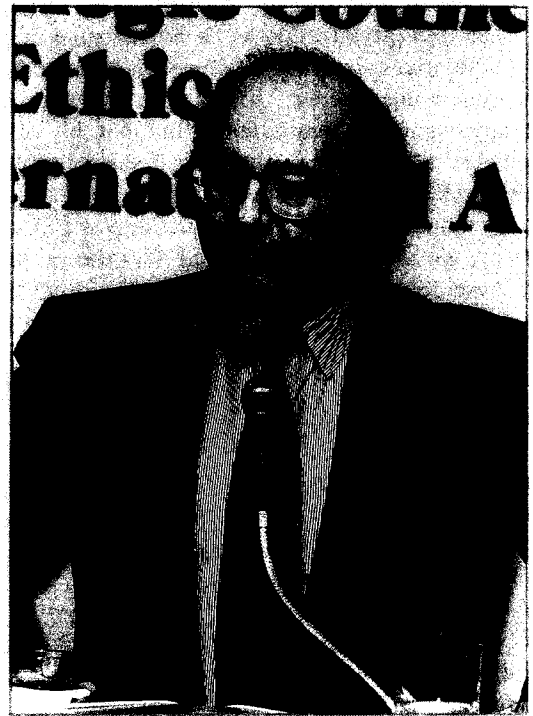


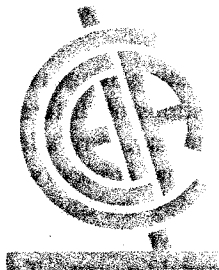
Carnegie Council Privatization Project

The Role of Private Property in Development



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Lima, Peru



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Hernando de Soto

I am glad to be here at the Carnegie Council for the Privatization Project lectures. The Project describes privatization as “a broad range of policy initiatives aimed at opening economies and reducing government interference.” It also says that privatization can actually change a country, and I find that this is no understatement. I hope to be able to shed some light on the issues this addresses in my country.

At my foundation, which is the Institute of Liberty and Democracy, we are mainly concerned with the problem of how all these policies in which we believe—privatization, structural adjustment, freer markets—actually affect Peru’s poor. When I refer to Peru’s poor, I’m referring to about 80–90 percent of the population, which we always forget in stabilization programs and macro-economic structural adjustment programs. The question is, how does this affect people below, other than in trickle-down ways? I say this because this isn’t the first time we have tried to privatize in Peru. Railroads were privatized some time ago, and then they were nationalized again and now they are being privatized again. This is something many Latin Americans are familiar with. Equity swaps were, as a matter of fact, the way railroads passed from the public into the private sector, and nationalization is the way they came back. We have had about two or three waves of privatization since independence. We’ve always come back to public ownership through populist measures, and the question is, why do we come back if privatization is so good? The conclusion we’ve come to at the Institute is that most people don’t relate to privatization. To a great degree, what’s going on in Peru now is not that people are crazy about privatization taking place through government policy; it is just that they all accept that we’re broke, and that maintaining public enterprises would mean additional taxes, and nobody is willing to pay taxes at this stage; therefore, it is a very good thing that somebody else take the burden. But whether privatization will stay around will depend greatly on whether people see privatization as something that affects them positively and is something they can actually identify with.

So I would like to talk with you about these people, the poor population of Peru, and the way privatization probably affects many other Latin American countries. The first thing

we have to look at is the assets of poor people. If we are going to talk about privatization, obviously we have to refer to assets, and these people’s assets are land and their homes. Most people in Peru have homes or have land. Not that they have much, but those are their only assets. Even in the United States, about 40 percent of all family assets consist of real estate. In Peru it’s probably 80 or 90 percent. And the question is, how much of this land is, in effect, private? Our answer is that practically all of it is private. Whenever we have gone to the so-called Andean communities, the Indian communities that were left behind by the Inca Empire and then again somewhat transformed by the Spanish conquest—and which are supposedly similar to a collective farm—we have found as we walked from field to field that a different

dog barked at every field. That was the first sign that the land was really private. However, the state had only recognized the *collective* property right that was vested in the political authority organizing the community. So walking through Peru’s shantytowns and farmlands, we found that

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most land was privately held. Private property supposedly produces more prosperity, so where is Peru’s prosperity? We found that much of the problem stems from the fact that privatization takes place within a system incapable of enforcing property rights. If property rights are not available to everybody and if they cannot be enforced, “private” means very little.

