

Justice in Human Capital

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Traditionally, the production of goods within the employment relationship has been envisioned along industrial lines, as an alchemy of employer-provided capital and employee-provided work. Employers provide physical capital, in the form of machinery or tools, whilst employees provide the ‘sweat of their brow,’ in the form of physical or mental exertion. Production thus occurs when the latter is applied to the former. But this picture overlooks a factor of production that has become increasingly important over time. Most work in contemporary economies is no longer ‘unskilled’. For both employees and employers contribute to production by making use of their *human capital*, that body of skills, knowledge, or dispositions that enhances the value of their contributions to production. The human capital contributions to production often come from many different parties. Consider, for example, a seemingly straightforward production process such as a construction firm building a house. Such a process includes human capital contributions from carpenters and other building tradespersons, inasmuch as they draw upon their knowledge of building techniques; engineers, inasmuch as the house reflects their design; and professionals such as accountants, whose knowledge ensures that the house will be built within the firm’s budget. Some of this human capital may be highly firm-specific (for example, the firm may have a patented design for a particular element of the house), while much of it will be more generic, including the various ‘soft skills’ that allow for

production to take place (for example, the ability to communicate in the language spoken by one's co-workers). 'Management' itself may be seen as a human capital contribution to production as well.

Crucially, human capital *is* a form of capital, a resource that enables the production of goods for consumption or of additional capital goods. And for many individuals, human capital is the only form of capital readily accessible to them. The vast majority of individuals lack the physical (or financial) capital to produce goods on their own, and so earn their livelihoods exclusively by taking advantage of their human capital via employment. In an employment relationship, employers pay not for our human capital as such but for the work we perform, much of whose value nevertheless stems from the application of our human capital. The extent to which one's work is rewarded within competitive labor markets thus reflects, however imperfectly, the market value of one's human capital (or at least of what can be produced thereby).

Moreover, although human capital can lose its value by becoming obsolete (being able to saddle a horse no longer has the labor market value it had a century ago), it is not *depleted* by use in the way that physical capital is. Physical capital can suffer from wear and tear, as can workers' bodies. But one's human capital and the value thereof is often enhanced rather than reduced through use. The practice of a skill, for instance, makes one more proficient at that skill and enables one to apply that skill in a wider array of circumstances. Human capital also tends to have some measure of portability. The market value of some parcels of human capital (an intimate knowledge of the different interpretations of Kant's Formula of Universal Law, for example) may be sufficiently idiosyncratic to be of market value only to a small number of prospective employees. But other parcels of human capital will be more multipurpose, able to contribute to the production processes implemented in many different firms or organizations. As

such, human capital will often be critical to individuals' long-term economic well-being or security, since its portability increases the range of a person's employment prospects, their ability to obtain employment when unemployed, etc.

These considerations illustrate that for most people, human capital has a high degree of material value. Their human capital is a uniquely important asset in enabling them, over the course of their lifetimes, to be viable in labor markets whose mechanisms and prices reflect the value of said capital. Two developments in particular have amplified the importance of human capital. The first is the advent of the "knowledge economy". Gaps in wages and job security have grown in recent decades, gaps strongly correlated with educational levels and other rough indices of human capital. A person's well-being, at least in economic terms, is increasingly contingent less on sheer exertion — the sweat of their brow — than on the application of their human capital to the problems employers desire employees to analyze and solve. The second is the precarity that has increasingly come to dominate contemporary employment. Gone are the days in which workers could find security in the fact that they are likely to retire from the same firm that hired them. Workers are instead likely to have many employers in many industries over their lifetimes. Hence, to the degree that employment security is achievable today, workers now hope to achieve it by means of their human capital, i.e., the value and currency of the skill set by which they enhance the value of what they can produce.

The benefits of human capital are spread widely. Nevertheless, it is a good that economic actors can attempt to control or leverage to their own advantage. Such efforts are visible in policies and practices firms sometimes pursue. For instance, firms can attempt to 'privatize' the value of human capital through the assertions of trade secrets and other claims of intellectual property. These are tools through which firms assert private control over intellectual assets. They

are typically justified by appeal to the various interests that individuals and firms have in control over information or ideas they create, interests resting on our ownership of our talents, insights, etc., or on our entitlement to the fruits of our efforts.¹ Simultaneously however, any parcel of intellectual property also represents a parcel of valuable human capital, and so firm assertions of intellectual property restrict employees' ability to exploit their own human capital exploitation and the ability of other firms to do likewise. Firms can also attempt to privatize the value of their employees' human capital through the use of non-compete agreements. Non-compete agreements limit employees' right to join or start a rival firm subsequent to their employment with their current firm. In the United States, about 50% of firms utilize non-compete agreements and about one-quarter of workers are subject to them.

