

CLAN GOVERNANCE AND LANDLESS SOCIAL CAPITAL: AN ANTHROPOLOGICAL STAKEHOLDERSHIP MODEL

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Abstract

Traditional corporate governance models in Western countries have been severely shaken by the still ongoing recession, whereas in developing countries backward and unrefined stakeholder models have provided an involuntary shelter from financial shocks.

Clan governance rotates around informal relationships, which concern also untitled land, intrinsically unfit for collateral lending.

Comparison between the West and the Rest does not suggest automatic dominance of formal governance patterns, but rather painfully converging standards, under the centripetal influence of disordered globalization, which may flatten cultural differences, up to the point of spoiling valuable "biodiversities".

Keywords: Nexus of Contracts, Property Rights, Culture, Poverty Traps, Family Governance, Microfinance, Globalization

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Beyond Western Corporate Governance

Traditional corporate governance refers to the system by which corporations are directed and controlled, within a typical Western-style institutional system. Governance issues are so typically concerned with corporations, whose codified structures specify the distribution of rights and responsibilities among different stakeholders (directors, managers, shareholders, creditors, auditors, regulators, debtholders, suppliers, clients, etc.).

According to a seminal survey (Shleifer and Vishny, 1997) "corporate governance deals the ways in which suppliers of finance to corporations assure themselves of getting a return on their investment. How do the suppliers of finance get managers to return some of the profits to them? How do they make sure that managers do not steal the capital they supply or invest it in bad projects? How do suppliers of finance control managers? At first glance, it is not entirely obvious why the suppliers of capital get anything back. After all, they part with their money, and have little to contribute to the enterprise afterward. The professional managers or entrepreneurs who run the firms might as well abscond with the money. Although they sometimes do, usually they do not. (...). In fact, the subject of corporate governance is of enormous practical importance". And again "people who sink the capital need to be assured that they get back the return on this

capital. The corporate governance mechanisms provide this assurance".

A core issue of corporate governance is concerned with the agency problem, sometimes referred to as separation of ownership from control, within firms that can be interpreted as a Coasian nexus of contracts among different resource holders.

Agency relationships arise whenever an investor, acting as a principal, delegates a managing agent to perform some service.

Since these relationships are not necessarily harmonious, conflicts of interests may easily arise, and so agency theory is primarily concerned with the binding mechanisms and incentives that principals may use with agents to get their money back, possibly with a fair and risk-adjusted gain.

In an ideal world where managers already own all the money they need for investments, principals would coincide with agents and no agency conflict would arise; the problem surges whenever specialized managers lack the money they need for investments, but also when financiers need the managers' expertise and professional skills to properly manage their money: mutual convenience is the natural glue behind any agreement.

According to agency theory (see Kostyuk et al., 2011), in imperfect labor and capital markets, managers will inevitably seek to maximize their own utility at the expense of shareholders. Agents-managers have the ability to operate in their own conflicting self-interest rather than in the best interests

of the firm. This happens as a consequence of asymmetric inside information (since they know better than shareholders whether they are capable of meeting the shareholders' objectives) and physiological uncertainty (since myriad factors contribute to final outcomes, it may so not be evident whether the agent directly caused a given outcome, positive or negative).

Critiques of traditional governance research based on agency theory have noted its "under-contextualized" nature and its inability to compare accurately and explain the diversity of corporate governance arrangements across different institutional contexts (Wright et al., 2013).

The utopian landscape of complete contracts and comprehensive regulation, ideally able to cover with their legal provisions all the possible states of the world, has to realistically face an imperfect context, where unforeseen and risky events are always possible and likely to occur. Catching up economies, set free from outdated colonial ties, experiment variegated governance models and their still unstable equilibriums, ignited by experimental enthusiasm, are still to be codified by enduring critical experience. Better governance brings to greater access to financing (Claessens and Yurtoglu, 2013), a key development booster.

The aforementioned framework is the standard playfield of corporate governance issues, within typical corporations; lesser attention is however traditionally dedicated to informal economic gatherings, such as family clans, which are not legally incorporated, especially in under-investigated developing countries. But this lack of formal boundaries does not mean that undetected problems do not exist: they are simply disguised and ill represented.

Balanced experience suggests that the edge of chaos is dangerously close to both excessive governance order and antithetic libertarian disorder.