One of the interesting things is that when we asked the following three questions of different leaders of the informal sector—that is to say, Peru’s leaders of agrarian communities or the informal armies (we have an army of one million citizens fighting the Shining Path in the Peruvian countryside)—we received interesting replies. The first question was: “Do you consider yourself a member of the private sector?” In a questionnaire we gave to selected leaders, in 79 out of 80 cases the reply was: “No, I’m not a member of the private sector.” They replied in the negative despite the fact that they obviously owned their land privately. The second question was: “Do you consider yourself a member of the public sector?” The reply was, “Of course not, the public sector is government.” The third question was, “Well, who then is the private sector?” And the reply was: “*Los de*



Peruvian General Juan Velasco Alvarado (right) with a friend in 1975.

property rights over the land. Of course, this immediately creates a conflict of interest. When it comes to environmental damage, there is no way of settling disputes because the people who don't have property rights can't take the people who do to court. Consequently, solutions have to be political rather than judicial. Groups that defend so-called minority interests immediately come in where lawyers could have settled the matter. The titling of property actually goes much further. It has to do with many of the things that are wrong with my country at this time. For example, the war with the Shining Path. One of the things we have been advocating for a long time in Peru is the titling and registration of land; the urgency that there is in bringing the majority of the population within the legal system so as to enable them to defend their own political and economic rights. We point out that the Vietcong in their day in Vietnam had been very aware of the benefits of privatizing property. The Vietcong actually gave people property titles much more quickly than Diem's authorities, which is one of the reasons purported today for the Vietcong victory. They accepted the boundaries as they had been drawn by the informal sector of Vietnam, while the Diem authorities tried to set artificial boundaries through so-called agrarian reform procedures. The Shining Path is also titling property in Peru and is somewhat ahead of us, and that is why we think they could pose a danger in this area.

Titling also effects activities such as coca growing. Peru has the dubious privilege of producing about 60–70 percent of the world's coca leaf, which is then exported and processed into cocaine for consumption in your country and other Northern countries. We are rather the proletariat end of the scheme. Our farmers grow coca and then airplanes come in from other countries and take it away for processing into a drug. But the question we always ask is why farmers grow coca in these valleys? Nationalists usually reply: "They've always grown coca. Coca is only a drug when transformed into cocaine and it is the Anglo-Saxon's sensitive nostrils to this product that has made it a crime. It doesn't have to be a crime; it isn't really our fault." Our reply is that we also suffer from this, because once you have coca you go down what we call the Lebanese Route, which means that gradually drug traffickers come in and take over and man-

age to gain the sympathy of the farmers, whom they protect under a vestige of nationalist ideology. They thus break the country up into different warring factions. So we have every interest in getting rid of drug traffickers.

One of the things we found when we went to the coca areas, when the President entrusted us to study this problem and come up with a solution, was that most farmers actually don't want to grow coca. As a matter of fact, coca fetches lower prices than other products, such as palm oil. The net revenue from palm oil is six times higher than coca. We have found at least twenty products that actually fetch higher farm gate prices than coca. One of the reasons why farmers



The Coca-Cola Council on Ethics & Professional Affairs in 1985.

grow coca is that it requires very little investment. If you don't think you're the owner of your land, this is a crop that just grows like weeds and therefore can easily be pulled up if the police come and ask you to move along, or if any of the 70,000 federal troops in the coca areas come along and ask you for bribes, you can easily start elsewhere. So giving people property rights is very important in relation to coca production. Moreover, the absence of property rights also makes criminals harder to detect. For example, I remember when I was studying this issue, I watched the television program "Miami Vice" where I saw two brave American policeman continually fighting drugs and crime. They would go from one address to another and say things like, "I'll meet you at 353 Stewart Street; it seems that four Colombians and a Peruvian are organizing the distribution of cocaine," and they would raid the place or go to 170 East 64th Street: they had a place to go. If you look at those policemen and their blue crisp uniforms in the States and then you shift your camera to Peru, you will see the same policemen, only wearing green fatigues and flying in a helicopter with a big indiscriminating machine gun pointed toward the green lands below. We supposedly learned that the difference between the military and the police is that police could become selective in their repression. They could track down the real criminals and make the wrongdoers accountable. We have about 1.5 million people living on coca lands—that's about 250,000 families—and they're neither titled nor registered, which means they don't have addresses. This is very difficult to explain to American people, and I really

Arriba—those up there.” So obviously the word “privatization” doesn’t work when you’re talking about the private rights of poor people. At least in my country, the terminology is all wrong. It is associated with oligarchy. It means the privileged few.