Intellectual property assertions and non-compete agreements are instances where firms attempt to increase the human capital benefits that flow to them. But firms can also intervene in human capital distributions through efforts that target how the development of human capital is governed or supported. In recent years for instance, industry actors have sought to ensure that publicly financed education is increasingly tailored to their own productive interests. Corporate philanthropy directed at educational institutions, for instance, flows increasingly to support initiatives (STEM education, technology research) that corporations view as serving their own human capital interests.² At the same time, corporate interests have succeeded in many nations in shifting the funding burden of human capital development onto individuals. The growth in university tuition since the 1990's corresponds to a period in which business and corporate taxation as a percentage of public revenue has shrunk, with the results that students and their

¹ Robert P. Merges, *Justifying Intellectual Property* (Cambridge, MA: Harvard University Press, 2011).

² Anand Giridharadas, *Winners Take All: The Elite Charade of Changing the World* (New York: Vintage, 2019).

parents now bear more of the costs of this form of human capital development: The United Kingdom government estimates that total student indebtedness will be around £560 billion by mid-century, about £8000 for every resident of the United Kingdom,³ and total educational indebtedness in the United States is currently \$1.57 trillion, nearly \$5,000 for every American and \$28,000 per indebted student.⁴

It is not my purpose here to evaluate these particular firm practices. (Indeed, the conclusions I draw will illustrate the complexity of evaluating such practices.) They instead illustrate how human capital is a productive domain where various parties' interests can collide, and because human capital plays a large role in determining how our lives turn out and what sorts of opportunities are available to us, the development and distribution of human capital is subject to demands of *justice*.

The purpose of this article is to sketch an account of what justice in human capital — what a morally defensible social arrangement would be with regard to our access to opportunities to create, acquire, and make use of human capital — consists in. In particular, I shall be concerned about what requirements our shared social life must meet with respect to human capital in order for it to instantiate whatever sort of *equality* is morally relevant in that domain. Societies and the individuals that comprise them are presumably better off when their overall store of human capital is greater rather than smaller, yet my concerns are entirely comparative and so do not engage with what justice requires with respect to the overall level of human

³ Paul Bolton (House of Commons Library, UK Parliament), “Research Briefing: Student Loan Statistics,” 2020. Available at: <https://commonslibrary.parliament.uk/research-briefings/sn01079/>

⁴ Center for American Progress, “Addressing the \$1.5 Trillion in Federal Student Loan Debt,” 2020. Available at: <https://www.americanprogress.org/issues/education-postsecondary/reports/2019/06/12/470893/addressing-1-5-trillion-federal-student-loan-debt/>

capital. I also set aside questions arising from the intersection of egalitarian and non-egalitarian considerations. It could well be that unjust inequalities could be rendered less objectionable by increasing overall levels of human capital (in the manner that Rawls proposes that inequalities in wealth might be unobjectionable if they work to the advantage of even the least advantaged). I mean only to address the question, with respect to human capital, what sorts of disparities are objectionable and why? Insufficient detail will be provided to deem what I offer here a *theory* of justice in human capital, yet I hope that my account will provoke further investigation of what has been a largely neglected topic in moral and political philosophy.

I begin by offering observations about the distinctiveness of human capital as a good. Human capital has a “metaphysics” that complicates efforts to normatively theorize about it. The appropriate unit of evaluation for thinking about justice in human capital is what I will call human capital *ledgers*. Section 2 puts forth and defend a principle to serve as a criterion for judging social arrangements with respect to how they produce human capital and allocate its benefits. That principle (roughly) says that a human capital allocation is just when and because it enables individuals to have equal probabilities of attaining their respective ends merely insofar as human capital is concerned. In section 3 and 4, I attempt to elaborate the philosophical grounds for endorsing this principle. My elaboration will not contribute to settling recent disputes between distributive and relational egalitarians. Rather, it will strengthen each position by helping to answer challenges each theory faces. For distributive egalitarians, my account of human capital justice illuminates how distributions can be morally relevant independently of their significance for, or impact on, social relations. For relational egalitarians, my account will provide an example of how their ideal of equal relations can be distributively operationalized. In

any case, that these two theories appear to converge on a common principle concerning human capital justice is an important practical result in its own right.

