding us" (136).

But, possessed of the moral sense, "all our powers may be harmonious and consistent; they may all combine in one uniform and regular direction" (136). Then, we can consider ourselves to have a life of meaning and fitness for our times and circumstances. This, then, provides grounds for happiness and fulfillment. Once we accept that we have the capacity, it remains but to use it. With its use we turn towards a more moral and ethical way of living.

This possession of a moral sense implements a law of nature – one immutable, not by the cause of an arbitrary proof proceeding from linguistic conventions, but because it has its foundations in the nature, constitution, and mutual relations of men and things (145).

In one of his works – *The Whole Duty of Man According to the Law of Nature* (Liberty Fund, 2003) – considered immutable circumstances as a living truth for all persons, giving rise to constraint on our will in line with the requirements of morality and ethics. He found natural law to be "that which is so agreeable with the rational and social nature of man that honest and peaceable society could not be kept up amongst Mankind without it" (52). Pufendorf argued that, whether we like it or not, one, we each have a social nature transcending a haughty individualism and, two, a social order embraces and succors individuals. It is, therefore, truthful to believe in the moral sense. He noted that "it must follow then, that whatsoever advantages accompany human life, are all owing to that mutual help men afford one another" (53).

When asked to provide one word only which might serve as a rule of practice for one's entire life, Confucius answered as Pufendorf might have, "Is not reciprocity such a word?" (*Analects,* Bk XV, Ch XXIII).

Yet, Pufendorf wrote sharply of all the circumstances in which people do not behave morally or ethically, but as wolves to one another (*homo homini lupus*), from which he infers that for any to prosper in society, it is necessary that all be sociable. This, he says, gives rise to laws of human society whereby men are directed how to render themselves useful members thereof, and without which it falls to pieces. These necessary rules of fellowship he calls the "laws of nature," or more appropriately, the moral and ethical requirements brought on by human nature (56).

These laws are laid upon men by their natures as a means not invented by the wit or imposed by the will of men, nor capable of being changed by their humors and inclinations, to accomplish the end of promoting sociable living (57).

For Pufendorf, "So to him who has well studied the common nature and condition of man, it will be easy to discover those laws which are necessary for the safety and common benefit of Mankind" (52). In short, individually, each of us has the power to be anti-social, to be deviant, selfish, and cruel, but such power can be authoritatively constrained by morality and ethics on behalf of a common good, the presence of which reaches into our hearts through the moral sense.

It is most important to note in passing that the moral sense does not invalidate the value associated with the self. Our personal dignity and well-being carry moral and ethical weight, as well.

In 1758, Emmerich de Vattel published his treatise on the law of nations, which afterwards has been substantially ratified by international legal practice among nations. Vattel, too, began his argument for international law with reference to a law of nature, which he describes as immutable. This law, or really a set of facts, he sets down as: "Man is so formed by nature that he cannot supply all his own wants, but necessarily stands in need of the intercourse and assistance of his fellow-creatures, whether for his immediate preservation, or for the sake of perfecting his nature and enjoying such a life as is suitable to a rational being" (*The Law of Nations,* J. Chitty, editor, Philadelphia, 1863, lix). From this observation, Vattel deduces a proposition that "the general law of society is that each individual should do for the others everything which their necessities require, and which he can perform without neglecting the duty that he owes to himself" (ibid).

Following upon this truth of individual dependency on society, reason would lead us to the conclusion that we cannot disentangle ourselves from morality, ethics, society, and consideration of our actions. We are constrained by being who we are. We have no choice about having or not having that fundamental condition, though we can put ourselves in opposition to its inclinations and willfully impose ourselves on others and on society.

Knowing that we can be just right for our place in life and that such a sense of rightness is natural and does not arise from our selfish desires alone seems close to the insights given by early Chinese Taoist writings, such as:

> *Silent and boundless, standing alone without change, yet pervading all without fail, it may be regarded as the Mother of the world. I do not know its name. I style it Tao, and in the absence of a better word, call it "The Great" (Tao Te Jing 25).*
>
> *When the great Tao was abandoned, there appeared humanness and justice.*
>
> *When intelligence and wit arose, there appeared great hypocrites.*
>
> *When the six formalities lost their orderliness, there appeared filial piety and paternal kindness.*

When darkness and disorder began to appear in a kingdom, there appeared the loyal ministers (Tao Te Jing 18).

Failing Tao, man resorts to Virtue.

Failing Virtue, man resorts to humanness.

Failing humanness, man resorts to morality.

Failing morality, man resorts to ceremony.

Now ceremony is the merest husk of faith and loyalty; it is the beginning of all confusion and disorder (Tao Te Jing 38).

The Tao may be abandoned, but it does not go away. In its place, we humans place inferior cultural inventions of our own. The more substantial and eternal truth is contained in the Tao, not in our fashioning. The Tao is presented as the most superior reality, the most completely natural of all presences, as that which is timeless and endless, which never changes, which only is.

Thirty spokes converge upon a single hub; it is on the hone in the center that the use of the cart hinges.

We make a vessel from a lump of clay. It is the empty space within the vessel that makes it useful.

We make doors and windows for a room; but it is the empty spaces that make the room livable (Tao Te Jing 11).

We may not see the emptiness, but it is always there to serve more than itself. The Tao is like that.

Seeking the Tao in Autumn Mountain by Chu-Jan

In the Confucian tradition, *The Doctrine of the Mean* affirms that what Heaven has bestowed is Natural. Accordance with this nature is the Way (Tao); the following of this path comes from learning. Confucian recommendations for personal propriety and humanness flow from accepting the truth of a moral sense.

Buddhism, in the initial teachings of the Buddha, takes a similar stance. Beyond our wills, in nature, lie various realities which we can appropriate for ourselves that can change the way we relate to what is around us. This is the noble eightfold way of conforming our efforts, to that which is beyond us.

The noble eightfold way was presented to us as part of the Dharma, or law of nature. Our disbelief does not make the Tao, or the noble eightfold path, or the moral sense disappear. They are and they abide without any dependence on our discovery of them or our mentally voting for their continuation. We cannot shape them to fit our predilections. We can align with them, struggle against them, or ignore them, but their operations will not leave us alone. Thus, they are true in my sense of the term. They transcend our will and all our fits pique.Transcendent in being real on their own terms, they are untouched by the three arguments for relativism noted above.