Getting further to their assets, we started to find out what we could do—now that governments couldn’t foot the bills and everybody was talking about markets in the private sector for the third or fourth time in the history of my country—to make it stick this time and how we could make sure that it benefitted most people. We decided to look at their land assets since that is what they have the most of, and we found out that 90 percent of all farmland and 60 percent of all urban land in Peru is not titled or registered. We thought that this was, of course, a very Peruvian characteristic. We told ourselves, “Well, this is a very deteriorated country,” until we visited Indonesia and found out that 90 percent of all farmland and about 50 percent of urban land was also not titled and registered. When we went to Central America, the figures were similar. When we recently asked friends working in the land tenure project in Northeast Brazil about informally-held property there, their reply was about 90 percent of the farm land and more than 60 percent of the urban land was not titled or registered either.

So it seems as we go along that it’s a very Third World phenomenon: most poor people have private assets, but they are not titled and registered. The next question becomes, “What are the differences between being titled and registered and not being titled and registered? I mean, what does it matter, provided that you’re private?” We have found out that the law matters a lot. It has enormous effects, as we discovered when we started a titling program in Peru according to a procedure that allows you to title and register informal—or what we call common law—property. The first thing we discovered is that when we gave people titles to land in the shantytowns of Lima, the value of their homes doubled immediately, on average. It’s as if I liked this building very much and found out that it was for sale for two million dollars. I decided to buy it and then, once we’re about to sign the contract, I asked where the title was and you said there was no title. How much would the building be worth? In Peru it would be worth half as much. So titling has an effect of appreciation on the value of assets. After ten years, any building that was titled in Peru will have a value nine times higher than its original price, on average. So there is appreciation, there is growth. Moreover, there are titles; you can sell, rent, and invest in land and machinery. Wherever there is titled agricultural land in Peru, there is increased demand for inputs, such as labor and fertilizers, because people have faith in the growth of these projects. It also reduces disputes and land grabbing and it has, therefore, a pacifying effect. We also found that all of Peru’s housing for the poor, 98 percent has been privately built, and only 2 percent is a result of public housing programs.

Therefore, privatization of land has an enormous effect on growth.

Credit is also significantly effected. According to Small Business Administration estimates on recent business growth in the United States, 70 percent of all credit to businesses in the United States was based on collateral or mortgages. So it follows that if 90 percent of land is not titled or registered in Peru, then 90 percent of the people are kept out of the market. Moreover, for the remaining 30 percent in the United States, you would at least require an address. Ninety percent of the people in Peru don’t have addresses. That is true throughout the Third World.

Privatization of land also effects interest rates. First, there are high-risk premiums for dealing with somebody who isn’t within the legal system and who doesn’t have an address.



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Second, it means that people do not grow capital-intensive crops because, even if the land is secure, they don’t feel it is secure and they think they will have to make large outlays of cash. Also, we found that when people have titles, they invest in the right resources. In many cases, for example, land that is better suited for rice or beans is used for cattle, simply because you can get credit against cattle. So the whole market is distorted by the fact that land isn’t titled or registered.

A third benefit of privatizing the land is that people begin to understand what is meant by “privatization.” It makes the whole process a homogenous, more democratic one. People tend to understand the benefits of privatization because they themselves become the beneficiaries of the system; they can understand it within their own context. Privatization also has an effect on foreign investment. If you look at a map of Peru, whether it’s the jungle where you’re getting oil or the sandy areas where you’re going to dig for copper or nonferrous metals, the government gives the foreign investors mineral rights over the surface land. Once there, investors find themselves surrounded by 20,000, 100,000, or a million natives, all of whom think they have

Questions and Answers

I'm intrigued by your remarks on privatization which seem to center primarily on privatization of real property. The experiments going on in Eastern Europe center much more on productive property, things that we're accustomed to thinking about in terms of shares—manufacturing enterprises, trading enterprises, shipping, transportation facilities. I wonder what lessons you might project toward Eastern Europe.

I had a brief conversation in Germany recently with Minister Vaclav Klaus of Czechoslovakia and he was telling me that a lot of things we were trying to do at the microeconomic level were very relevant to his country. In our case the principle behind this is that Third World countries already have a common law and there is a tradition of actually holding land privately, but it is not recognized by the state. Common law remains at an informal or non-recognized level. I could see how this could eventually be extended into countries such as Poland or Czechoslovakia where at the time of World War II land was held privately, but I didn't see how it could be extended to areas such as Russia or the Soviet Union, which have no such tradition. However, Minister Klaus seemed to think that some of the principles we used for titling could be relevant. Let me give you an example. One of the reasons we title so rapidly is because the process of titling is also privatized.