1. The Metaphysics of Human Capital

I earlier defined human capital as that body of skills, knowledge, or dispositions that enhances the value of our contributions to production. In theorizing about justice in human capital, we may be tempted to think of human capital as analogous to other consumption goods (loaves of bread, say) or other capital goods (a computer or a tractor). From the standpoint of workers, human capital has a foot in both consumption and production. A worker's human capital is not typically consumed by working, but it has instrumental value in enabling her to acquire consumption goods by working in exchange for the wages that she in turn uses to purchase those goods. But at the same time, her human capital serves as a capital good, enabling the production of other goods.

This makes human capital metaphysically distinctive and ethically fraught. For its value is, on the one hand, strongly personal, linked closely to a person's ability to acquire what she needs or desires. But on the other hand, human capital has clear impersonal value, inasmuch it enables production of goods with value to others besides the possessor of that capital. All benefit from the creation and exploitation of human capital. Questions of justice arise because it is obvious neither how individuals ought to contribute to its creation nor how they ought to benefit from it.

Further 'metaphysical' challenges arise from how human capital is produced, made use of, and valued. Some human capital is innate, a reflection of employees' native endowments. But a good portion of human capital is instead *created*, and the number of contributors to its creation

is typically large. Any given component of an individual worker's human capital is the product of contributions from schools and other community institutions, guild-like networks of other workers, a worker's family, employers, and workers themselves. Our human capital is a vital cog in economic production. Without it, the "cooperative venture for mutual advantage"⁵ that we participate in when we work with others would flounder. But human capital is not only an input into that cooperative venture. It is also an output of that venture, one fed by many disparate streams operating in concert.

At any given time, a worker is likely to sit midstream in relation to human capital inputs and outputs. A worker will nearly always bring some measure of pre-existing human capital to a given employment relationship, having been acculturated and educated so as to have the skills the employer desires. Indeed, it is hard to envision an employee whose skill set as an employment relationship begins is effectively a *tabula rasa*. And employment relationships at least sometimes contribute to individual human capital by fostering the refinement of existing skills or knowledge or by adding new skills or knowledge to the employees' human capital repertoire. In addition, the end of an employment relationship does not destroy an employee's human capital. It remains available for their benefit and for the benefit or prospective employers. With respect to human capital then, almost any employment relationship has both a complex (pre-)history and a future. And because human capital is cumulative, it can be difficult to see how to disaggregate the elements of one's human capital that accrete over time. A novice may become an expert with respect to some skill thanks to having been able to practice that skill in the course of doing a job. But the newly expert employee walks away from that job with a sheaf of interrelated skills and it can be difficult, if not impossible, to disaggregate any one element of

⁵ John Rawls, *A Theory of Justice* (Cambridge, MA: Belknap/Harvard University Press, 1971), p.4

that sheaf from any other. She cannot plausibly enter into a subsequent employment relationship in which she uses *only* her novice skill set while setting aside her more expert capacities.

It is therefore daunting to disentangle the distinctive contributions that these various streams make to the development of human capital. Human capital emerges from the synergistic interplay of institutions and individuals. As such, it underscores how virtually all economic production is fundamentally cooperative. Any one institution's or individual's contribution to production depends for its success on others' contributions. Elizabeth Anderson invites us to contrast this reality of "joint production," wherein we "regard every product of the economy as jointly produced by everyone working together," with a "more familiar image that invites us to regard the economy as if it were a system of self-sufficient Robinson Crusoes, producing everything all by themselves until the point of trade." She observes that under this picture of "joint production," any attempt "to credit specific bits of output to specific bits of input by specific individuals represents an arbitrary cut in the causal web that in fact makes everyone's productive contribution dependent on what everyone else is doing."⁶ To ask, then, who is responsible for (say) a carpenter's ability to install windows correctly is tricky; the carpenter, yes, but also those individuals and institutions that educated and acculturated the carpenters, other carpenters whose work was emulated, the firms that offered opportunities to hone this ability, and so on. With respect to any given parcel of human capital, the correct answer to the question 'who produced or created that?', the only plausible answer is 'we (or they) did.'