We may ignore such truth. That choice is part of our human freedom. We always have the options of ignoring morality and ethics or of intentionally acting contrary to their best advice. The question for each of us is: should we accept this truth and live with it, or challenge it? The argument for acceptance, I suggest only briefly, is the appropriateness, the beauty, of seeking to perfect our selves within reality.

Christian beliefs resonate with this truth about morality and ethics, as well. Martin Luther, in his 1520 essay on *The Freedom of the Christian* argued that a Christian, first, needed to incorporate faith in God's redemptive grace in his or her spiritual nature in order to become righteous. But from the perspective of having a moral sense, Luther, second, affirmed that a Christian in his or her mortal, worldly nature was a servant called to perform works that offset his or her selfish will to seek one's own advantage in the world. For Luther, personal rejections of this understanding of how a

Christian should live would not, and could not, destroy the existential reality he described. For Luther, this truth was not merely natural, but natural as having been established by God in his wisdom and compassion with God's actions and intentions revealed through Scripture.

Pope Benedict XVI, in his Encyclical *Caritas in Veritate,* proposed one understanding of truth very similar to mine: "Truth, by enabling men and women to let go of their subjective opinions and impressions, allows them to move beyond cultural and historical limitations and to come together in the assessment of the value and substance of things" (at paragraph 4). (Though the Holy Father also speaks in this Encyclical of truth in another sense, one that I do not use in this essay: truth as *Logos,* intelligible formal linguistic propositions arising from somewhere beyond human invention and conceit).

In line with my suppositions about the role of truth in our lives, Pope Benedict concluded that "Without truth, without trust and love for what is true, there is no social conscience and responsibility, and social action ends up serving private interests and the logic of power" (at paragraph 5). Without truth, Benedict warns, "cultures can no longer define themselves within a nature that transcends them, and man ends up being reduced to a mere cultural statistic" (at paragraph 26).

The encyclical *Caritas in Veritate* asserts as a matter of knowable fact that "As a spiritual being, the human person is defined through interpersonal relations. The more authentically he or she lives these relations, the more his or her own personal identity matures. It is not by isolation that man establishes his worth, but by placing himself in relation with others and with God" (at paragraph 53). Correspondingly, Pope Benedict XVI noted "reciprocity as the heart of what it is to be a human being" (at paragraph 57).

Pope John Paul II, in his Encyclical *Centesimus Annus* of 1991, has similarly affirmed about the human condition: "All human activity takes place within a culture and interacts with culture. For an adequate formation of a culture, the involvement of the whole man is required, whereby he exercises his creativity, intelligence, and knowledge of the world and of people. Furthermore, he displays his capacity for self-control, personal sacrifice, solidarity and readiness to promote the common good. Thus, the first and most important task is accomplished within man's heart" (at paragraph 51). Pope John Paul II here can be understood as affirming the existence of and the importance of the moral sense in each of us.

I read the Qur'an to confirm the truth about human nature that there is a fit place for each of us in an enveloping order discovered through exercise of the moral sense. The Qur'an, however, presents this truth as a revelation from a Creator God, which so provided for humanity out of mercy and compassion.

We read in Qur'an 16:78: "God brought you out of your mothers' wombs devoid of all knowledge, and gave you ears and eyes and hearts, so that you may give thanks." The human person, accordingly, grows in capacity to appreciate what is greater than his or her isolated set of feelings and interests. Qur'an further instructs us in 15:19 that humanity was created by God with an infusion of his spirit,

giving to each person something of God's intent and capacity to judge right from wrong. This capacity of acting with responsibility was given to each person so that he or she could serve as God's steward (*khalifa*) in creation, doing good and avoiding unrighteousness (2:28). In 76:1, Qur'an reveals to us that we were created by God to be put to the proof of our moral nature. Finally, we are instructed by Qur'an that God created persons who could observe and learn from their surroundings: "in the alternation of night and day, and in all that God has created in the heavens and the earth, there are signs for righteous men" (10:5). And in 16:9, we learn: "It is he who sends down water from the sky, which provides you with your drink and brings forth your pasturage on which your cattle feed. And with it He brings forth corn and olives, dates and grapes and fruits of every kind. Surely in this there is a sign for thinking men."

In the books of the Old Testament, which contain much of the Jewish religious tradition, I find in the books of the Wisdom tradition such as the Proverbs, Ecclesiastes, and the Book of Wisdom, incorporation of the truth I assert here as a reliable compass for morality and ethics. These books speak to a more universal understanding of the human condition and the human person that those that relate historical events or, like the writings of the prophets, reveal the purposes of the Lord God of Israel.

Conclusion

The core truth that I suggest emerges from this presentation of our dependence on a natural order, which has given each of us a moral sense, is that the self has no unquestioned, absolute sovereignty. It has no imperium over others. Its operations – even its intuitions and reasoning – are not fully autonomous, but rather, contingent on a context and intertwined with externalities. In fact, we are more like partners in joint ventures than tyrants able to rule all we see at will.

All arguments for such imperium and all self-serving intuitions that guide us towards exercise

"If you start to take Vienna, take Vienna."

- Napoleon Bonaparte

of such imperium run up against the moral sense as a real presence in life. Such conflict alienates us from where we are supposed to be in life and leaves us less well off. The individual self is, therefore, rightly understood always to be, in one degree or another, faithful to others either as fiduciary or as beneficiary. From conception to death, the human person is constrained by this truth. Morality and ethics are natural to us, though we may, from time to time, seek to avoid this truth.

Consistent, then, with this truth is the admonition of Jesus Christ that to love God above all else and to love others as we do ourselves get us very near the Kingdom of Heaven (Mark 12:34).

Knowing that we are in some sense without complete self-sovereignty opens the mind to consider what duties are owed to whom. Here is the realm of discourse on morality and ethics wherein we may graciously tolerate a range of differences in degree of opinion as to what actions are preferable. But no degree of difference should be willingly accepted that denies the need for morality and ethics as shaped by the natural tendencies of our moral sense towards sociability and responsibility.

UNITED STATES SUPREME COURT: **KIOBLE V. ROYAL DUTCH PETROLEUM**

INTRO BY
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Over the last several years, major intellectual and advocacy efforts have been made to engage the corporate social responsibility movement with norms of human rights. The domain for this work is "business and human rights." The substance of the activity is to set up standards under which businesses become responsible for delivering human rights outcomes to persons. In the first place, businesses are expected to refrain from acting as governments that can abuse police powers. Second, businesses are expected to distance themselves, their employees and their financial means from governments and government actions that abuse police powers in violation of individual human rights. Thirdly, in some loose fashion, the current U.N. paper on business and human rights calls upon businesses to provide for human rights outcomes (theoretically even entitlements like education and health care) where governments fall short.