In other words, whether it's an Amazonian tribe, an Amazonian agrarian organization, an Andean organization, or even an urban organization, the first thing you do is identify the common law government. All these people have governments. If all of us at this moment were isolated from the rest of the world, we would form a government tomorrow. We would have to agree to form either 60 different countries or just one country and one person would be president and others would be the parliament. That's just the way people are. These governments exist. So what we do is empower the community leaders to do the titling and registering—if they are democratically elected, which is easy to determine. We have yet to find one place in Peru where there is no democratic election at the level of the informal sector. We also have the land mapped out, so in many cases the maps needed for titling and registering already exist, and if not, they can be drawn up very rapidly. If this is done at the level of common law authorities, you have a work force of 150,000 and the cost is as low as one or two dollars per property.

So the whole thing here about privatization is the recognition that there are other authorities other than the so-called formal law authorities. I think what

Minister Klaus was trying to tell me was that those authorities also exist in socialist countries. It is a question of recognizing that society has its own spontaneous way of getting organized and that spontaneously-generated organizations should be empowered and given legal recognition so they can actually carry out the entitlement program.

Would banks be willing to lend against property if titles were free and clear and pledgeable, and would that then create capital to finance private ownership of industry? Is that a strategy?

Yes, that is a strategy. We have established, along with our titling and registry system, something we call the *Hipoteca Popular*, which is the popular mortgage. We have deregulated most of the procedures for closing mortgages and also for enforcing a mortgage so that if somebody doesn't pay in less than fifteen days, the property can actually be expropriated and sold. This, by the way, is accepted by each of the communities that direct it, because the issue is this: banks don't want to lend to anyone who is a high risk.

Most of our studies actually began on the question of why poor people didn't have credit and the first thing that bankers told us was how could you believe somebody you didn't even know, who didn't have a name, and didn't have an address? That's why we started the titling and registering program, to get people addresses and put them on the map, to show that they have collateral and make sure that this collateral can be used. When we solved this problem the bankers came back and said that there was a second problem, which was administrative: it was much easier for them to give out 50,000 loans for \$1 million than to give a million loans of \$50,000. So we also tackled that issue by going to insurance companies and brokers who work for even smaller sums—they insure bicycles for \$200—and asking them to buy the mortgages and issue a guarantee for the banks, even if it was at a higher margin. They agreed to do so. We have just finished some of our titling, and mortgages are now being issued and the banks are working on it. One of the projects we're studying is the possibility of eventually going to the World Bank or different international financial institutions and finding out if all of these mortgages can be sold abroad in a secondary market composed of the international financial organizations. This would be one way to distribute credit privately and fairly. So, we're working on it. We have to deal with one excuse after another, and we don't know if the problem lies with the collateral system or the Peruvian banking laws.

don't know how else to clarify it but to say that in a country without addresses, you can't do police work; you can't be selective about enforcing the law.

Once we had thoroughly studied the coca regions, we began distributing brochures in the Peruvian jungle that said,

“If property rights are not available to everybody and if they cannot be enforced, ‘private’ means very little.”

“Mr. *Agricultor Cocalero* (Mr. Coca Farmer), we have a proposal for you. We have talked to your leaders, we know that you are organized into 182 different democratic cantons or governments; that you have your parliament; and that you grow coca but you don't want to grow coca any more. We have come to an arrangement with the government of Peru whereby if you will stop growing coca and make a commitment to stop growing it, we will title and register your land and moreover respect your democratic institutions.” The result, in a matter of a month, was that all the 182 local governments signed up and said they would stop growing coca and allow police to enforce the substitution of coca provided they got their property rights. What I am saying is that even in what are considered the most remote areas of Peru, privatization of land goes way beyond growth of resources; it would solve many of the problems affecting both us in Peru and you in the United States. Private property would have a dramatic effect on the fight against the Shining Path and on the war against drugs.