Yet despite human capital being a collective product with collective value, it resides in, and is ultimately valuable to, individual 'human capitalists.' This is not to deny that human

⁶ "What is the Point of Equality?" *Ethics* 109 (1999), p. 321.

capital can sometimes migrate outside of us in the form of technologies and artifacts created in order to substitute for human capital. Our human ability to create such substitutes is, ironically, an important feature of human capital. A barista who follows a set of instructions for pulling a shot of espresso is making use of others' human capital, as is the medical technician who performs a CAT scan. Human capital's ability to devise technology that substitutes for human capital can enhance the value of human capital by making it more productive, yet at its limit, this same ability can automate the labor humans perform and render their human capital gratuitous.

These facts make human capital particularly ill-suited to any approach to justice that attempts to measure justice in terms of discrete historical events. In the manner of Robert Nozick's entitlement theory of justice, we might seek to articulate an account of justice in human capital that looks at the distribution of human capital and its benefits at a given point in time and considers how the discrete acts of the various contributors to, and beneficiaries of, brought about that distribution. We might then apply one or more criteria (for example, that the acts were not performed under coercion, were Pareto-optimal, and so on) to the acts responsible for that distribution so as to ascertain whether the resulting distribution is just. Whatever the normative appeal of such an approach, it is simply infeasible with respect to a good like human capital. For portioning out the contribution that any specific individual or any of her specific acts made to the creation of her human capital or to the human capital residing in other individuals is well nigh impossible. So too are we unlikely to be able to identify the exact ways in which any individual benefits from the specific acts (either her own or others) that lead to the creation of human capital. On anything but the smallest economic scale then, human capital is truly a collective achievement, rendering attempts to analyze justice in human capital in terms of relations between discrete acts and the creation or enjoyment of human capital difficult to envision.

The alternative is to compare different possible arrangements of human capital and ask, somewhat in the spirit of the Rawlsian original position, which such arrangements participants in a common human capital scheme would endorse. In doing so, we must take stock of both human capital *benefits* and *burdens*. Human capital benefits participants in such a scheme by enabling them to contribute labor to the production of goods where such contributions would be less valuable absent the role played by both their own human capital and that of others. The consequent benefits here are primarily material (wages and income), but may also include other goods whose value is more psychological or ethical in nature, such as the sense of pride at being able to contribute to the shared production of goods others value. But each beneficiary of human capital is also a contributor to its development, which is an equally large part of the equation in human capital justice. After all, human capital is the product of cooperative schemes from which individuals benefit but that cannot succeed without their help. Most prominent among the burdens of human capital creation will be the time spent devoted to education as well as its monetary costs. Note again that just as the human capital benefits one enjoys do not have their source exclusively in one's own human capital, so too do some of the burdens of human capital development lead to benefits for others (as when taxes support schooling for others).

With respect to any individual then, an allocation of human capital benefits can run afoul of justice by providing her too little in the way of benefit, subjecting her to too much in the way of burdens, or both. To draw upon Amartya Sen's well-known example, we cannot here focus solely on who makes flutes but also who would benefit from flutes and to what degree. (Indeed, to make the analogy more apt, we should think in terms of *designing* flutes).⁷

⁷ Amartya Sen, *The Idea of Justice* (Cambridge, MA: Belknap/Harvard University Press, 2011), p. 12.

Crucially, we cannot address the benefits and burdens separately, since the facts about how burdened a person is with respect to human capital will often causally intersect with the facts about how advantaged she is with respect to human capital. Ideally, each of us should want to swap our human capital burdens for others' human capital benefits. But as this discussion of the metaphysics of human capital indicates, benefits and burdens cannot be readily 'unbundled' so as to facilitate such swaps. I may very much desire a specific human capital benefit that some other actor enjoys, but I cannot 'acquire' that benefit without whatever burdens that actor (or other actors) had to bear in order to realize that benefit. Conversely, other actors may desire one of my benefits, but the causal interdependence of that benefit both on my own human capital burdens and the human capital burdens of others make it impossible for them to acquire that benefit without also subjecting themselves to the burdens. Thus, in assessing distributions of benefits and burdens, we should forswear efforts to evaluate alternative distributions in terms of the particular benefits and burdens that individuals have. We must instead evaluate alternative distributions holistically, in terms of what I will call *ledgers* of human capital benefits and burdens. A ledger records transactions as assets or liabilities in relation to one another. Evaluating distributions of human capital benefits and burdens should not be envisioned in terms of interpersonal tradeoffs of particular assets and liabilities residing within individuals' human capital ledgers. Rather, the relevant tradeoffs are of ledgers themselves, i.e., whether rational individuals would be willing to trade their ledgers for those of others. This allows us to appraise possible tradeoffs between burdens and benefits without supposing that the benefits and burdens can be disentangled from one other. Of course, all will prefer to maximize human capital benefits to themselves while minimizing their burdens. But preferences will vary with respect to the exchange rate between these, with some willing to tolerate higher benefits in exchange for

slightly higher burdens, whereas some will be more burden sensitive, more eager to minimize burdens than to maximize benefit.