Starting from this empty space in the current academic literature, this paper tries to fill a vacuum, analyzing how "clan governance" works and which are the main problems behind this unconventional - but impressively common - scenario.

The interdisciplinary contents of this eclectic paper goes beyond the traditional pathway of standard corporate governance issues, being linked to anthropological methodologies that describe unusual governance patterns, such as those concerning ethnic clans in developing countries. Non-conventional attention is also dedicated to property-related nexuses of contracts, which matter when missing, as it is the case in most developing environments.

The paper is organized as follows: after a general description of social capital, derived from informal ethnic clan relationships, its survival legacies, normally taking place in unforgiving environments, are critically examined. Social trust is then thoroughly examined as a necessary mean to

overtake corruption, so composing otherwise troublesome governance issues. Cultural differences and legacies, so meaningful in order to discriminate between different clans (an ethnic surrogate for corporations), are then considered, again stressing their governance implications.

The mystery of hidden capital - formally present but in practice not accountable (for instance, as a consequence of missing land titling) - is then sequentially considered, together with its governance consequences: no titling, no possibility to issue guarantees against debt underwriting, which often becomes a sort of mission impossible, with dire economic consequences. Problem solving hints, starting from land reform, are then proposed, within a practical scenario, where unconventional governance issues are discussed.

Some concluding remarks consider cultural governance implications of erratic globalization, acting as a powerful catalyst of standardization, where the flattened West tries, not always for the best, to homologate the polyhedral Rest, within a disordered clash of competing civilizations (Huntington, 1993).

Tribal Social Capital

Social capital derives from meta-economic social gatherings such as family or ethnic clans and it refers to local connections and forms of association that express trust and norms of reciprocity and support within and between communities. It includes also social networks, which represent an opportunity deriving from structures of linked individuals, increasingly even on the Internet, by several different possible kinds of interdependency. Some authors equate social capital with trust and trustworthiness whereas others appear to regard social capital as a form of social networks (Durlauf, 2002), considering also its impact towards stakeholders (Garriga Coats, 2011).

People that are engaged in forms of association develop a social framework of common cultural values, ties and beliefs, and they develop a common social anesthesia that, with its membership entitlement, partially relieves them from a painful existence. Social - associational - capital is concerned with the mutual embeddedness of social and economic life (Bourdieu, 1977), where gifting, sharing, solidarity and reciprocity are considered as core values and the clan acts as a defensive and protective structure. Partial vested interests of a clan bring however to parochialism and exclusion for non members, with huge governance implications.

Clan belonging becomes a crucial matter, discriminating between acritical inclusion and indefinite outcast.

Separation of ownership and control, so meaningful in traditional corporate governance, is here much less clear cut.

Within informal societies, social capital is the connecting economic glue among otherwise scattered stakeholders, presiding over un-codified governance enforcement. Social capital, with its intangible and non monetary contents, greatly differs from market-oriented traditional equity of Western corporations. Governance implications are substantial and ontologically rooted in nexuses of hardly comparable economic and social contracts. According to Bowles and Gintis, 2002, communities can provide less costly solutions to various principal / agent and collective goods problems than can markets or government interventions; community social capital, as underlined by Glaeser et al., 2002, derives from the aggregation of individual decisions.

Togetherness scans the step from personal to collective action and responsibility. In each clan there is a respectful leader, which rules an informal board of directors. Culture - as well as shared cultural norms and behaviors - is also greatly influenced by family ties, whose perimeter is variable and changing, because of the disrupting social impact of migration, demographic changes or instruction. Family ties are formed and changed with marriage and - later on - its fertility rate impacts. Especially in traditional societies, each union strengthens existing network ties and forges new ones, as Munshi reports (Banerjee et al., 2006, p. 397), since marriage is a permanent bond and divorce is hardly an exit option.

Intra-community ties, connected with bonding social capital, are particularly strong and pervasive in closed rural environments, where contacts with the external world are rarefied. In such a context, backward cultures are particularly likely to perpetuate intergenerational poverty, difficult to eradicate from its ancestral legacies.

The social "glue" of capital depends on the degree of cohesion (Boytun et al., 2011), affiliation and sense of belonging within the clan members - as Reinikka reports "fractured, heterogeneous communities (...) have little capacity for collective actions" (Easterly, 2008, p. 187). Mutuality and gratuity are the true lasting glue of social capital.