What we've done in Peru, in fact, is try to find out why we haven't been able to title and register this land. If this evidence is so overwhelming, we asked, “Why not title and register everyone?” The reply was that this has been tried before. It is very explicit in Peru's constitution of 1824; it says everybody has a right to private property. All the land reform programs say everybody has a right to private property. Yet, as we've seen, 90 percent of people who have private property don't hold title to it. What goes wrong? To put it in a nutshell, the problem is that this property is held by common law. This might be bad news for people who believe that only Anglo-Saxons have common law—we have common law, too. The difference is that while your government knows how to recognize and enforce common law, our government doesn't. Some policemen know if they go to a coca field and try to confiscate somebody's property because they're growing coca, they will start a war. The correct way to enforce common law property is through communal action, so one of the reasons we want to title and register each landowner is to make each one individually accountable to

the government. The problem is that we do not have the legal instruments with which to recognize that common law. So we have created a system, the System for Titling and Registration of Informal Property (STRIP), and we have started a pilot program. This system, which was brought forward through a grassroots movement (in one month we gathered 380,000 supporting signatures), essentially constitutes title on the basis of informal evidence. There is proof of property and property transactions among people in the informal sector. What we've done is to recognize the common law.

We read the history of common law in Britain and found that in the beginning, even before there were common law courts, the king consolidated his kingdom by sending out the royal registrars to register common law property. That common law was codified so that common law courts could apply the law. This was the beginning of common law. So that's what we've done in Peru. We've codified the different ways in which both the actors and the government understand the common law. Because strangely enough when you go through most of our large infrastructure projects—whether they refer to mapping, a World Bank irrigation project, a taxing project, a voting project, a sewage project of the InterAmerican Bank—you find that government has in fact *preter legem* or *contra legem* recognized the informal sector. The problem is that it's so dispersed that it's very difficult to apply. So what we have done is to codify it; put it into one law. In Lima we have been able to register, in six months, with twenty staff members, over 40,000 properties, which is as much as the Peruvian government has done over the last one hundred years. So the important thing is that if you want to privatize and reach poor people, it means going back through some of the good Anglo-Saxon and German traditions that recognized the law of the people. And the only way to do that is to listen to the people and

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enable them to act within the system.

So, the message is that privatization will have a lasting effect in my country only if the interests of poor people are implanted in privatization so that they can identify with it. This involves a revolution in the law as much as it does in economic and administrative measures.

corruption, the news is bad. Until we change the basic political system in Peru, corruption will continue because there is no accountability, especially to the poor people. Forget what happens to us. Poor people suffer corruption to a greater extent. According to our statistics, 15 percent of the income of poor people go to bribes,

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while about 1 percent of the formal sector’s income goes to bribes. So poor people are 15 times more affected in relative terms by corruption than we are. There is no enforcement until the law becomes the result of a consensus within the country. With common law, the fact that you create your law through public hearings and comment and notice periods means there is a conventional wisdom that is continually being picked up, and that is why it’s easy to enforce the law. However, when people cease believing in the law, it becomes unenforceable. There is very little you can do by just writing laws. You have to change the political system in Peru, which is what we’re trying to do by pressing with the informal sector.

With respect to the privatization of some of the state-held companies, such as the telephone company, for example, what is the level of political support both inside and outside the government for that type of privatization?

I think at this moment there is definitely support for privatization; most Peruvians agree with it. But as I was trying to say before, they agree with it because they know there is a budget deficit, that we cannot pay for state-owned enterprises and that it makes life more expensive for everybody. According to our findings, it is not so much that people believe in privatization or that public services should be managed by groups of private citizens rather than government officials, but rather the fact that they know now that the state cannot afford it. I would say that once this debt issue is settled and the inflation situation is settled, once we have stabilized the country and there is money in our reserves, we will go back to the old question of who should run public property, the private sector or the public sector. And we will

probably—five, ten, fifteen years from now—go back to public property, unless people can be educated as to the advantages of privatization. They should be able to see and feel privatization in their everyday lives. What I’m trying to say is that most of the good news I think about privatization, stabilization, and

macroeconomic adjustment efforts, at least in my country, is very relative because we’ve been through this before. When you’re broke you have to stabilize your economy or you’re not going to get international credit or control inflation. You also have to make space for the private formal sector and that’s why you start deregulation and other macroeconomic adjustment measures, and you have to privatize because your public companies are functioning at a deficit. That’s the main argument. Once that’s over and you have become relatively stable,

the problems of basic poverty have not really been touched on because a lot of the things that have taken place in economies and governments such as yours, where you’ve continually had a privatization program—homesteading was a privatization program—haven’t taken place in my country. It’s still all public land. It still takes most Peruvians about 290 days to join the formal sector—290 days of red tape, 8 hours a day. So until privatization takes care of that level (unfortunately Marxists have better language to express this: you’re effecting the superstructures, the icing on the cake) the root of the problem hasn’t been touched. There are no private roots recognized by our government. Many of the stabilization measures taken in Peru are skin deep. It’s because we’re broke. In terms of people really being in agreement with privatization and voting for government that wants to privatize when they have reserves and credit again, I would doubt that very much.