2. A Proposed Principle

Our goal is to identify a principle to serve as a criterion with which to assess whether some allocation of the benefits and burdens of human capital — again, as realized in individuals' human capital ledgers — is just, with a particular eye to a criterion that captures the respect in which the individuals are equals or are to stand in equal relations with one another.

One kind of criterion that we can reject is that every individual is to make an equal contribution to human capital development or to enjoy an equal set of benefits from human capital. One reason to reject this is that it would be inordinately difficult to ascertain what equal contributions or equal benefits consist in. As we observed in section 1, the metaphysics of human capital precludes simple judgments about exactly what any one person has contributed to the overall store of human capital or about exactly how they have benefitted from that overall store. A second reason to reject this sort of criterion is that individuals will have different goals or tastes with respect to human capital. Some will be highly industrious and thus eager to contribute to human capital development, others less so. Some will be tenacious adherents to the 'Protestant work ethic,' others beachcombers who place a high value on leisure or liberty. Some will have goals that require taking advantage of a great deal of human capital (either their own or that of others), whereas others' goals will be less reliant on human capital. It would, I take it, be onerous and unreasonable to insist that every actor (firms, individuals, etc.) make an equal contribution to human capital development or to insist that actors' shares of its benefits be equal as well. We require, therefore, a measure of justice in human capital that recognizes that although each have

an equal standing with respect to human capital, they may not have equal interests with respect to human capital.

A criterion for justice in human capital should instead proceed in a contractualist spirit, by reference to actual individuals and the reasons they have to endorse or reject different possible ledgers of burdens and benefits. Individuals hypothetically considering how the benefits or burdens of human capital are to be distributed confront one another as fellow *agents*, i.e., as individuals who recognize that the production and use of human capital is in their respective interests inasmuch as it enhances the efficacy and reach of their own agency. Cooperation in the production and use of human capital makes it possible for these agents to pursue and attain ends that they could not pursue or attain by drawing only upon their native endowments. And yet their respective ends are diverse, as are the demands that these ends make on human capital. What principle(s), then, would individuals confronting one another as agents with a generic interest believe it reasonable to endorse with respect to the benefits and burdens of human capital?

Such agents, I contend, would settle on the following principle for human capital justice:

A distribution of burdens and benefits with respect to human capital development and allocation is just only if under that distribution, no individual prefers another's ledger of benefits and burdens to her own.⁸

Here is how such a test would unfold in action, so to speak: Some individual S compares her current allotment of the burdens and benefits of human capital (how much she contributes to its production alongside the value of the benefits she enjoys from that allotment) to the allotment

⁸ Savvy readers will recognize this as a variant of Ronald Dworkin's 'envy test' (*Sovereign Virtue*, Cambridge, MA: Harvard University Press, 2004). Because I do not have in mind that that agents deploying my principle are motivated by envy, I refrain from giving my principle such a moniker.

enjoyed by some individual T. S prefers T's allotment to her own, either because it requires lesser burdens, provides more benefits, or both. S would, in principle, be willing to trade S's human capital ledger for T's. S may perform the same procedure with respect to other ledgers, belonging to U, V, etc. So too may T perform this same procedure with respect to ledgers belonging to S, U, V, etc. If each individual within a society finds no one else's ledger preferable to her own, then the distribution of the burdens and benefits of human capital in that society meets a necessary condition for comparative justice, that is, that distribution is not unjust in that it treats individuals equally in the relevant sense.