Both social capital and cultural values are so different not only within underdeveloped countries, but also comparing the Rest with the West, where autonomy and individualism are core cultural aspects - in poor countries, being alone is an unaffordable habit, putting survival even more at risk. In Western countries unbound individualism is often projected towards selfish and empty goals, and it disrupts social values and self-nourishes with a solipsistic ego, that is so different from the rural mutuality of most underdeveloped countries. It is the ephemeral triumph of the unbound Prometheus, passing from old physical chains to new intangible ones, concealed by an apparent freedom.

Moyo, 2009, p. 58, claims that "social capital, by which is meant the invisible glue of relationships that holds business, economy and political life together, is

at the core of any country's development. At its most elemental level, this boils down to a matter of trust". Harrison and Huntington, 2000, p. 299, point out that "societies with a narrow radius of identification and trust are more prone to corruption, tax evasion, and nepotism" and a shortsighted and limited environment, that is suspicious and mistrustful towards innovation, openness and transparency, hardly looks development friendly.

Family Clan Survival Legacies

In hard and unforgiving environments, where struggle for survival leaves little space for other more sophisticated worries (including governance ruminations), people, who typically belong to a common family or tribe, live together in comprehensive clans, scattered over vast and hostile territories. Nurturing the family stands out as the first ancestral commandment, reminding that its perimeter and concept gets wider in non European cultures, going far beyond the elsewhere dysfunctional nuclear entity of mother-father-children. Small groups allow to flee danger more easily and to flexibly adapt to perils, constantly moving to allegedly safer places. Tribalism is questioned to be a stumbling block to progress (Calderisi, 2006, p. 85) and ethnic ties in Africa or elsewhere are a magnified expression of family loyalty, since they work as a safety net in times of distress and they somewhat soften the effort towards growth.

Sharing and solidarity come out as culturally rooted survival values within clans, standing out as a supreme ethical canon, out-casting with a permanent ostracism those who do not comply with these unwritten codes of conduct. Individualism, which is so highly prized in the Western world symbolizing fragmented governance, in poor environments epitomizes unhappy and often lethal exclusion. The popularity of group lending - as a key microfinance feature - in underdeveloped countries is a cultural consequence of different life styles, with an intrinsic and often under exploited potential.

Within a community, social learning process let that information, knowledge and behaviors are diffused among its members, following an imitative pattern within the social network where the process takes place. The degree of openness of the community towards the outside world shapes the level and the intensity of social learning but also its cultural stability, since new ideas and habits have to interact with the historical background, possibly in a smooth and gradual way. Unprecedented models and experiences may bring to cultural shocks and loss of identities, especially if they are suddenly imposed by the neighbors within the community or the outside changing environment, even with traumatic events (natural calamities, epidemics, wars ...). Such models and experiences are hard to detect at the moment but

they have long lasting side effect, preventing integration.

Harrison, 1985, notes that "there is evidence that the extended family is an effective institution for survival but an obstacle to development". And Lipset and Lenz add up that "solidarity with the extended family and hostility to the outsider who is not a member of family, the village, or perhaps the tribe can produce a self-interested culture" (Harrison and Huntington, 2000, p. 119). If only we think about so many underdeveloped countries and their socio-economic ethnic ties, that are culturally so deeply rooted, we may begin to understand why progress and development are so difficult to start up and keep going.

Social capital is strongly - but not exclusively - linked to ethnicity, a concept that encompasses tribes, enlarged family clans, races and nationalities, as it broadly refers to a group identity, speaking the same language, typically being native from the same place, often showing somatic differences with other ethnicities, with rooted culturally distinctions and different ritual traditions.

Beyond Social Trust: from Amoral Familism to Corruption

The stronger the ties within the family clan, the weakest the relationship outside it - trusting strangers becomes difficult and interacting with them requires high transaction costs, whereas within the family entourage nepotism and corruption are the norm. In the Republic (book 5, 464), Plato abolishes the family for the guardians, to avoid nepotism and amassing of private wealth. Like it or not, family ties, especially those between parents and children, are the main forces that underline institutionalized social classes, shaping family governance.