The question I have concerns foreign investors interested in investing in Peru. What are the alternatives that you see to this lack of an enforceable property rights system or what undertaking or guarantees could they ask from the government right now in case they decide to invest in Peru?

They probably would get the same as any other Latin American country. But these things are only as good as public opinion is. I’m sorry; you’re asking for short-term answers for which I’m sure you’re going to get better speakers. I’m sort of into the long-term business. I would say that in the short term there is a lot of good legislation in Peru, things have really changed in terms of the guarantees that investors can obtain, and procedures have been shortened on paper. But

There is a great deal of corruption in Peru, so you talk about titling and registration and the fact that people now have rights but how do you enforce them with the environment that you have? Also, having captured Guzman, could you suggest how Fujimori and the government can handle this situation without really having some kind of civil war being created? What will he do now that he's got this man?

I'll start with the last question, which has to do with the capture of Abimael Guzman. Everybody has their own opinion today in Lima about what this actually means. When I was in school, I studied some of the comments that were made at the time of Lenin's death. Everyone was saying: "There goes the Soviet communist system in the USSR, the philosopher is gone, the man who organized it; that man who had all the charisma has died and the only thing that remains is a bureaucrat like Stalin; this can't go on." But it went on and on until very recently. So it's very difficult to say what the capture of the head of the Shining Path actually means. Most people are optimistic; they feel that in Latin tradition, Guzman must have established a vertical government, as a result of which his capture should result in the crumbling of the rest of the system. Some of us are not so sure; we are all waiting with bated breath.

Whatever the case, the fundamental reasons why there is subversion in Peru have not been eliminated by Guzman's capture. Problems that existed before include the ones of property. The fact is that if 90 percent of the rural sector and 60 percent of the urban sector cannot protect their property against corrupt officials or other citizens who are more powerful than they are, they have little reason to feel represented by government, and this of course delegitimizes government. So until we address the reasons why subversion survives in Peru—because the majority of people don't identify with government—we will not have gotten to the root cause of why people like Abimael Guzman exist. This has very much to do with the coup d'etat on the 5th of April this year, when President Fujimori dissolved Congress and his support in the polls went up to 90 percent. The reason that occurred was because most Peruvians don't identify with government. You see, elections in my country mean something very different than in your country. In my country elections for Congress take place not by districts, but by lists, one list for each party for the whole country. In some of the other Latin American countries, you don't even know who is on the list, you just get a color for the political party. The people who are on the list go to Congress or to the Senate and they owe their position to, and are accountable to, the political party bosses. This is a problem you had in the States until the progressive movement came along and you started holding pri-



maries. That's what makes United States congressmen write back to their constituents to find out whether they are happy or unhappy, because if they are not happy the congressmen will not get reelected. Since the origins of the Peruvian senators and congressmen are very different from the ones of the U.S. and since they owe their political life to the political party chief, the system of accountability and communication which exists in your country does not exist in mine. Many times people have asked why Peruvian congressmen don't reply to their citizens or why citizens don't write to Peruvian congressmen. The answer is that the people don't even know their congressman, they just voted for a list.

So democracy isn't only about elections, it's about how elections are carried out. You shouldn't have only a political party but people actually running for office. People in Peru say we should copy the United States Constitution, but if you look at the procedures of how you elect your congressmen, you won't find them in your Constitution. When the U.S. Constitution was written, there were 1.7 million Americans, so you all sort of knew each other. At the time Rousseau was speaking in Geneva, there were 6,000 people there. So at that time, of course, those constitutions made sense. Since the time you wrote your constitutions, Americans and Europeans, you've added to your political system a series of mechanisms to keep government in touch with people. Comment and notice periods, freedom of information acts, elections by district, primaries, various systems of participation in the law, *Vernehmlassungs* in Switzerland, referenda; all of which make sure that government ends up reflecting to a greater degree than in Peru what people need and want. So until in Peru we stop confusing elections with democracy and realize that it goes much deeper than elections, and until we are in touch with our people, electoral reforms will mean very little.

