

OPENING REMARKS: HOW PROPERTY RIGHTS EVEN STOP WARS

HERNANDO DE SOTO*

From the rural farmer in Latin America who is struggling to protect his family and his possessions to the street vendor in Tunisia whose wares are confiscated, the desire for property and property rights is universal. While many scholars take a theoretical approach to property rights, discussing and proposing what *should be*, I have devoted my career to finding out what *is* and use that knowledge to help bring peace, security, and stability. My research has taken me around the world, consulting with governments in an effort to bring stability. Time after time, I have discovered that property—in particular the legal protection of property—has been the key to unlocking the value of people’s labor and creating economic, political, and social stability.

As we consider the reality of the global terrorism originating from the Arab world today, it is most often thought of as a religious issue involving radical Islam to be solved by traditional warfare.¹ But I have consulted with seven heads of state in the Middle East, and time and again my research has found that this is not an issue of religion, it is an issue of property.²

When Mohamed Bouazizi self-immolated in Tunisia at the end of 2010, he didn’t do so because of religion—he did so because of property

* President, Institute for Liberty and Democracy, Lima, Peru and recipient of the 2016 Bringham-Kanner Property Rights Prize. This article is a summary of Mr. de Soto’s remarks presented at the 2016 Bringham-Kanner Property Rights Conference held in The Hague on October 19–21, 2016. As the president of the Institute for Liberty and Democracy, Mr. de Soto has made significant changes to the laws and the economic system of Peru and has influenced similar economic programs in nations around the world. He is the author of several works including *The Mystery of Capital* (2000) and *The Other Path* (1989).

1. See Hernando de Soto, *This is How We Can Win the War on Terror*, WORLD ECON. F. (Jan. 15, 2016), https://www.weforum.org/agenda/2016/01/this-is-how-we-can-win-the-war-on-terror/?utm_content=buffer6ec7d&utm_medium=social&utm_source=twitter.com&utm_campaign=buffer (noting the West’s traditional attempts to fight terrorism and its failure to create and protect property rights in the Middle East).

2. Hernando de Soto, *The Secret to Reviving the Arab Spring’s Promise: Property Rights*, DAILY NEWS EGYPT (Apr. 20, 2013), <http://www.dailynewsegypt.com/2013/04/20/the-secret-to-reviving-the-arab-springs-promise-property-rights/> (noting that the Arab Spring “was rooted in a desire for . . . a market-based economy”).

rights.³ He was a street vendor whose cart was confiscated by the police, and when the government refused to listen to him, he set himself on fire.⁴ That was the beginning of the Arab Spring—millions of people went out into the streets, demonstrating for more freedom and more rights, and four governments fell.⁵ In order to understand the true cause of this uprising, I need to take you back to when I first became interested in property rights, in my home country of Peru.

I became involved in property rights in large part because of the Shining Path, the Marxist-Leninist terror organization that had taken control of large portions of Peru.⁶ In Peru, a war had been raging between the government and the Shining Path rebels for decades. The size of the active Shining Path army was a constant of about fifteen thousand people⁷ that fought in drug-infested territory and produced about 4,600 deaths from 1981–1983.⁸ The armed government forces, dedicated to fighting the guerillas, numbered about thirty thousand.⁹ Not coincidentally, we have seen a similar war occurring in Colombia. Recently the government of Colombia sought to negotiate with the local rebels in order to end a war that has gone on for more than fifty years.¹⁰ However, the government initially lost the plebiscite for peace with the rebels, which has left the question of lasting peace in Colombia still very much in doubt.¹¹

In Peru we had a very similar war, similar in some aspects and different in others. We fought it in a different legal space. The Shining

3. *Id.* (explaining Mohamed Bouazizi's self-immolation due to merchandise expropriation by the government).

4. *Id.*

5. De Soto, *supra* note 1.

6. *Shining Path: Peruvian Revolutionary Organization*, ENCYCLOPEDIA BRITANNICA (last updated Mar. 6, 2014), <https://www.britannica.com/topic/Shining-Path>.

7. *Peru: Rebel Group Joining in Colombian Alliance*, STRATFOR (Feb. 7, 2002), <https://www.stratfor.com/analysis/peru-rebel-group-joining-colombian-alliance-0>.

8. HERNANDO DE SOTO, HOW PERU'S POOR DEFEATED TERRORISM 12 (2016) (Peru) (noting that the Shining Path killed about 4,600 peasant between 1981 and 1983), http://ild.org.pe/images/PDF/2016-11-04_r-WEB%20ILD%20How%20Peru's%20Poor%20Defeated%20terrorism.pdf.

9. *Id.* at 7.

10. Hernando de Soto, *Colombia Between the FARC and the People*, PROJECT SYNDICATE (Nov. 4, 2016), <https://www.project-syndicate.org/commentary/peru-shining-path-lessons-for-colombia-by-hernando-de-soto-2016-11>.