Note that the principle refers to *individuals*. This allows for individuals to make use of firms, corporations, governments, etc. as instruments for the development and use of human capital. But these instruments do not themselves have preferences concerning human capital ledgers and are therefore excluded from the scope of the principle

The principle requires an important qualification: As noted earlier, individuals vary in their goals, tastes, and aptitudes, and as such vary in their willingness to contribute to human capital development (either their own or others) and in their desire to exploit human capital (either their own or others). The principle therefore needs to incorporate such variations. This is accomplished by indexing the preferences for different ledgers of burdens and benefits to individuals and their respective goals, tastes, and aptitudes. So when S considers whether she prefers her existing ledger of benefits and burdens in connection with human capital to T's ledger, she does not ask whether T's ledger would be better for her in light of her goals, tastes, and aptitudes. Rather, S asks whether she would prefer T's ledger relative to T's goals, tastes, and aptitudes to her ledger relative to her (i.e., S's) goals, tastes, and aptitudes. In other words, S

is not considering whether she would prefer to switch ledgers with T but whether she would prefer to switch *positions* with T, where their positions include both their ledgers and those idiosyncratic personal features that bear on human capital development and use. This allows S (or any other individual) to assess rival ledgers with respect to their instrumental effectiveness in relation to different ends that individuals may have. In effect, the principle is a probabilistic criterion, asking individuals whether others stand a better or worse chance of realizing their ends than those individuals themselves do — whether, in other words, we should prefer others' ledgers of human capital burdens and benefits relative to their ends. Note that the principle does not assume any particular level of the relevant probabilities within the status quo; S could prefer her ledger to T's despite its offering her a low probability of realizing her ends if, in S's estimation, T's ledger offers T a still lower probability. Again, we are concerned here with comparative justice instead of non-comparative justice, so questions about how much human capital a society produces writ large are not answered via the principle.⁹

My principle of human capital justice, like Rawls' original position, is not 'moralized,' by which I mean that individuals are evaluating the preferability of other human capital ledgers to their own in purely prudential terms rather than by appeal to any intuitions or antecedent principles regarding justice, fairness, or desert. They are, in Rawls' terms, rational and reasonable, cognizant of how cooperation in the domain of human capital could be beneficial to them and therefore willing to abide by principles applicable to that domain so as long as those principles answer to the reasons they have to cooperate.

⁹ This in turn explains why the principle coincides with a necessary but not sufficient condition on human capital justice. A society with very low levels of human capital may satisfy the test but still underprovide human capital to a morally unacceptable degree.

It is almost certainly true that no actual society has fully satisfied this principle. It therefore represents an ideal of justice with respect to human capital. All the same, the principle can be satisfied to varying degrees: Within a given population, the number of persons unwilling to trade their ledgers for others' can vary. In addition, an individual can be more or less dissatisfied with her ledger relative to others'. Summed together, these two types of deviation comprise the total deviation from the ideal embodied in the principle, and it is in theory possible to compare two societies in how closely they approximate this ideal (or how closely a given society approximates it at different points in time). Furthermore, the principle could be deployed in a critical assessment of practices and policies bearing on human capital ledgers (such as intellectual property law, non-compete agreements, and taxation to support education). Sufficient knowledge of how these policies and practices get us a society closer to, or further away from, the distribution of benefits and burdens described in the principle.

3. Defending the Principle, Part I: Equal Distributions and Equal Respect

The previous section described a principle for human capital justice, but did not illuminate why the principle has moral force, and in particular, why social arrangements that fall short of the principle give rise to objections related to unequal treatment or consideration.

According to my principle, equality with respect to human capital does not mean having the same ledger of resources or obligations, nor does it mean that human capital confers equal benefits on all; rather, it means that (taking only considerations of human capital into account) individuals have an equal chance to attain their ends, whatever their ends may consist in. They

will reject any social arrangement vis-à-vis human capital in which others are better positioned to attain their ends than they themselves thereby are. Deviations from such equal chances may well prove justifiable on non-comparative or non-egalitarian grounds. In the spirit of Rawls' maximin principle, we could, for instance, imagine some deviations from such equality being justified on the grounds that they increase instrumental chances for the worst off (moving from a distribution in which each agent has only a 25% chance of achieving their ends in light of their human capital ledger to one in which some agents have a 50% chance could be justified if others also increase their chances to 35%, say.) All the same, a cooperative scheme to which effectively all contribute — and the creation of human capital and the allocation of its benefits through employment is such a scheme — should enable individuals to enjoy their distributive fair shares of that scheme, and any deviation from equal chances seems to require a rationale that all can accept. At the very least, if some have human capital ledgers that better serve their ends than others' ledgers serve theirs, this discrepancy seems to require some moral defense.