To reply to your question about enforcement and

the whole process must be legitimized by the majority of the population. Whether you have a democracy or a dictatorship, political leaders need to be legitimized and the only way they can legitimize a privatization process in a country such as Peru—which does have, like most Latin American countries, a tradition of liberal philosophy, liberal artists, liberal forms of expressing oneself—is through a consensus. This consensus appeared to a great degree after World War II in Japan, Taiwan, and Korea. We are investigating what Americans did in these three countries after WWII when they installed what they called the JCRRs—the Joint Commissions for Rural Reconstruction. For example, when they went into Taiwan, the Chinese government at that time was so corrupt and had such little power to enforce the law that these joint commissions in fact made deals directly with what they called land councils. These land councils were the informal sector of China, which awarded property titles to the whole population. It was on the basis of that agrarian reform that Taiwan and Japan and Korea grew. It's interesting of course that nobody knew they were dealing at that time with the informal sector; and it was very easy to do because there was no government. You had decapitated the Japanese and the Korean governments. So what you did is what you did in the Wild West: you went in and you talked to the Hopalong Cassidy of every Twin River. And by doing so you found out what the common law was in those countries. When you built your nation based on this law, everybody said agrarian reforms worked. In fact we think it was a privatization program. And that lesson was forgotten in Vietnam. In Vietnam, instead of respecting people's property rights as they existed, they tried to create agrarian reform, programs which made nice little squares like in most of the United States, while their land was round and curved like in California. The land had been distributed spontaneously, and Ho Chi Minh recognized that spontaneous distribution or privatization of land by the common people.

What I'm basically trying to say in the short time I have left here is that there is probably a lot of good business to be done in Peru, but it will continue to exist in the long-term only, when everybody is involved. That is a lesson Americans have learned; you just have forgotten it.

I have a question on the mechanism of the voucher system that is being used in some Eastern European countries like Czechoslovakia and now Russia. What do you think about the system and do you think it has any application in Latin America?

Yes, I think that the voucher system makes sense. But again, it makes sense for a very small part of the population in my country. For example, in my country only about 7 percent of the population is unionized workers employed by the private sector. So if you're talking about

the voucher system, I'll tell you that it works for 7 percent of the country. How about the other 93 percent? That would be my reply.

We had an agrarian reform in Peru in 1969, which produced a lot of cooperatives and I would say that to get things moving again one of the main factors is getting the agroindustrial production up in Peru. What has been done and what would you suggest for the next year in terms of titling the land or privatizing it or being able to buy and sell it on the market?

The interesting thing about agrarian reform that began in 1970 with Velasco was that the big estates in Peru were nationalized and organized into state cooperatives with some farmer participation. Nearly 20 years after the reform, we've gone back to the state cooperatives and found that they all have been divided into what we call *parcelitas*; in other words, the farmers have informally redistributed the collective property among themselves. They even have an association in Peru, *La Asociacion Nacional del Parceleros*, the National Association of People Who Have Divided Up State Property, which already has



70,000 members. They all have maps to show how they have actually distributed the property.

The plan approved by Fujimori calls for the titling and parcelling of land according to the system of common law property that farmers have developed among themselves in the last ten or fifteen years. Then farmers can decide things such as whether to reassociate for economy of scale. The idea is to leave decision making to the farmers and to give them the facilities needed within what sounds like a reasonable process. Now the next question is, what is a reasonable process? Well, let me go back again to coca because it's one of the areas we have focused on a lot lately. We wanted to know why, if palm oil was six

times more profitable than coca, and coffee and cocoa were just as profitable as coca and involved less trouble with the police, the farmers didn't grow these other crops. Some say, "We did." For example, we found one group of coca farmers who had actually made a contract with a Swiss cooperative, *Migro*, to sell coffee to them. The coffee was going to be called *Cafe Organic du Valle Huallaga*, or Organic Coffee of the Upper Huallaga Valley. But when they had everything set up, they discovered they couldn't export coffee from Peru. Among the reasons why they couldn't export was that in order to get an export license, you have to guarantee the quality of the Peruvian coffee bean and you have to prove that you exported coffee three years ago. This is a little bit like saying the only way to get into Harvard is to prove that you were there three years before. So what actually happens in Peru is that most of the legislation is not the product of a democratic process, whereby everybody is informed and everybody who is interested can participate in creating intelligent legislation, but it is instead the result of vested interest affecting legislation.