The background to all human rights concerns is failure of government to act as a faithful steward of its public trust. That is why the Caux Round Table has proposed a set of ethical standards for governments that guides them to proper execution of their responsibilities as trustees in the use of public power.

Where there are abuses of human rights, there is always a failure of government. But that gives rise to a problem in remediation: governments that are abusing their powers are not open to being questioned or challenged or to being sued in their own courts for an end to such abuses, to accountability for harm, and for restitution of wrongs.

Thus, it has been advocated by many thoughtful persons of good will that litigation for relief of abuse should be brought in foreign courts that will be more sympathetic to the claims of victims. In particular, invoking the Alien Tort Claims Act in the United States against businesses allegedly implicated in foreign government abuses of human rights has been championed as a way to pressure multinational companies coming under the jurisdiction of U.S. courts to take action

against abusive foreign governments.

In the Kiobel case below, the United States Supreme Court firmly rejected that use of the Alien Tort Claims Act. The U.S. Supreme Court held that U.S. courts are not the proper forums for providing legal relief for violations of international human rights standards that arise in other countries. In effect, the Kiobel case substantiates the Caux Round Table's approach that governments themselves must, in the first instance, be the object of discipline, accountability and restitution when they fail in their duties to protect and succor those under their control.

The difficult question raised by human rights standards is who can judge a sovereign? Who can bring a sovereign to justice?

The Kiobel case is, thus, an important one in the field of corporate social responsibility and business ethics, not because it provides easy solutions to a very thorny problem of obtaining justice, but because it properly distinguishes between the responsibilities of governments and the responsibilities of private sector businesses. One should not be confused with the other. Uneasy should lie the head that wears the crown.

The case leaves open the equally thorny, but more relevant to businesses, set of issues as to what responsibilities companies have as citizens of countries to improve human rights outcomes by seeking changes from governments and protesting their abuses of power.

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SUPREME COURT OF THE UNITED STATES

No. 10–1491

ESTHER KIOBEL, INDIVIDUALLY AND ON BEHALF OF HER LATE HUSBAND, DR. BARINEM KIOBEL, ET AL., PETITIONERS v. ROYAL DUTCH PETROLEUM CO. ET AL.

ON WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SECOND CIRCUIT

[April 17, 2013]

CHIEF JUSTICE ROBERTS delivered the opinion of the Court.

Petitioners, a group of Nigerian nationals residing in the United States, filed suit in federal court against certain Dutch, British, and Nigerian corporations. Petitioners sued under the Alien Tort Statute, 28 U. S. C. §1350, alleging that the corporations aided and abetted the Nigerian Government in committing violations of the law of nations in Nigeria. The question presented is whether and under what circumstances courts may recognize a cause of action under the Alien Tort Statute, for violations of the law of nations occurring within the territory of a sovereign other than the United States.

I

Petitioners were residents of Ogoniland, an area of 250 square miles located in the Niger delta area of Nigeria and populated by roughly half a million people. When the complaint was filed, respondents Royal Dutch Petroleum Company and Shell Transport and Trading Company, p.l.c., were holding companies incorporated in the Netherlands and England, respectively. Their joint subsidiary, respondent Shell Petroleum Development Company of Nigeria, Ltd. (SPDC), was incorporated in Nigeria, and engaged in oil exploration and production in Ogoniland. According to the complaint, after concerned residents of Ogoniland began protesting the environmental effects of SPDC's practices, respondents enlisted the Nigerian Government to violently suppress the burgeoning demonstrations. Throughout the early 1990's, the complaint alleges, Nigerian military and police forces attacked Ogoni villages, beating, raping, killing, and arresting residents and destroying or looting property. Petitioners further allege that respondents aided and abetted these atrocities by, among other things, providing the Nigerian forces with food, transportation, and compensation, as well as by allowing the Nigerian military to use respondents' property as a staging ground for attacks.

Following the alleged atrocities, petitioners moved to the United States where they have been granted political asylum and now reside as legal residents. See Supp. Brief for Petitioners 3, and n. 2. They filed suit in the United States District Court for the Southern District of New York, alleging jurisdiction under the Alien Tort Statute and requesting relief under customary international law. The ATS provides, in full, that "[t]he district courts shall have original jurisdiction of any civil action by an alien for a tort only, committed in violation of the law of nations or a treaty of the United States." 28 U. S. C. §1350. According to petitioners, respondents violated the law of nations by aiding and abetting the Nigerian Government in committing (1) extrajudicial killings; (2) crimes against humanity; (3) torture and cruel treatment; (4) arbitrary arrest and detention; (5) violations of the rights to life, liberty, security, and association; (6) forced exile; and (7) property destruction. The District Court dismissed the first, fifth, sixth, and seventh claims, reasoning that the facts alleged to support those claims did not give rise to a violation of the law of nations. The court denied respondents' motion to dismiss with respect to the remaining claims, but certified its order for interlocutory appeal pursuant to §1292(b).

The Second Circuit dismissed the entire complaint, reasoning that the law of nations does not recognize corporate liability. 621 F. 3d 111 (2010). We granted certiorarito consider that question. 565 U. S. (2011). After oral argument, we directed the parties to file supplemental briefs addressing an additional question: "Whether and under what circumstances the [ATS] allows courts to recognize a cause of action for violations of the law of nations occurring within the territory of a sovereign other than the United States." 565 U. S. (2012). We heard oral argument again and now affirm the judgment below, based on our answer to the second question.

