

BOOK REVIEW

HUMAN CAPITAL AND DEVELOPMENT

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Introduction

This is a critical review of the 2021 New York SCOPUS-indexed book entitled “Human Capital and Development”, edited by Gary I. Lilienthal, PhD.

The Book

Chapter One is entitled “Human Capital and Slavery: Does the One Infer the Other?” (Lilienthal, 2021a). The research is in the following terms. A Harvard study reports that American senior managers now demand greater public clarity about how a business organization’s people create value for the stakeholders, asking to link human capital performance with business outcomes. This article’s general objective is to investigate the possibility of any relationship between human capital and slavery. Human capital is the present value of a person's future income from his own labour. Modern management accounting deals with how businesses can model human beings as corporate capital assets. The term ‘slavery’ means, “the status or condition of a person over whom any or all of the powers attaching to the right of ownership are exercised, and ‘slave’ means a person in such condition or status” The existence of human

domestication raises the possibility of some kind of continuum of scale for slavery. The question arises as to whether the body of scholarship on the term 'human capital' constitutes a species of the term 'slavery', and if so, in what way. In the result, a human capital institution is now fully operational since the 1960s. It acts to differentiate the capital values of people through their different kinds of usefulness to the master class of society. This is not an individual relationship of master and slave. It is an enslaving state offering apparent free choice to a mass slave class, by calling it consent. The international law suggests states had crossed the line of property in human beings, violating the proscription against enslavement (Lilienthal, 2021a).

Chapter Two is entitled "Human Progress Measured by the Human Development Index: The Capabilities Approach Advocating State Protection of Freedoms" (Lilienthal et al., 2021b). The research is in the following terms. Patrick had declared that humanity was moving towards war upon its own planet, endangering both human prosperity and survival. Thirty years ago, the first UNDP Human Development Report finally stated that Gross Domestic Product (GDP), per capita, was an inadequate measure for human progress. It introduced the Human Development Index (HDI), newly ranking countries also on their quality of education and health. The objective of this research will be to analyse critically the general scholarship of human development. The so-called capability approach to human development, underlying the HDI, is a normative treatment of human welfare, concentrating on actual capabilities of people to achieve their own state of well-being, instead of only their freedom or right to it. It was devised in the 1980s to counter welfare economics. Sen and Nussbaum brought together many ideas, previously ignored

by the traditional economics of welfare. The capability approach is therefore about what people are capable of doing. The research question is: how has the so-called capabilities approach to human development affected the scholarship of human development, towards curbing the catastrophic excesses of market behaviour? Argument sets out to sustain the proposition that the capabilities approach has focussed the scholarship on crisis, market behaviour, slavery and lacks in equity, as human development retardants, thus advocating early state protection of freedoms of human opportunity. While the research is doctrinal, it also takes the form of a critical investigation into the state of the scholarship and is therefore a critical literature review. Human development is a dynamic conjunction of a range of cultural, historical, biological, and ideological processes. It includes the capabilities of freely maintaining social networks, creative self-expression and developing practical reason. Human development would tend to defray human capital in the hands of the market behaviour of an employer. Newer studies of human development show it to be non-hierarchical, irreducible, incommensurable, and hence constituting basic kinds of human ends, suggesting it mitigates against enslavement. Human development takes place according to the affects and relations of those idiosyncratic encounters that affect the body with joy, enhancing its capacity for action. Poverty, inequality, and unequal power relationships, as capabilities killers, arguably all consequences of market behaviour, are therefore retardants of human development (Lilienthal et al., 2021b).

Chapter Three is entitled “The Domestication of Human Beings with their own Externalised Metarepresentations: Drawing Human Capital from Enculturation” (Lilienthal et al., 2021c). The research is in

the following terms. When humans moved to taming cats, dogs, cattle and sheep, they might have maintained a tradition of taming themselves. Domestication circumscribes a whole range of genetic changes, arising as a species bred to be less aggressive and much friendlier. Modern humans are also more cooperative and less aggressive than human ancestors. The objective of this research is to critically examine human domestication as it might be employed to create human capital for others. The research question asks how some humans can be domesticated to create human capital for other groups of humans. Argument seeks to sustain the proposition that people have always externalised their deepest purposes into artificially stored meta-representations, first into public goods, then later into an enculturated or domesticated form, restricted by those gaining the human capital. The research paradigm is semiotic, and therefore, the research methodology is a continuing process of discovering underlying norms through narrative analysis. Those who had abolished the progymnasmata as a device for external storage of human symbols, by its rhetorical repudiation, had now reinstated some lower levels of its simpler exercises, only up to the level of a basic narrative exercise, ensuring continuing domestication and maintaining a corporate owned human capital in explicit knowledge. This was owned and manipulated by knowledge managers, and then used in work with an artificially altered purpose by the very employees who originally generated it as their own tacit knowledge. The progymnasmata externalised tacit knowledge by both hand and voice, whereas the domesticated employee externalised tacit knowledge by hand, as well as a by much more attenuated voice (Lilienthal et al., 2021c).