For another product, which I shall not name so as not to get into trouble, but which is a very good substitute for coca, the farmer has to show government banking records for the past five years—and you're asking that of mostly illiterate farmers. So obviously you can't export that product either. By talking directly to the farmers, we found out about the two laws I mentioned, as well as almost 180 others that are obstacles to growing anything other than coca in

Peru. In other words, by law, it is practically impossible to grow another product in the coca valleys. Until you incorporate the actors, or the victims, of traditional Spanish colonial law in Peru—a legal system which the republic has continued and which consists of elites governing without accountability and without feedback from interested parties—in the countryside and the urban areas, you won't solve any of these problems. You can have a nice World Bank project, you can spend a hundred million dollars, you can irrigate a certain sector, but until you get this out of the way, nothing will happen. The only solution is called democracy: in other words, involving people in decision making.

Why isn't the Peruvian government doing what you're trying to do?

When we published our results at the Institute of Liberty and Democracy in Peru, we described the part of the country that we were not taking into account in our political decisions. There was part of a world in Peru

which had been left to anthropologists and *National Geographic* magazine and this world had to be incorporated if you wanted to create a good market economy, a solid democracy, and a good privatization process. Everybody jumped on the train. It was part of Vargas Llosa's program during the Peruvian presidential elections; it was part of Fujimori's program; everybody's bought into it; you won't see one political program in Peru which doesn't have our basic principles. What's interesting is what it takes to actually pull it off. We had almost 100 percent of political opinion in our favor, which is not an unimportant factor, since revolutions take time. So the important thing is that everybody recognizes that this exists and that you do have to do something about that 90 percent of the population, whether you're in Peru or another Latin American country.

The second problem, of course, is that this is not a sector that economists or politicians have traditionally dealt with. As I said before, the informal sector has been left to anthropologists, Mother Teresa and inter-

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national organizations, but if you're into privatization or banking, you don't deal with these things, and most of the people who do deal with the poor have a sort of collectivist trend, or collectivist formation. It's not that they don't recognize this trend, it's just that they don't really know what to do about it. It's the same thing when you discover a new field. The question is, how do you form a profession around that field?

The next problem comes from resistance. A great deal of the resistance to these ideas or programs in Peru actually comes from the private bureaucracy rather than the public bureaucracy. In other words, there are a great number of lawyers and notary publics who make a living from this red tape and who, as a matter of fact, consider anything resembling common law as an Anglo-Saxon import that has little to do with our Justinian Rome code tradition. Moreover, they are not prepared to recognize common law; they wouldn't know how to do it. The way they've always made legislation is by copying Swiss, French or Italian legislation and Peruvianizing it. They don't know how to

go to the people as a source of the law. That requires a change in the political system. So there are many barriers that have to be destroyed or assimilated before you can actually get this working. It goes against their vested interest and even if you were able to defeat this interest, you would have to create the knowledge and the mechanisms whereby intermediaries, who are always necessary, and good government, which is indispensable for carrying out a good privatization process, can be set up. We're involved in this process since most of these ideas are young; our registry system was only created by law two years ago.

We are proud of the fact that we've been able, in the first five months of the pilot program, to title 40,000 properties for \$100,000, as opposed to a neighboring country's program for titling and registration, with \$300 million in financing from international funding institutions, which hasn't yet produced a title.

Let me give you an example for titling. If you look at the statistics—and it's hard to get them; we're only just breaking into them now—among bilateral credit institutions such as Eximbanks, ECDGs in Britain, CoFrance in France, and IFIs, like the World Bank or the InterAmerican Development Bank—you will find they spend roughly \$2 billion a year on land tenure worldwide. What they do is to export the traditional European system of photogrammetry. They photograph the area and they map it, which is a very expensive process. In a country like Peru, mapping can easily run to \$200 or \$300 million. Once they have it all perfectly mapped out and know where everybody is because they have literally photographed them, the problem still exists of who owns what, and that cannot be resolved by photog-

raphy. The problem can only be resolved by bringing people into the process of providing information as to what the land tenure rules are and there isn't, as far as I know, any international or bilateral organization that has people trained in this area. If you talk to registry people in Europe, for example, or land title insurance people in the United States who deal with property security, you will find it's a passive system. It's essentially one whereby they sell you insurance or register whatever you have because the law allows them to do so. But what happens in a country where the law does not permit these activities? It has to become an active measure. So what I'm saying is that privatization is a very big challenge. We have to reach that large constituency in the Third World. It is crucial to bring privatization inside the system in order to legitimize it.



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