In a society of amoral familists, no one will further the interest of the group or community except as it is to his private advantage to do so - corruption and deviance from meritocracy grow up an automatic and unsurprising effect. Family is a value to preserve, to the extent that it does not fall into amoral familism, so harmful even in developed countries and being a primary cause of their stagnation (Banfield, 1958).

Clan governance shows a radically different stakeholdership paradigm, with less clear cut principal - agent dichotomy, a pivoting theoretical concept within Western governance principles. Family governance of Western companies, typically less sophisticated than that of listed public companies, is less dissimilar to clan governance. According to Arrengle et al., 2007, in family firms two forms of social capital coexist: the family's and the firm's.

Eddleston et al., 2010, show that trust is a governance mechanism and theoretical construct of particular relevance for family firms, encapsulating some of their advantages and pitfalls. Trust is also linked to theoretical governance frameworks such as

agency theory, stewardship theory, social capital theory, and transaction cost economics.

When community belonging is more important than individual merit, it is hard to approach a market economy - both parasitism and selfishness are easy temptations. Transactions always bear social costs and are difficult to design, regulate and check, especially outside the discriminating perimeter of the social network.

Meritocracy becomes a very relative concept and it seriously risks being drowned in static cultures which pursue an egalitarian status quo. People are selected according to their membership, not to their intrinsic value or merit, and this fact favors a brain drain of the smartest that have a strong incentive to get out of the backward and -sometimes- brutal family clan. Civic sense is also neglected and common good outside the family boundaries is hardly recognized as a cultural value. Bad choices are often persistent and culturally rooted.

Castes represent the deepest formal and substantial division between ethnic groups, each with its own social capital ranking position in the society, as it is sadly exemplified by Brahmins, the architects and guardians of the Indian caste system, which seems almost impossible to disrupt, due to its ancestral pervasiveness and inculturation.

Social capital and networks can have positive externalities on outside parties to the extent that they are not discriminatory, otherwise they can promote intolerance, racism (a "cultural" influence afraid of diversity?), exclusion and even violence to non-members. Indifference is a silent and subtle form of violence, especially towards the poorest.

Social trust is a by-product of social capital. A society's ability to compete globally is conditioned by high-trust or low-trust, and the latter is typical of underdeveloped countries less effective in shaping and governing large and complex social institutions (Fukuyama, 1995).

Corruption produces highly unbalanced effects on the stakeholders that, willing or not, pivot around it. And private gain at public expense is the most probable gloomy outcome - "all animals are equal, but some animals are more equal than others" is the well known statement of George Orwell's "Animal Farm".

Corruption is nurtured by asymmetric and distorted family or clan ties and it develops in secrecy and lawlessness, within a private club where only the strict beneficiaries, necessary to develop it, are carefully admitted - the larger the association, the higher the danger that embarrassing information leaks out.

The poor and underserved, being almost by definition powerless, are unsurprisingly severely hit by corruption and its highly detrimental effect on development, with its well known negative impact on investment and consequent lower economic growth.

According again to Lipset and Lenz, corruption is harmful to development also because it

concentrates resources where bribes are more efficiently collected and managed (larger, hard-to-manage projects such as big infrastructures or natural resources exploitation fields), diverting funds from other traditional pro-growth areas, such as education, where expenditures, efforts and results are more visible and accountable, making corruption much more difficult to spread and prosper (Harrison and Huntington, 2000).

Microfinance is a good tool in order to go beyond family ties, as it has proved effective even outside the clan boundaries. Group lending, a basic building block of microfinance, is a well known example of united social network, where the poor help themselves, reengineering powershift, and struggling together for mutual survival.

The Mystery of Hidden Capital: an Informal Nexus of Property Contracts

Hernando De Soto's *Mystery of Capital* is a celebrated and original book that tries to explain (as it is reported in its subtitle) "why Capitalism Triumphs in the West and Fails Everywhere Else" - a thesis substantially consistent with Landes' (1998) historical Eurocentric approach. According to the Peruvian economist "the poor inhabitants of [underdeveloped] nations— five-sixths of humanity—do have things, but they lack the process to represent their property and create capital. They have houses but not titles; crops but not deeds; businesses but not codified statutes of incorporation. It is the unavailability of these essential representations that explains why people who have adapted every other Western invention, from the paper clip to the nuclear reactor, have not been able to produce sufficient capital to make their domestic capitalism work. This is the mystery of capital".

