

The Mystery of Intellectual Capital

Finding hidden wealth for the developing world

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Dr. David Koepsell, TPM - Philosophy

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The Mystery of Capital

- Hernando de Soto:
 - Hernando de Soto still has to ask why capitalism thrives only in the West, "as if enclosed in a bell jar?"
 - Capitalist and market economic policies have been widely and beneficially adopted, but they are obviously not enough.

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The Mystery of Capital

- De Soto notes that many Latin American nations have tried capitalism on four separate occasions during the last two centuries and failed all four times.
- Numerous market weaknesses and/or lack of budgetary and/or monetary discipline played major roles in all of these failures

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The Mystery of Capital

- The foundations for raising capital are still absent outside the West even after adoption of a variety of market and macroeconomic policy reforms
- In sum, "Capitalism without capital doesn't work"

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The Mystery of Capital

- "Capital is the force that raises the productivity of labor and creates the wealth of nations. It is the lifeblood of the capitalist system, the foundation of progress, and the one thing that the poor countries of the world cannot seem to produce for themselves, no matter how eagerly their people engage in all the other activities that characterize a capitalist economy."

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- Developing countries must free their people to take part in the domestic and global economy. For this - among other things - the people need "live capital" that comes from accessible legal protection for their interests in property.

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- Few have legal title to their land or buildings. Even where buildings were once held legally, most drop out due to difficulties in complying with applicable laws. "We discovered that the way people build in the undercapitalized sector takes as many forms as there are legal obstacles to circumvent."

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The Mystery of Capital

- There still may be deeds or some kind of record in someone's hands, but the real ownership status of these assets has slipped out of the official registry system, leaving records and maps outdated."
- The result is that most assets are "commercially and financially invisible" - "dead capital" - unavailable for financial uses.

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The Mystery of Capital

- De Soto's extensive studies indicate that 57% of city dwellers and 67% of rural residents in the Philippines live in housing that is dead capital. In Peru the figures are 53% and 81%. Haiti - 68% and 97%. Egypt - 92% and 81%.
- At least \$9.3 trillion - twice as much purchasing power as the total circulating U.S. money supply - is de Soto's conservative estimate of dead capital in undeveloped nations.

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The Mystery of Capital

- Stable currencies, open markets, and private businesses are indeed important, de Soto notes, but without modern property rights - legally enforceable - registered in an integrated system of records - assets cannot fully support the purchasing power of the credit of their owners. It remains "dead capital."
- "What is needed is capital, and this requires a complex and mighty system of legal property that we have all taken for granted."

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Intellectual Property

- In the west, we have created property rights over ideas: intellectual property. These rights give to inventors or artists limited monopolies over the use of their ideas.
- During the time during which IP rights exist, no one but the inventor or the author may reproduce the work without paying a fee to the creator.

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Intellectual Property

- There are two major forms of intellectual property rights created in western law: patent and copyright
 - Patents protect “inventions” or useful creations, if they are new, useful, and non-obvious
 - Copyrights protect aesthetic creations, like written works, films, music, or other non-utilitarian expressions.

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Intellectual Property

- The term of protection for patents is 20 years, then the art moves into the public domain and may be exploited by anyone without royalties.
- Copyrights last for the lifetime of the author, plus an additional 70 years after the author dies. At one time, copyrights lapsed after a mere 14 years.

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Intellectual Property

- Copyrights arise with any public expression in a fixed medium, without any further action by the author or artist. Filing with a governmental authority gives further *prima facie* proof of ownership.
- Patents require a lengthy filing process and significant fees, often between 5000 and 10,000 US dollars. There is also no guarantee of success in filing.

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Intellectual Property

- Intellectual property laws vary from country to country, although there are trade agreements between the US and numerous other countries that essentially require others to respect US IP laws.
- The Trade related aspects of intellectual property rights (TRIPS) that was adopted in 1994 in Uruguay during the General Agreement on Tariffs and Trade (GATT) in 1994. The TRIPS is been followed by the World Trade Organization (WTO). The latter establishes the minimum requirements of intellectual property law.

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Intellectual Property

- IP is essentially a western creation, developed in the UK beginning in the 1500 and 1600 (through “letters patent” granted by the sovereign).
- In the US, IP law is created through the patent and copyright acts after the constitution grants congress the power to gives incentives to the “useful and creative arts” through limited monopolies.

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Intellectual Property

- In the developing world, most IP protection is out of reach to legitimate exploitation for authors or inventors.
- There have been a number of conflicts involving the alleged “prospecting” of indigenous cultures by the developed world, and exploitation of local arts, medicines, and materials which then become copyrighted or patented in the west.

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“Dead” Intellectual Capital?

- Hypothesis:
 - Given the barriers to entry for exploiting intellectual property laws (costs, complexity), there is likely a large amount of trapped or “dead” intellectual property in the developing world.
- Question:
 - If there is trapped intellectual capital in the form of profitable ideas that cannot be exploited to enrich local people, what needs to be changed to liberate that capital?

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- The hypothesis that there exists “dead” intellectual capital requires exploration. It is likely true, and has been shown to be the case in a number of patent disputes (e.g. the neem tree). Is it true for creative goods as well?
- This can be tested by surveying local arts and creativity in a test case, tallying local innovations on existing arts and practices, and returning at intervals to determine if and who is profiting.

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- Current laws regarding IP both at the local and international level must then be evaluated for their effectiveness in providing a means for the poor, even those without “land” capital, to capitalize on innovative or creative ideas.
- It is likely that, just as western schemes for registering land title do not fit all locales and cultures, local rules must be adapted to accommodate and benefit local needs in promoting innovation in the developing world.

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- <http://davidkoepsell.com>
- Thank you!

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