II

Passed as part of the Judiciary Act of 1789, the ATS was invoked twice in the late 18th century, but then only once more over the next 167 years. Act of Sept. 24, 1789, §9, 1 Stat 77; see *Moxon v. The Fanny,* 17 F. Cas. 942 (No. 9,895) (DC Pa. 1793); *Bolchos v. Darrel,* 3 F. Cas. 810 (No. 1,607) (DC SC 1795); *O'Reilly de Camara v. Brooke,* 209 U. S. 45 (1908); *Khedivial Line,* S.A.E. v. *Seafarers' Int'l Union,* 278 F. 2d 49, 51–52 (CA2 1960) (per curiam). The statute provides district courts with jurisdiction to hear certain claims, but does not expressly provide any causes of action. We held in *Sosa v. Alvarez Machain,* 542 U. S. 692, 714 (2004), however, that the First Congress did not intend the provision to be "stillborn." The grant of jurisdiction is instead "best read as having been enacted on the understanding that the common law would provide a cause of action for [a] modest number of international law violations." Id., at 724. We thus held that federal courts may "recognize private claims [for such violations] under federal common law." *Id.,* at 732. The Court in Sosa rejected the plaintiff's claim in that case for "arbitrary arrest and detention," on the ground that it failed to state a violation of the law of nations with the requisite "definite content and acceptance among civilized nations." *Id.,* at 699, 732.

The question here is not whether petitioners have stated a proper claim under the ATS, but whether a claim may reach conduct occurring in the territory of a foreign sovereign. Respondents contend that claims under the ATS do not, relying primarily on a canon of statutory interpretation known as the presumption against extraterritorial application. That canon provides that "[w]hen a statute gives no clear indication of an extraterritorial application, it has none," *Morrison v. National Australia Bank Ltd.,* 561 U. S., (2010) (slip op., at 6), and reflects the "presumption that United States law governs domestically but does not rule the world," *Microsoft Corp. v. AT&T Corp.,* 550 U. S. 437, 454 (2007).

This presumption "serves to protect against unintended clashes between our laws and those of other nations which could result in international discord." *EEOC v. Arabian American Oil Co.,* 499 U. S. 244, 248 (1991) (Aramco). As this Court has explained:

> "For us to run interference in . . . a delicate field of international relations there must be present the affirmative intention of the Congress clearly expressed. It alone has the facilities necessary to make fairly such an important policy decision where the possibilities of international discord are so evident and retaliative action so certain." *Benz v. Compania Naviera Hidalgo,* S. A., 353 U. S. 138, 147 (1957).The presumption against extraterritorial application helps ensure that the Judiciary does not erroneously adopt an interpretation of U. S. law that carries foreign policy consequences not clearly intended by the political branches.

* * * * *

Indeed, the danger of unwarranted judicial interference in the conduct of foreign policy is magnified in the context of the ATS, because the question is not what Congress has done but instead what courts may do. This

Court in Sosa repeatedly stressed the need for judicial caution in considering which claims could be brought under the ATS, in light of foreign policy concerns. As the Court explained, "the potential [foreign policy] implications . . . of recognizing . . . . causes [under the ATS] should make courts particularly wary of impinging on the discretion of the Legislative and Executive Branches in managing foreign affairs." *Id.,* at 727; see also *id.,* at 727–728

* * * * *

The principles underlying the presumption against extraterritoriality thus constrain courts exercising their power under the ATS.

III

Petitioners contend that even if the presumption applies, the text, history, and purposes of the ATS rebut it for causes of action brought under that statute. It is true that Congress, even in a jurisdictional provision, can indicate that it intends federal law to apply to conduct occurring abroad. See, e.g., 18 U. S. C. §1091(e) (2006 ed., Supp. V) (providing jurisdiction over the offense of genocide "regardless of where the offense is committed" if the alleged offender is, among other things, "present in the United States"). But to rebut the presumption, the ATS would need to evince a "clear indication of extraterritoriality." Morrison, 561 U. S., at (slip op., at 16). It does not. To begin, nothing in the text of the statute suggests that Congress intended causes of action recognized under it to have extraterritorial reach.

* * * * *

Nor does the historical background against which the ATS was enacted overcome the presumption against application to conduct in the territory of another sovereign. See *Morrison, supra,* at (slip op., at 16) (noting that "[a]ssuredly context can be consulted" in determining whether a cause of action applies abroad). We explained in Sosa that when Congress passed the ATS, "three principal offenses against the law of nations" had been identified by Blackstone: violation of safe conducts, infringement of the rights of ambassadors, and piracy. 542 U. S., at 723, 724; see 4 W. Blackstone, Commentaries on the Laws of England 68 (1769). The first two offenses have no necessary extraterritorial application. Indeed, Blackstone—in describing them—did so in terms of conduct occurring within the forum nation.

* * * * *

Applying U. S. law to pirates, however, does not typically impose the sovereign will of the United States onto conduct occurring within the territorial jurisdiction of another sovereign, and therefore carries less direct foreign policy consequences. Pirates were fair game wherever found, by any nation, because they generally did not operate within any jurisdiction. See 4 Blackstone, *supra,* at 71. We do not think that the existence of a cause of action against them is a sufficient basis for concluding that other causes of action under the ATS reach conduct that does occur within the territory of another sovereign; pirates may well be a category unto themselves.

* * * * *

Finally, there is no indication that the ATS was passed to make the United States a uniquely hospitable forum for the enforcement of international norms. As Justice Story put it, "No nation has ever yet pretended to be the custos morum of the whole world . . . ." *United States v. The La Jeune Eugenie,* 26 F. Cas. 832, 847 (No. 15,551) (CC. Mass. 1822). It is implausible to suppose that the First Congress wanted their fledgling Republic—struggling to receive international recognition—to be the first. Indeed, the parties offer no evidence that any nation, meek or mighty, presumed to do such a thing.

* * * * *

IV

On these facts, all the relevant conduct took place outside the United States. And even where the claims touch and concern the territory of the United States, they must do so with sufficient force to displace the presumption against extraterritorial application. See *Morrison, 5*61 U. S. (slip op. at 17–24). Corporations are often present in many countries, and it would reach too far to say that mere corporate presence suffices. If Congress were to determine otherwise, a statute more specific than the ATS would be required.

The judgment of the Court of Appeals is affirmed.

It is so ordered

STATEMENT OF THE G-8 GOVERNMENTS, JUNE 18, 2013

Private enterprise drives growth, reduces poverty, and creates jobs and prosperity for people around the world. Governments have a special responsibility to make proper rules and promote good governance. Fair taxes, increased transparency and open trade are vital drivers of this. We will make a real difference by doing the following:

1. Tax authorities across the world should automatically share information to fight the scourge of tax evasion.

2. Countries should change rules that let companies shift their profits across borders to avoid taxes, and multinationals should report to tax authorities what tax they pay where.

3. Companies should know who really owns them and tax collectors and law enforcers should be able to obtain this information easily.