Chapter Four is entitled “Child Labour in its Worst Forms as Child Slavery: Deploying the International Instruments to Define Employer Limits” (Harlida et al., 2021). The research is in the following terms. High demand for child labour, a weak system of rule of law and a lack of good governance are contributing to child labour, driving children into the worst forms of child labour, suggesting slavery. Therefore, the objectives of this study are to examine critically the international instruments pertaining to the protection against child labour; to analyse the legal predicaments and problems that subsist in certain states; and, to offer recommendations for better positioning and protections against child labour. International law has finally recognised child rights, as human rights, since the adoption of the first International Declaration on the Rights of the Child by the League of Nations, and subsequently, the Universal Declaration of Human Rights 1948, and the Convention on the Rights of the Child (CRC) 1989. The question therefore arises as to what extent international instruments can effectively eliminate child labour. The apparently undefined limits to which employers will resort to form their own human capital from the deployment of child labour, including the attendant mortality and shocking exploitation of very inexpensive child labour, can be rigorously defined, as limits related to human rights, by recourse to the ILO and United Nations Human Rights instruments. Child labour deprives children of their childhood, their potential and their dignity. It is harmful to their physical and mental human development. Children still remain at high risk of being exploited, in particular in illegal activities, destroying human development, but creating child human capital. The developed nations somehow managed to control their poverty issue, through keeping children busy, either in school or at work. The Convention on the Rights of

the Child 1989, the ILO Minimum Age Convention, 1973, and the Convention of Worst Forms of Child Labour 1999 (C182), taken together, all now represent the international instruments' framework, from which nation states can enact compliant municipal laws to eradicate child labour (Harlida et al., 2021).

Chapter Five is entitled “Customary Law of Water Control in Dynastic China, and Indian Sacred Rivers Generating Public Moral Behaviour: A Human Capital Comparative Analysis” (Lilienthal et al., 2021d). The research is in the following terms. India has claimed that control over key rivers effectively gives China a chokehold on India's economy, posing a wider regional threat. China has claimed ownership of all Tibet's waters, thus controlling the Indus, Ganges, Brahmaputra, Irrawaddy, Salween, Yangtze, and Mekong rivers. The narrower objective of the research will be to critically examine how both China and India have governed their water resources to preserve their national bodies of human capital. The lack of Chinese institutional interference necessarily bolstered greater reliance on customary law in water control. The *Water Infrastructure Archives of Hongdong County, Linfen City of Shanxi Province* detailed construction procedures for water conservancy facilities, water management programs, peasants' procedures for water use and resolving water rights disputes. Hindu people generally believe that bathing in sacred rivers can cleanse them of their sins, with similar effect to the performance of good deeds. Even the British East India Company had used only Ganges water, for their ship's drinking water, during their three-month voyages to England. The research question is how each of dynastic China and India has developed human capital among its peoples. Argument sets out to show that China has developed

human capital based on customary registries, while India's scripture-based national human capital has been attacked and eroded under the influence of industrial colonialism. The research methodology is library-based, using available evidence, with new syntheses. The research will conclude that in dynastic China, the Emperors owned the people's human capital, and both stabilized and assessed it through local customary registries. Chinese magistrates could resolve disputes by direct resort to, or discovery of, agreed versions customary externalised storage of symbols, in the form of historical narratives. They used a process of clarifying and verifying this litigants' human capital to induce agreement among the parties. By contrast, in India, sacred rivers were themselves entities containing the culture's externalised symbology. They induced a higher form of public moral behaviour, thus enhancing people's social value to the communities. India's advancing colonial industrialism has eroded this system (Lilienthal et al., 2021d).