It may appear mysterious, however, why the sort of equality incorporated into my principle — a kind of equality of chances — is morally relevant or a matter of justice at all. The principle implies that an allocation of human capital ledgers in which some thereby have a greater probability of attaining their ends than do others is, all other things being equal, unjust to the latter. I suggest that one dimension of the injustice in question rests on an ideal of equal respect for economic actors as rational agents. Individuals within societies confront one another as rational agents in Rawls' sense, as *agents* whose conceptions of the good include ends that they are seeking to advance but whose advancement requires productive cooperation with others. As we have seen, a central determinant of their success in this regard is how the human capital benefits and burdens that emerge within cooperative endeavors are allocated. If we are to be

guided here by an expectation of equal respect, then we may not select allocations of human capital that favor some over others arbitrarily or by appeal to judgments about their conceptions of the good or the ends they include. Rather, equal respect for them as rational agents requires abstracting from the particulars of their aspirations so as to allocate human capital to them just insofar and because they are rational agents. My principle does not assume that human capital is equally valuable to all (again, some will have projects or concerns that require more in the way of human capital, etc.). But it nevertheless reflects an ideal wherein cooperative production and exploitation — in this case, of human capital — should provide each agent with equal value *relative* to their respective ends. Patterns of human capital allocation conforming to my principle thus accord equal respect to individuals, and if Rawls is correct, the social institutions that contribute to such an allocation will also provide one of the social bases of self-respect as well.

Note that this justification of my principle ascribes moral significance to the distribution of human capital as such but does not take this significance as brute or unanalyzable. Allocations of human capital condemned by my principle are unjust because they implicate deeper moral inequalities in respect for individuals as rational agents. On this picture, the distributive significance of human capital allocation is nevertheless not interactional or relational. Obviously, unjust allocation results *from* interactions and relations among economic actors. However, insofar as human capital allocations represent unjust distributions, their injustice resides in the distributions instead of in inequalities in how those actors interact or relate to one another. In this regard, my principle assists distributive egalitarians in explaining how distributions themselves can embody injustice.

4. Defending the Principle, Part II: Equal Distributions and Equal Relations

In recent decades, however, relational egalitarians have argued that distributive facts are not normatively fundamental — that egalitarian justice consists in social relations free of domination and oppression or that do not rest on hierarchies or distinctions of status. If relational egalitarianism is to meaningfully contribute to our understanding of social justice writ large, including the material dimensions of social justice, its distributive implications should be spelled out. And it is clear the general direction that a relational egalitarian account of justice in distribution ought to go. Relational egalitarians should affirm that distributive facts can represent, instantiate, or contribute to unequal and morally objectionable social relations. On such a picture, distributive facts are “subsidiary to the broader value of relational equality” and “appropriately egalitarian distributes are determined *with reference to* that relational ideal, rather than via an appeal to an egalitarian distributive principle with any independent normative authority.”¹⁰

A relational egalitarian interpretation of my principle for human capital justice along these is both feasible and attractive, in my estimation. Recall again that individuals choosing principles for producing and benefitting from human capital are confronting one another in a very specific context. They recognize the potential benefits to themselves of cooperation in the sphere of human capital, and in particular, how such cooperation might render their own agency more efficacious and more impactful, extending the range of ends they might pursue as well as increasing their capacity to attain these ends. All the more, these individuals confront one

¹⁰ Gideon Elford, “Survey Article: Relational Equality and Distribution.” *Journal of Political Philosophy* 25 (2017), p. 81.

another as agents with equal standing. Suppose that a principle for comparative justice in human capital is proposed that leaves some with greater chances to pursue and realize their ends than others have to pursue and realize their ends. The ends of those for whom that principle entails a lesser chance to pursue and realize their ends are thereby assigned lesser value. And unless non-arbitrary grounds are given for this entailment, the agency of those individuals has been assigned a lower status as well. Insofar as they are agents, they matter less to how human capital is created and utilized than do other agents. In contrast, my principle affirms their equal standing as agents. For the schemes of human capital cooperation my principle support do not regard the agency of some as more entitled to collective recognition or support than the agency of others. Schemes compliant with my principle do not organize individuals into agential castes or hierarchies.