4. Developing countries should have the information and capacity to collect the taxes owed them – and other countries have a duty to help them.

5. Extractive companies should report payments to all governments - and governments should publish income from such companies.

6. Minerals should be sourced legitimately, not plundered from conflict zones.

7. Land transactions should be transparent, respecting the property rights of local communities.

8. Governments should roll back protectionism and agree on new trade deals that boost jobs and growth worldwide.

9. Governments should cut wasteful bureaucracy at borders and make it easier and quicker to move goods between developing countries.

10.Governments should publish information on laws, budgets, spending, national statistics, elections and government contracts in a way that is easy to read and re-use, so that citizens can hold them to account.

BUSINESS ETHICS: A WAY OUT FOR EUROPE

STEPHEN B. YOUNG
GLOBAL EXECUTIVE DIRECTOR
CAUX ROUND TABLE

Economic management of the European Union has lost its way. Unemployment is dangerously high, especially for youth. Such levels of unemployment curtail aspirations and undermine self-confidence, leading to increased social, cultural and political short-sightedness, and even to dysfunction. Growth is not being provided by the private sector and, seemingly, can't be gestated by public sector policies. Neither austerity in public finances, nor extensions of liquidity through the financial system, have produced the needed growth.

Under these circumstances, what contribution can be made by business ethics? By professors of business ethics?

I want to suggest that business ethics can end the night of despair and bring on the dawn of hope, welcoming the day of economic re-vitalization.

I assume, however, that ethics is part of real culture, not just abstract speculations in the realm that Habermas calls "normativity."

We know from sociology of religions and from anthropology, and Habermas accepts the point as well, that for our species, Homo sapiens, normativity can be imposed on facticity through human agency. When normativity is brought to life in facticity, culture happens.

Thus, I suggest that when we are challenged at the concrete, material level of facticity – of real Euros, Dollars, Yen and Pounds Sterling – we should respond with a muscular version of ethics. We must move ethics from the mind to the hands and to the mouth. We must extend ethics into praxis.

I bring before you the strong words of our President, Theodore Roosevelt, on the need to bring ideas and values into action:

> *The credit belongs to the man who is actually in the arena, whose face is marred by dust and sweat and blood; who strives valiantly;*

who errs, who comes short again and again, because there is no effort without error and shortcoming; but who does actually strive to do the deeds; who knows great enthusiasms, the great devotions; who spends himself in a worthy cause; who at the best knows in the end the triumph of high achievement, and who at the worst, if he fails, at least fails while daring greatly, so that his place shall never be with those cold and timid souls who neither know victory nor defeat.

With this proposition on the table, let me turn more openly to culture.

Last June 3rd, there was a very interesting article in the Wall Street Journal linking a similar economic malaise in my country to a change in its culture.

The writer asserted that U.S. culture has become more risk-averse and that a new cultural dynamic has shown its power in reducing levels of new business formation and new jobs created *(please see graph 1 at end of article).*

Another cultural change that has occurred has been our increased tolerance for debt *(please see graph 2 at end of article).*

Thirdly, these cultural changes have also impacted the circulation of money *(please see graph 3 at end of article).*

The conclusion I draw from these charts is that culture is a driver of behaviors and behaviors drive economic outcomes. If we want certain outcomes, we must insure that the underlying culture is aligned with the behaviors that will produce such results.

Ethics, of course, is a shaper of culture. But what part of culture should ethics seek as its target for intervention and change?

Let me add a word about the importance of culture. At the Caux Round Table, we assert that underlying economic performance lies social capital. Following the thinking of Max Weber in his suggestion as to the origins of capitalism in the Protestant Ethic, we think that social capital is a precondition for economic and political behaviors. Since you can't put the cart before the horse and still hope to get somewhere, concern for more economic growth must put social capital ahead of economic growth. When social capital is adequate, growth will happen more spontaneously and will be more self-sustaining *(To view our ranking of the top 30 countries, please see graph 4 at end of article).*

Now, of the many factors that produce social capital, I would argue that trust is very important. For without trust, how can people cooperate with one another, risking personal commitment, being open to reciprocity, investing time, energy and money into an unknown future, and feeling comfortable to indulge in personal devotion?

Trust is a social capital account, not on the profit and loss statement of society. It is money in the bank to be spent, so to speak.

Indirectly, Adam Smith in the opening of his classic work on the origin of the Wealth of Nations, showed the need for trust and reliance. When he described the pin factory as using

specialization of function and division of labor to increase the scale of production and reduce unit costs, he put before us a social situation of production that demands mutual dependence. As work is more and more divided among different hands, each becomes more and more dependent on all the others in the system to do their part correctly and on time. Production was socialized and depended on mutuality and reciprocity. One worker in the production line could sabotage the work product of all the others connected in the chain of manufacturing straight pins. Each depended for his or her economic success on the skill and dedication and good will of the others.

If you take mutuality out of capitalism, you revert back to lower levels of production and prosperity.

More recently, Francis Fukuyama in his book, Trust, affirms the absolute necessity for trust as a cause of wealth creation.

Last February, Kurt Cardinal Koch gave the Cambridge Lecture at the Woolf Institute at St. Edmunds College, Cambridge, on trust as a basic attitude in a culture of humanity. He noted that "interpersonal relationships depend on the presumption by both sides that they are reciprocally well-intentioned towards one another."

When asked what was one word that would serve as a guide for all in life, Confucius replied "reciprocity."

For several hundred years, as they contributed to the emergence of a dynamic private sector and the rule of law under constitutional democracy, courts at the common law in England and the United States have protected a reliance interest in the actions of others. They have enhanced trustworthiness as a form of social capital.

In the 1703 case of *Coggs v. Bernard,* one who assumed the task without pay of moving a hogshead of brandy to a cellar in Water Lane, near the tower of London, but who let the hogshead drop and break to spill a large amount of the brandy, was held responsible for the damage. The reason was he had encouraged the owner of the brandy to trust him.

In the case of *U.S. v. Holmes* in 1832, when a ship sank in the North Atlantic and the sailors in a row boat threw passengers into the cold waters to their deaths in order to lighten the boat and give the others a better chance at survival, the sailors were found in dereliction of duty as the passengers had relied on them for their safety.

In *Munn v. Illinois,* a U.S. Supreme Court case of 1876, when grain storage companies in Chicago conspired to form a cartel and lower the purchase price of grain to farmers, but raise it for consumers, their business was found to be burdened with a public interest such that they were denied powers to fix prices. The dependence of the public on the cartel was grounds for limiting its private property rights.