Chapter Six is entitled "Anti-Pandemic Legal Rules: Medicalization by the Established Contagion Principles of Fracastoro" (Lilienthal et al., 2021e). The research is in the following terms. In 2020, Rajasthan acted against more than 1,300 people for violating anti-pandemic rules, relating to COVID-19, suggesting 'medicalisation' of the government's response. The objective of this research is to examine critically the genesis of this form of medical regulation. The question is whether the state response to pandemics is medicalised, and if so, how. Argument seeks to demonstrate that early regulatory and legislative responses had derived from fears of 'otherness', arising from alchemical medical metaphors, allowing states to confer administrative powers onto medical officials to contain the jurisdiction's human

capital and prevent its decay. Fracastoro's alchemical formulae for opposing seed-lets by antipathetic' means were the bases for future legislation. The 542 CE Acts of Justinian established a system by which pandemics could be controlled. Fracastoro demonstrated to the Pope that his alchemical metaphor of contagion could move and herd a Papal conclave. The International Sanitary Conferences confirmed national rules into international medicalisation of human capital, using Fracastoro's principles, becoming the International Health Regulations 2005 (Lilienthal et al., 2021e).

Chapter Seven is entitled "The Fit and Proper Person Test: Development and Dissolution of Human Capital" (Lilienthal et al., 2021f). The research is in the following terms. In 2020, the Hong Kong Securities and Futures Commission banned for life a former relationship manager of a China Bank from re-entering the banking industry, after he was convicted of fraud. The Hong Kong regulator made a determination that he was "not a fit and proper person to be licensed or registered to carry on regulated activities as a result of his criminal conviction". Therefore, the objective of this research is to examine critically the norms underlying the concept of being "fit and proper", with a view to discovering the term's meaning and use for human capital. In the 2016 High Court of Hong Kong case of *Re "A"*, the Applicant, "A", applied under s. 27 of the *Legal Practitioners Ordinance, Cap 159 (Ordinance)*, to be admitted as a barrister of the High Court of Hong Kong. The issue was whether the Applicant was considered to be a "fit and proper person" to be admitted as a barrister, which was a requirement pursuant to s. 27(1) of the Ordinance. The Court stated that admission proceedings were for protecting the public interest. Australian, New Zealand and Hong Kong

cases, as well as the rules of the Inns' Conduct Committee, of England, were held by the Court to apply in Hong Kong. The principle of "fit and proper person" is a traditional term, operating as a kind of Imperial legislation. The question is what meaning the term "fit and proper" imports into human capital development. The provisional answer is that the meaning of the term "fit and proper", in contrast to a well-structured good character test, is insufficiently specific to be used as a set of criteria for admission to a profession. The research methodology of this critical literature review will be a legal narrative analysis, with relevant syntheses. It is doctrinal research. The parties to a "fit and proper" assessment are the court and members of the public, without the public ever participating in the assessment. A "fit and proper" assessment suggests a systemic inquiry against the applicant, inferring both bias and commonplace denunciation (Lilienthal et al., 2021f).

References

- Harlida Abdul Wahab, Zainal Amin Ayub and Salim Ibrahim Ali, 2021. 2021. 'Child Labor in its Worst Forms as Child Slavery: Deploying the International Instruments to Define Employer Limits', in Gary I. Lilienthal (ed.). *Human Capital and Development*. Nova Science Publishers, New York.
- Lilienthal, Gary I and Ashu Jain. 'The Domestication of Human Beings with their own Externalised Metarepresentations: Drawing Human Capital from Enculturation', in Gary I. Lilienthal (ed.). *Human Capital and Development*. Nova Science Publishers, New York.

Lilienthal, Gary I, and J. G. Valan Arasu. 2021b. 'Human Progress Measured by The Human Development Index: The Capabilities Approach Advocating State Protection of Freedoms', in Gary I. Lilienthal (ed.). *Human Capital and Development*. Nova Science Publishers, New York.

Lilienthal, Gary I, and Zainal Amin Ayub. 2021e. 'Anti-Pandemic Legal Rules: Medicalization by The Established Contagion Principles of Fracastoro', in Gary I.

Lilienthal (ed.). *Human Capital and Development*. Nova Science Publishers, New York.

Lilienthal, Gary I, and Zainal Amin Ayub. 2021f. 'The Fit and Proper Person Test: Development and Dissolution of Human Capital', in Gary I. Lilienthal (ed.). *Human Capital and Development*. Nova Science Publishers, New York.

Lilienthal, Gary I, Wang Shi Qi and Ashu Jain. 2021d. 'Customary Law of Water Control in Dynastic China, and Indian Sacred Rivers Generating Public Moral Behaviour: A Human Capital Comparative Analysis', in Gary I. Lilienthal (ed.). *Human Capital and Development*. Nova Science Publishers, New York.

Lilienthal, Gary I. 2021a. 'Human Capital and Slavery: Does the One Infer the Other?', in Gary I. Lilienthal (ed.). *Human Capital and Development*. Nova Science Publishers, New York.