Capital is described as the igniting force behind productivity of labor and in underdeveloped countries, "most of the poor already possess the assets they need (...) but they hold their resources in defective forms: houses built on land whose ownership rights are not adequately recorded, unincorporated businesses with undefined liability, industries located where financiers and investors cannot see them" (De Soto, 2003, p. 5). Wealth of the poor exists, but it is paradoxically hardly exploitable. When land and property have clear titles, reducing litigation and frauds, their value and fungibility dramatically increase, easing an otherwise almost impossible intermediation, and following levered value patterns.

The land issue is central in corporate governance, since it traditionally represents a key funding asset of the corporation, with well known bankability effects, bypassing misappropriated property concerns. And when these assets are missing or not fungible, their absence matters and pains, as it is shown also by the still unsolved worldwide recession, ignited in 2007-2008 by an apparently

trivial real estate bubble in the U.S., which triggered a sub-prime domino effect.

The issue of landownership and distribution is particularly complicate and paradoxical; it occurs in backward rural places, since everybody's untitled land risks becoming nobody's territory, bringing other author to wonder "whose land is it, anyway?" (Maathai, 2009). Uneven titling may however deepen social differences between full proprietors and illegal tenants.

Land property guarantees are the cornerstone of bank lending, above all for what concerns mortgages. In Western countries we are used to mortgage-backed loans, to the point that we often tend to undervalue their importance, which is nevertheless daily perceived by the many that can afford to buy a real estate property only if a mortgage bank acts as a provider of finance.

The problem with so many developing countries, especially in scattered rural areas, is that land titling is simply missing and consequently the land and the often poor constructions above it are just unofficially occupied by its informal owners, following ancestral customary rules - and this very land is hardly useable as a guarantee, since they cannot demonstrate to have a real and officially recorded property. Houses can be built either on the sand or on a rocky surface, this being a biblical metaphor for ephemeral versus long lasting investments. Social capital is so linked not only to clan ties, but also to the presence of informal - and so not enforceable - property rights.

Many developing countries have inherited their legal framework from their colonial past, but since their independence the world has consistently changed and a managing class of trained civil servants is in most cases still missing and highly wanted. Good institutions are needed to protect increasingly complex property rights and private property - a right but also a gift to be shared - is a critical institution for fostering economic development. Colonization and then decolonization have brought to erratic and unfair land redistribution, arbitrarily expropriating and recomposing the puzzle of rural entitlements, whereas the interests of poor peasants have always been dominated by more powerful groups of pressure.

It takes many complex steps and significant financial resources to legally start up a business or own a house in different parts of the modern world. The records of who-owns-what are often puzzling and, if they are improperly kept, they can bring to long legal disputes. Where the poor are opposed to large landowners, the latter are typically favored by their influence on not always impartial courts. To the extent that the poor mistrust courts, they hardly look for justice, bearing a high cost of abuses from formal authorities and with a huge - albeit hardly visible - social cost.

Tenure security is important, and land titling is much desired by farmers, who otherwise are condemned to be mere sharecroppers. Excessive

fragmentation of land is however another problem, worsened by demographic booms, which should carefully be avoided, since even in agriculture economies of scale matter.

Systems of land titling greatly differ across the world, and land titling is a form of privatization out of collective sharing which creates a property-owning society that can be sadly exemplified by communism, under which people were equal and all poor. Land rights also affect investments, even considering the subject to which guarantees may be granted. It is unsurprisingly mainly the poor those who lack land tenure and they are consequently prevented from investing.

The value of land as a guarantee derives also by two predominant characteristics:

- land is more fungible than many other assets;
- land's value is consistently less volatile than the value of so many other assets.

Collateral Governance, Beyond the Property Trap

The equation "no real (land) guarantees, no money" is so common in Western banking dealings that we are hardly used to understand the importance of its missing presence in developing countries. Unsophisticated and embryonic leverage, acting as a chained Prometheus, is linked to basic assets' structure, where both intangibles and fixed assets are underrepresented. Asset & liability governance equilibriums follow this basic pattern, engineered by undifferentiated multirole stakeholders.

Illiterate informal landowners, whose rights to occupy the land are hardly opposable as prescribed, lack any formal title of property (Lanjouw and Levy, 2002), and so they are hardly able to convert their property capital into a working guarantee.