In the 1964 case of *Tarasoff v. The University of California, Berkeley,* the dependency of one Tatania Tarasoff for her protection on knowledge held by a psychiatrist was enough to hold the doctor responsible for her death when

Socrates – self proclaimed Gadfly on the Steed of State

he did not warn her of the danger from one of his patients. The patient was a former boyfriend who confessed to the doctor that he wanted to kill Tatania out of rage. Tatania was not informed of the threat and took no precautions. She was killed as intended by the former boyfriend.

These cases all promote the practice of stewardship of our powers for the benefit of others. Stewards hold offices of trust that engenders confidence in them on the part of others. Stewardship has an ethical dimension resting on ideals of reciprocity and mutuality, on the responsibilities that arise from having others dependent and reliant on us. Power implicates ethics and responsibility – both the power that comes with government and the power that comes with owning or managing private property.

The ethical use of power in owning or managing private property is what is more and more called corporate social responsibility (CSR). In America, we still use the term "business ethics," but that is giving way to a strategic approach of CSR.

Corporate social responsibility promotes social capital and builds trust. It is the foundation for growth in free markets. When the interests of stakeholders are reliably promoted, stakeholders are more likely to invest and spend and to otherwise commit themselves to economic activity. Protecting their interests encourages them to trust and to act in a trustworthy manner.

In October, 2011, the European Commission put forward a new definition of CSR as "the responsibility of enterprises for their impacts on society." To fully meet their CSR, the Commission advised that enterprises should have in place a process to integrate social, environmental, ethical, human rights and consumer concerns into their business operations and core strategy in close collaboration with their stakeholders, with the aim of:

– maximizing the creation of shared value for their owners/shareholders and for their other stakeholders and society at large;
– identifying, preventing and mitigating their possible adverse impacts.

This process is none other than one of governance. According to the Commission, the complexity of that process will depend on factors

like the size of the enterprise and the nature of its operations. For most small and medium-sized enterprises, especially microenterprises, the CSR process is likely to remain informal and intuitive.

To maximize the creation of shared value, enterprises are encouraged to adopt a long-term, strategic approach to CSR, and to explore the opportunities for developing innovative products, services and business models that contribute to societal well-being and lead to higher quality and more productive jobs.
To identify, prevent and mitigate their possible adverse impacts, large enterprises, and enterprises at particular risk of having such impacts, are encouraged to carry out risk-based due diligence, including through their supply chains.

A CSR approach to economic growth in Spain would place the highest priority on the middle class. It would also focus on job creation, which nourishes the middle class. Protection of established firms and the already well-to-do is less important. Maintaining living standards for the poor must be addressed, but that is only maintenance, and not a source of growth.

A CSR approach to economic growth would start by listing resources of applicable power, domestic and international, actual and potential. Then, it would list the country's relevant stakeholders along with their needs and interests and hopes. Third, it would align power with actions to meet the needs, interests, and hopes of stakeholders.

Why is it that current policies and discussions of solutions for the crisis of no growth do not generally draw on CSR thinking? They are, in the main, I would say built on financial theory – the theory of investment, banking and financial analysis, debt levels, interest rates, credit ratings, and budget deficits. In the main, they reflect the conceptual advances of the 1930s.
We are still living in a thought world created by John Maynard Keynes and the Austrian School of Economics. Since World War II, non-socialist economic thought has been a blend of macro-economic theory on GDP dynamics, demand, management and micro-economic theory of market efficiency and firm profitability.
Our theories of economic development, as applied by the World Bank and Organization for Economic Cooperation and Development agencies, have largely remained within this thought realm, a realm called the "Washington Consensus," or Neo-Liberalism, Reaganomics or Thatcherism by those unhappy with its policy priorities. Nobel prizes are awarded for intellectual excellence in this doctrinal domain.

But modern economics has its limits. It does not address the moral sense and so has nothing really to say about building social capital and trust. In fact, one could argue that modern economics descends from thinking that dismisses the moral sense. Utilitarianism and self-interest have long been criticized as having too much influence on the assumptions made by modern economics about human motivations and behaviors.

While we can define utility to include a range of values and goods, including the achievement of moral outcomes, in general use, what is considered to be of utility is self-interested and materialistic, rather than other-directed, emotional or spiritual.

For its proofs and conclusions, modern economics relies on techniques of game theoretic predictability and statistical reversions to a Gaussian norm. These quasi-mathematical frameworks of analysis lend precision to their calculations, but they rest upon older Social Darwinist assumptions about competition in life and survival of the fittest. Herbert Spencer, the author of Social Darwinism in his 1851 book, *Social Statics,* was explicit in his rejection of the moral sense among humans. He thought of our species as still within the animal kingdom as an advanced version of mammalian achievement, but with our ethics driven by the natural instinctive need to win over others at all costs. Contemporary disdain for the moral sense was enhanced by Freud and subsequent writers on personality and psychology. The moral function for Freud was dismissed largely as a repressive super-ego that needed to be overthrown if the self was to escape neurosis and psychosis. A view of human motivation as largely responsive to libidinal needs and neurotic complexes could not encourage respect for the nourishing of our moral sense.

The ego psychology of thinkers like Erik Erikson left more room for the development of a moral sense, but could not undo much of the intellectual damage done in deconstructing the role of the moral sense. Disdain for the moral sense has been whipped up by the trend of modern epistemology and moral speculation towards a congenital nihilism as the human condition. If all norm-building is only someone's self-interested discourse, why bother with norms and morals at all? Who needs social capital? Who needs trust? Laissez-faire, or as they say in New Orleans, "Laissez les bons temps rouler." Ironically, a culture of innumerable, independent discourses provides no basis for trust and is incapable of building social capital. Thus, modern philosophy may be at the root of our problems.

> "The happy life, therefore, is a life that is in harmony with its own nature."

In the run up to the 2008 collapse of Wall Street, we saw the culture of Wall Street move farther and farther away from good stewardship towards only discourse, self-promotion, short-term greed, and exploitation of those who could be stuck with the risk of failure. In short, before it lost its money, Wall Street ran down its stock of social capital. There were only nominal values, no intrinsic values, and no one's word was a bond.