My principle can thus be endorsed by relational egalitarians inasmuch as the principle incorporates a relational ideal into its standard of justification for different human capital schemes. But the principle also speaks in opposition to social arrangements in which domination, oppression, or subordination of the kind relational egalitarians oppose are likely to arise. Suppose again that some principle of human capital justice is chosen other than my own, in which some are arbitrarily given greater agential efficacy and scope than others. A society organized in accordance with this principle gives wider berth for dominating, oppressive, or subordinating social relations to emerge. For those who have arbitrarily assigned to a 'higher' agential caste — those whose agential capacities have greater efficacy or scope — will be better equipped to establish such relations with those in lower agential castes. Such a society is likely to develop so that political or institutional power is hierarchical rather than democratic, so that those in higher agential castes exert greater influence over social relations. It is not inevitable that agential 'elites' will establish such relationships, but they will probably be in a position to do

so, and if their mindsets have been shaped by agential inequality over time, they may view themselves as entitled to do so. Whenever their ends are incompatible with the ends of those in lower agential castes, they may be both able and willing to use their greater agential efficacy to further limit the efficacy of others.

Injustice in human capital is therefore likely to be a non-trivial contributor to relational inequality inasmuch as it serves to structure options and opportunities in ways that afford some individuals greater ability to pursue their ends and others a lesser ability to do so. Phenomena shaped by human capital, such as the workplace, will be a location in which such agential inequality plays itself out. Within workplaces and labor markets structured by such inequality, employers can come to enjoy greater benefits from human capital than will employees as well as shifting the burdens of human capital development onto employees. The interventions I described earlier — assertions of intellectual property, non-compete agreements, and divestment from public education — prove unjust if they reflect or enable unequal standing between employers and employees insofar as both are contributors to a cooperative human capital scheme. This does not mean that workers cannot achieve their ends in such a context. But it does mean they achieve their ends *despite* rather than because of how human capital is developed and distributed within their society. They may be successful despite being treated unjustly.

I thus follow Christian Schemmel in holding that, because relational egalitarians view “participation as equals in reciprocal cooperation as the foundational relationship of social justice, they have an intrinsic reason to limit inequality in the goods produced by such cooperation.”¹¹ A defeasible presumption of equality in goods generated via cooperation is thus a

¹¹ “Why Relational Egalitarians Should Care About Distributions,” *Social Theory and Practice* 37 (2011), p. 370.

plausible starting point for relational egalitarian analyses of justice in human capital. And as I have argued, given that human capital is a cooperative endeavor whose value consists in its capacity to enhance the efficacy and range of human agency, the relevant metric of equality is equality of chances.

Relational egalitarians can thus embrace my principle of human capital justice inasmuch as it incorporates their concern for equal relations both in how a society that is just with respect to human capital is designed and in how such a society is likely to evolve over time. The principle accords individuals equal respect as agents and as cooperators. We of course relate to one another in other ways than as agents, and it is not my claim that justice with respect to human capital is the whole of justice. But a society that is just in this regard will go a long way in realizing two desiderata of justice that have been particularly influential in the Kantian and liberal traditions. First, such a society will have attained a union of wills with respect to a crucial dimension of social cooperation. Their cooperation in the development and use of human capital will rest on a harmony among agents wherein, by cooperating, their respective agential capacities are augmented to an equal degree. Second, such a society will have made progress in securing one of the social bases of self-respect. By ruling out unjust inegalitarian relationships in the domain of human capital, such a society promotes agents' understanding of themselves as "free and effective agents"¹² for whom others' agency does not stand as an objectionable obstacle to the exercise of their own.

¹² Samuel Scheffler, "Choice, Circumstance, and the Value of Equality," *Politics, Philosophy and Economics* 4 (2005), p. 24.: 5-28.

5. Conclusion

Human capital proves to be a difficult matter to theorize about because of the complexity with which individuals create it and benefit from it. We must therefore assess different societal arrangements in terms of lifetime ledgers of human capital benefits and burdens, and my principle of human capital justice (that a distribution of burdens and benefits is just only if no individual prefers another's ledger of benefits and burdens to her own) has defensible egalitarian credentials insofar as it captures what individuals who confront one another as (a) agents with equal standing (b) willing to reciprocally cooperate with one another in the production and use of human capital, and (c) aiming thereby to extend the efficacy and scope of their rational agency, would embrace as a principle to govern human capital development and use. Both distributive and relational egalitarians can embrace this principle, thus showing whatever their differences at a theoretical level, these two species of egalitarian thought may well find common ground in practice.