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Making sense of business failure: a social psychological perspective on financial and legal judgments in the context of insolvency

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Making Sense of Business Failure

A social psychological perspective on financial
and legal judgments in the context of insolvency

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*"Perhaps the path appears straight when we look back
at it. On the way, we often feel lost."*

Sir Philip Anthony Hopkins,
as Pope Benedict XVI in *The Two Popes*

Preface

Here I am, writing the final bits of my dissertation. It appears that I will successfully complete my PhD research within the allotted timeframe. The prospect of finishing my PhD fills me with feelings of relief, satisfaction, contentedness, and possibly even happiness. But am I to deserve praise for this accomplishment? Was it truly me who accomplished this, at times, daunting task? Or was it largely a shared effort between myself as the one who had to put in the work, my supervisors who (occasionally) pushed me to generate output, my colleagues who made the past four years an enjoyable experience, the heads of my department who always supported me to attend international conferences and other important (and quite costly) events abroad, and my friends and family who provided me with emotional support and a solid foundation, just to name a few factors? What if one of these elements were to have been absent, would I still have been able to pull it off? I could go even further back in time and look at the events leading up to my decision to pursue a PhD in the first place. Was I solely responsible for these events as well? Or, I could look at other essential ingredients such as having sufficient IQ, social skills, a stable situation in the private sphere, self-discipline, motivation, etc. How much credit can I take for such ingredients and all the past events ultimately leading up to this moment? In my view, very little at best and probably none at all. In that sense, is me completing my PhD not a mere stroke of luck, for which I can be very grateful, but for which I do not deserve any praise in any real sense, and for which feelings such as pride would be (grossly) out of place?

The questions posited above are perhaps more interesting in the context of failure. That is, in the scenario in which I would have failed to complete my PhD. Would that have been my own fault? Would I even have been a deserving recipient of blame? Would it have truly been me who failed, or would it have required a series of events and multiple ingredients over which I could not have exerted much control? What if my supervisors would not have been so supportive in providing the funds necessary to collect all the data that I did, what if there would have been a toxic working environment at my department, what if my friends and family actually disapproved of me pursuing a lengthy and risky academic exercise with very little job security given the competitive and tight academic labour market? What if I would have been less emotionally resilient and could not have handled the stress and occasional pressure? What if I suffered from frequent existential crises hamper-

ing my productivity? Would I then still have been deserving of blame, or would me ultimately failing have been a mere stroke of very bad luck?

Fortunately, if I indeed were to have failed my PhD project, this would have been rather inconsequential in the grand scheme of things and very few people other than myself would have actually spent any time wondering about the question of who or what was to blame for that failure. However, in many cases, people do have very strong opinions about who is to blame for a certain event and in such cases opinions do have relevant consequences. For example, an important aspect of our criminal justice system is that we blame and punish people who judges believe have broken the law. In part, punishing wrongdoers is done for consequentialist reasons such as deterrence, preventing recidivism, and protecting society. However, another part is retributive in nature in that society believes wrongdoers should be punished simply because they *deserve* to be punished. Hence the frequent criticism of Dutch penitentiaries for being too nice and comfortable. Criminals should not have a comfortable and humane existence, right?

Questions about responsibility and, related, blame and praise have fascinated me for as long as I can remember. To what extent do we, as humans, ever truly deserve praise for our achievements and, more importantly, to what extent are we truly deserving of blame and punishment in case of transgressions or when things go wrong. To find an answer to such fundamental questions, one can turn to the longstanding debate on free will. Arguably, if we have no free will, we can never be truly deserving of praise or blame. What might the implications of such a position be for how we organize legal justice systems or even our daily lives? Given that the debate on free will has been going on for several millennia, it is out of this dissertation's scope to reflect on this, however much I would have liked to.

Nonetheless, the topic of free will and people's moral judgments did end up being an important part of my dissertation. Little did I know when I started my PhD that I would ultimately circle back to this 'hobby' of mine. I was fortunate enough to be granted lots of freedom in terms of the topic of my dissertation. I explored several different avenues to figure out what I am most interested in. The result of this exploration is that there is less focus in this dissertation than there perhaps might have been if I would have started off with a clearly defined research topic and question. The upside is that I have been able to learn a lot about different fields and research traditions. There is some cognitive psychology in there, some experimental philosophy, social psychology, applied research, theoretical research, lab based research, and vignette based research. When looking at a PhD trajectory as a period meant for learning, I could not have asked for much more.

In this learning process, I have been able to identify the kind of research that I enjoy doing most. In its essence, I have come to appreciate and enjoy bringing together research from psychology and philosophy and use it to shed light on pressing issues in the legal domain. More specifically, I see great value

in particularly moral psychology and moral philosophy in terms of their potential impact on legal systems and procedures. Psychological research increasingly shows how automatic and often unconscious processes shape our thoughts and behaviours and how our moral intuitions play a prominent role in the way we make sense of the world around us. Even though there is already a world to be gained by simply applying what is already known in moral psychology and philosophy to legal issues – if only to show practitioners they are susceptible to the same psychological phenomena as non-lawyers – I have tried, and aim to keep doing so after my PhD research, to also advance our understanding of such psychological phenomena.

Overall, my PhD journey has been very rewarding and I look forward to continuing the kind of research that benefits both legal scholarship and legal practice, as well as psychological science and philosophy. I have come to fully enjoy and appreciate interdisciplinary research and have committed myself, at least for the foreseeable future, to a research path on the cross-section of law, psychology, and (legal) philosophy. In contrast to my preconceptions about lawyers and law schools, I have found our faculty to have a very open and supportive environment where people are keen to learn about other disciplines and to teach non-lawyers like myself about the law. I hope to stay involved with Leiden University's Law School to keep collaborating with and learning from lawyers and scholars from other disciplines and to foster truly collaborative and interdisciplinary research. For now, I wish the reader lots of reading pleasure. I trust you will find this dissertation interesting and useful.

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