In recent years, however, new research and new thinking is restoring confidence in the moral sense. First, studies of human evolution now stress the social skills of our ancestors – capacities to cooperate around cooking, hunting, division of labor with a family – as enabling the survival and then the flourishing of our species. Second, studies of neurobiology look to the development of brain functions for reflective thinking and social intelligence. They document the role of the chemical oxytocin in triggering trusting behaviors. Thus, the assumptions

about the vital importance of our sociability held by Aristotle, the Stoics, Aquinas, Locke and Smith are being substantiated by current scientific inquiries.

If a moral sense is present in all of us, then, one, it needs to be incorporated into our thinking about politics and economics and organizational behaviors, and, two, it needs to be cherished and nourished.

The role of ethics is to do both – to provide intellectual leadership in where and how to incorporate the moral sense into our cultural beliefs and practices and to provide guidance on the cherishing and nourishing of the moral sense in individuals, families, organizations, and communities.

Benedict XVI, the Pope-Emeritus, has encouraged us to pick up this challenge on behalf of the moral sense. In his encyclical, *Caritas in Veritate,* Benedict spoke of the fundamental importance to human flourishing of *caritas*, the use of the moral sense.

The Roman writer Seneca, who was born here in Spain, wrote an overlooked commentary on benefits, another use of the moral sense. For Seneca, the giving of benefits perfected the donor and contributed to happiness. Being ethical is in some important sense, I would say, a conferring of benefits with a corresponding result of perfecting ourselves and contributing to a more nourishing euphoria about life. It is, therefore, the moral sense that perfects us, not money or power.

Seneca advised that "a benefit cannot be touched with one's hand; the business is carried out with one's mind." The benefit lies in the intention of the giver; it is a correct deed. It triggers reciprocity. It builds social capital, moving from a state of mind to action to further states of mind to further actions conducive to joint ventures, friendships, trust and reliance.

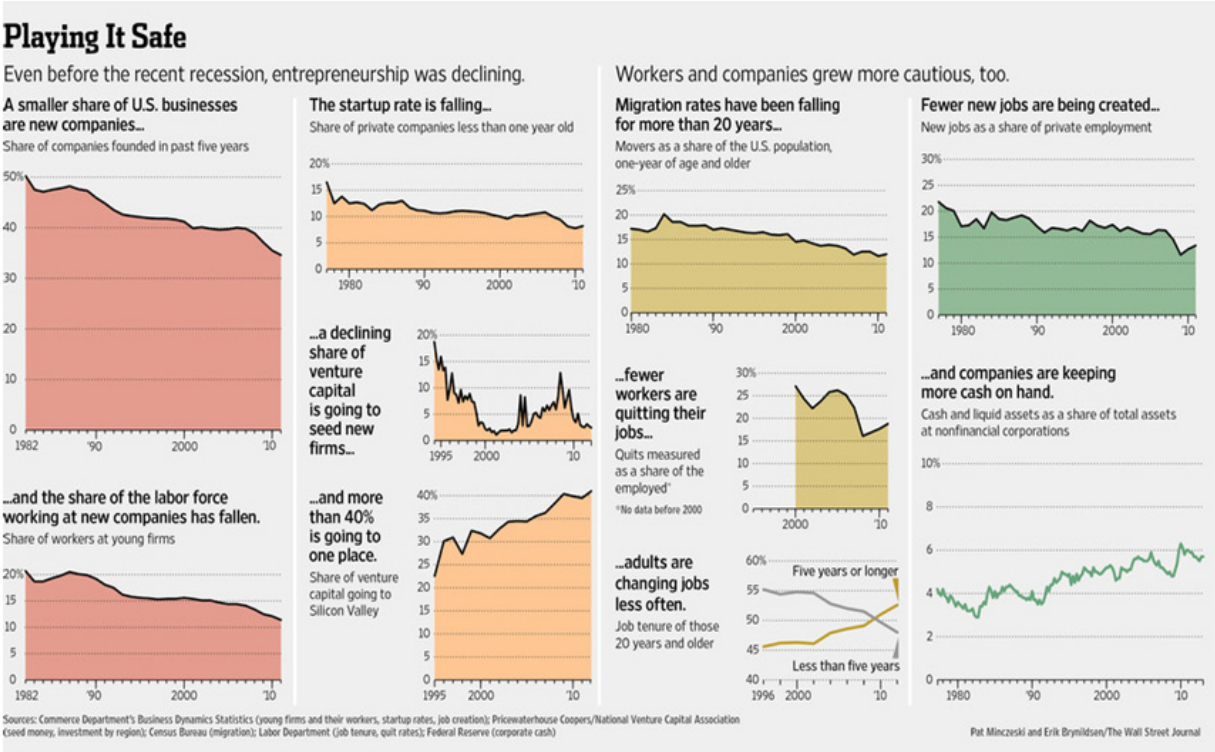
Bringing the moral sense to the fore is the need of the hour in Spain and in the European Union to correct the fatal flaw, the Achilles Heel, in current economic theory and policies, both Keynesian and neo-liberal.

The way forward is clear; the means are at hand. But do we have the will?