And the fact that little (if any) real estate taxes are applicable to unrecorded properties, may initially sound as good news for lucky tax non-payers, even if no tax collection means lower resources for infrastructures - whose role is decisive even for property value enhancing (a home with no road connections is hardly valuable) - and especially it brings no incentives for cadastral mapping and checking, with negative impacts on the overall development which go far beyond the land issue.

The creation and progressive accumulation of capital - the fuel behind development - would never have been possible in Western countries without the contribution of land injections or other assets in kind (real estate properties, gold or other precious metals, sometimes equipment and furniture). They form indeed the initial capital, and they make the ignition of a wealth multiplying process possible, where physical capital is successfully combined with labor and intangible skills, levered by asset-backed guarantees.

The property trap has serious drawbacks which hinder development: lack of land property makes it unavailable as collateral, preventing the diffusion of financial products which elsewhere prove useful even for the poor, such as housing microfinance, with a progressive build approach. Housing is both a shelter and a commodity, but if land and real estate properties are not properly owned, they become both a precarious shelter and an untradeable commodity, destroying much if not most of their intrinsic potential value. And the poor typically do not have other valuables - otherwise they would not be destitute. Poor housing may bring to a housing trap.

Private property has also other well-known aspects but anyway complex ones. They strongly contribute to the well being of its owners and they are transmittable and inherited through generations, following an ideal relay race where wealth passes from father to son, accumulates or depreciates if improperly managed and it profoundly contributes to the overall welfare. The right to free inheritance, which was denied by communist regimes but is hardly practicable even elsewhere (even if it is formally allowed), is fundamental to encourage propensity to get engaged in long term investments, beyond one's hopeful life span.

Hidden or untitled (real estate) capital is often accompanied by the presence of ... invisible poor, whose birth has never been recorded or recognized. Officially nonexistent poor do not have any certified identity and consequently they are not able to sign contracts with their official name, to have a passport or other documents, including electoral certificates or welfare cards. As a matter of fact, non-existent poor are marginalized, deprived of their primary rights and exposed to frauds and blackmails (when looking for a job or trying to purchase durable goods ...).

Comparison between countries with different property laws is uneasy and raises Hamlet questions, wondering if un-titling is really worse than property backed levered titling.

Conclusion

This brief and eclectic paper shows that standard Western corporate governance issues, synthesized in the introduction, clash with the silent and informal world of still developing countries, which rotate around social capital and family clan stakeholders, with unwritten ties and nexuses of tribal contracts, especially in rural areas.

Contact between the West and the Rest is often accidental, and interactions between the two models are fortuitous and erratic, following the capricious pendulum of globalization. Governance "biodiversities" represent a shelter against massive homologation, somewhat preserving the Rest from the viral contagion of still ongoing Western recession. Forward- looking confrontation may however bring to mutual enrichment, for instance if looking for a

balanced compromise between 'far West style' no regulation and the unintelligent design behind overregulation (Ferguson, 2013), which demands watchful policy scrutiny. Hardly measurable social capital factors widen both segmentation and information asymmetries, so weakening the correlation among governance entities, together with their induced viral contagion.

Capital, especially if represented and backed by real estate property and its consequential legal titling, is still the engine of levered economic growth in the Western world, since the English industrial revolution (Ferguson, 2011), even if the still ongoing unprecedented recession, accidentally ignited by sub-prime bubbling mortgages, has shown the limits and follies of financial sophistication, suggesting "back to earth" humble but vital warnings.

Links and synergies between corporate governance systems in Western and developing countries may be found for example in microfinance institutions, where guarantees for debt underwriting are cash flow based, in the absence of worthy collateral. The very fact that microfinance proved resilient during the recent recession (Moro Visconti, 2009; Moro Visconti, 2011) is another point in favor of its scalable application.

Family governance is another insightful bridging issue, to the extent that Western family businesses can share their know-how with clan governance paradigms, tightening their common denominators.

Key governance issues such as corporate control, accountability, management monitoring, audit, regulation, best practices, risk management, etc., which occupy since decades the discussion arena in Western countries, are still incubating in less sophisticated societies, backwarded in their informal financial systems.

Spicy cultural differences, albeit endangered by flattening globalization, still deserve careful analysis and preservation and may conveniently pattern new research avenues, trying to sort out the Best from the uneasy comparison between an ailing West and its unfitting Rest.

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