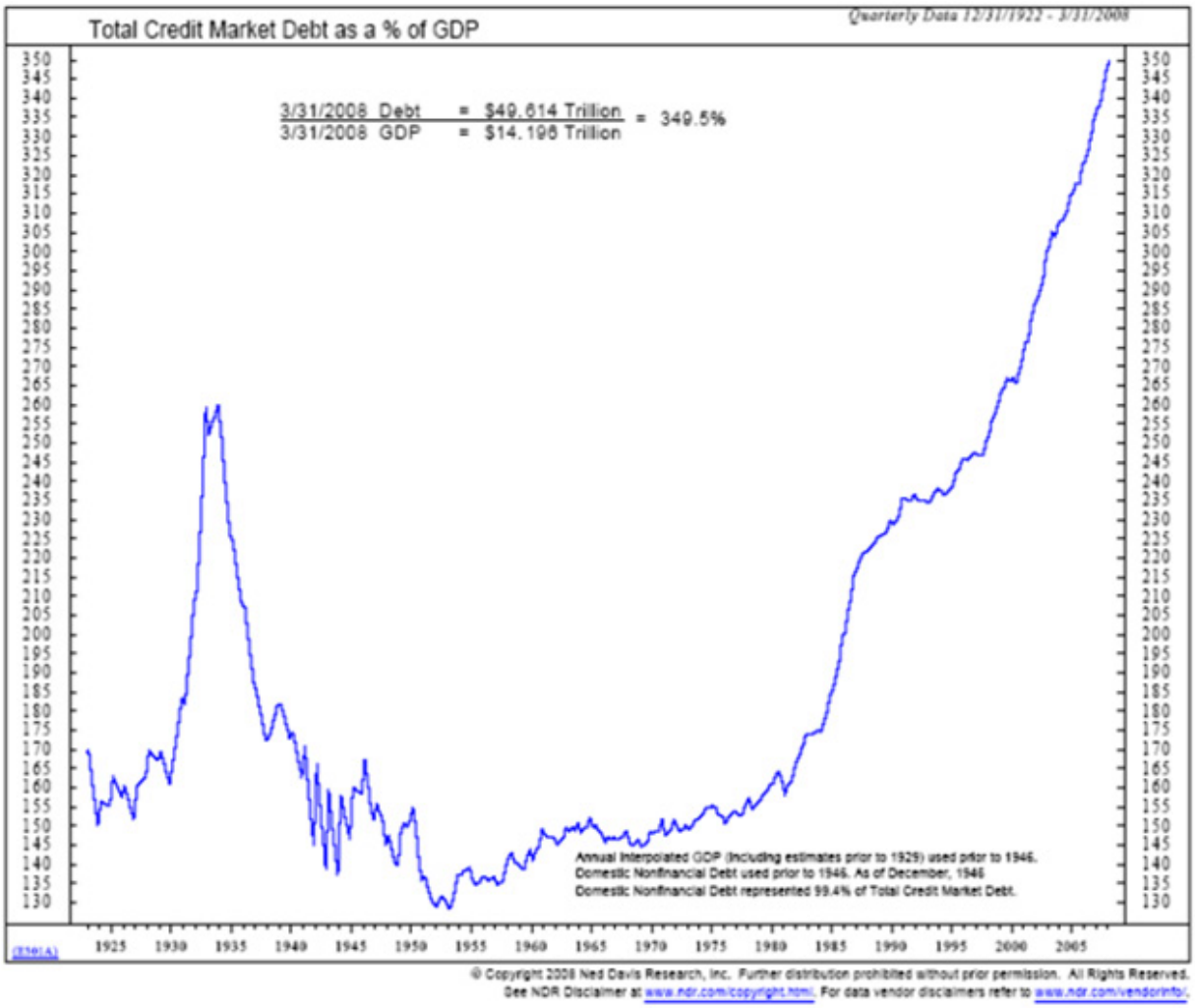
My Father in World War II served under the directive: "The difficult we do at once, the impossible only takes a little longer."

Let us be so bold.

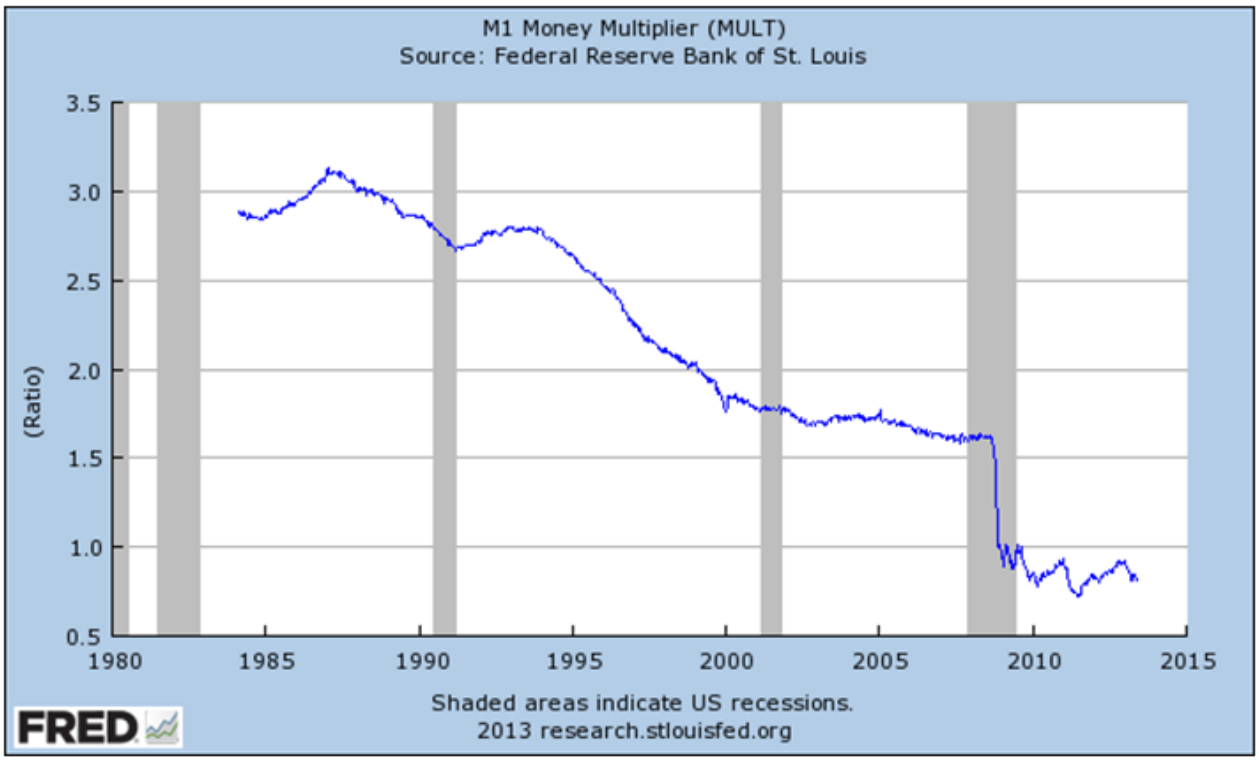
Graph 1



Graph 2



Graph 3



Graph 4

Country Ranking – Social Capital Accumulation

1. Switzerland
2. Denmark
3. New Zealand
4. Norway
5. Finland
6. Canada
7. Australia
8. United States
9. Sweden
10. Netherlands
11. Hong Kong SAR, China
12. United Kingdom
13. Luxembourg
14. Austria
15. Singapore
16. Germany
17. Ireland
18. Japan
19. Belgium
20. France
21. Estonia
22. Iceland
23. Korea, Rep.
24. Chile
25. Spain
26. Qatar
27. Puerto Rico
28. Malta
29. Czech Republic
30. Poland