11. *See Colombia Referendum: Voters Reject FARC Peace Deal*, BBC (Oct. 3, 2016), <http://www.bbc.com/news/world-latin-america-37537252>.

Path appeared in 1980, and by 1995 it occupied a large portion of the countryside.¹² The leaders of the Shining Path were trained in Beijing and dedicated to helping the rural poor.¹³ They achieved significant popularity because they sympathized with the people.¹⁴ The main message of the Shining Path to the rural poor focused on property, initially stressing that the way to get power was to collectivize property under control of central committees.¹⁵

However, the farmers rebelled against the notion of collective property rights, which began the war.¹⁶ This prompted the government to send in armed forces, and the farmers responded by creating an illegal army with nothing more than homemade weapons.¹⁷ This eventually pushed the Shining Path out of the two main valleys in Peru and into the mountains.¹⁸

It was at this point that the Shining Path realized that they could control the countryside of Peru only if they became “protectors” of private property.¹⁹ So they began to sell their protection services in exchange for contributions from the rural farmers.²⁰ And by 1987, they were in control of sixty percent of Peru.²¹ The Rand Corporation estimated that, at their rate of growth, they would have taken over Peru by 1992.²² Their strategy was to control the countryside and encircle the urban areas, eventually clenching down and taking control of the cities as well.²³

12. DE SOTO, *supra* note 8, at 8 (noting the Shining Path’s success in the countryside), 10–11 (diagram).

13. MATTHEW D. ROTHWELL, *TRANSPACIFIC REVOLUTIONARIES: THE CHINESE REVOLUTION IN LATIN AMERICA* 23 (2013) (discussing the Beijing training course for Latin American communist groups, including the Shining Path).

14. De Soto, *supra* note 10 (diagram noting that the Shining Path protected impoverished people’s rights).

15. DE SOTO, *supra* note 8, at 7 (noting the Shining Path’s attempt to collectivize rural land).

16. *Id.*

17. *Id.* at 7, 12.

18. *Id.* at 12.

19. *Id.* at 10 (diagram noting how the Shining Path proposed property reform).

20. Peter Passell, *Economic Scene; Coca Dreams, Cocaine Reality*, N.Y. TIMES (Aug. 14, 1991), <http://www.nytimes.com/1991/08/14/business/economic-scene-coca-dreams-cocaine-reality.html>.

21. DE SOTO, *supra* note 8, at 12.

22. *Id.* at 13.

23. *Id.* at 12 (describing the Shining Path’s strategy of “dominating the countryside completely and then swooping in to take control of the capital”).

The government of Peru, led by then-President Alan Garcia, realized the difficulty of the situation: the Shining Path's guerilla tactics made it difficult for the army to distinguish between the armed farmers and the real enemy.²⁴ President Garcia was particularly concerned that the situation in Peru would become like the American situation in Vietnam, where the government soldiers did not know who to shoot, and so they shot everyone.²⁵ That would be a disaster of near-unprecedented proportions, and one that the Peruvian government—made up of coastal elites—wanted desperately to avoid. So the Peruvian government sought to ally with and gain the support of the rural forces, which were easily able to identify members of the Shining Path.²⁶

I was called in by President Garcia to bridge the gap between the farmers, who live inland and are culturally distinct, and the government and its army, whose members come from the coast of Peru.²⁷ The government wanted my involvement because its previous attempts to make contact with the rural farmers had been repeatedly opposed by human rights groups from Europe and the United States.²⁸ At the outset, we learned that these human rights organizations were confusing the situation in Peru with that in Colombia, where the rebels were, essentially, a private army—unlike those fighting in Peru, who were just poor farmers trying to protect their property.²⁹ Only ten percent of them even had a gun,³⁰ and they were being killed by the thousands in this war.³¹

As the American philosopher George Santayana famously said, “those who cannot remember the past are condemned to repeat it.”³²

24. *See id.* at 7.

25. *See id.* at 7–8.

26. *Id.*

27. *Id.* at 10 (diagram noting that President Garcia invited the Institute for Liberty and Democracy to the Cartagena summit).

28. *Id.* at 9.

29. *Id.* (noting the need to convince the international community that Peru's peasant army was informal and an “expression of the Peruvian Industrial Revolution[.]”).

30. *Cf.* Mario Fumerton, *Rondas Campesinas in the Peruvian Civil War: Peasant Self-defence Organisations in Ayacucho*, BULLETIN OF LATIN AM. RES. 470, 487–88 (2001) (noting the government's issuance of shotguns to self-defense groups and the general lack of weaponry in rural districts).

31. DE SOTO, *supra* note 8, at 16.

32. GEORGE SANTAYANA, *THE LIFE OF REASON OR THE PHASES OF HUMAN PROGRESS* 284 (1st ed. 1906).

So I studied American history and found parallels to the Peruvian situation in the United States of the eighteenth and nineteenth centuries: Issues such “manifest destiny,” the Louisiana Purchase, the gold rush, and rapid westward expansion all informed my understanding of what was occurring in Peru. In many ways, the farmers of rural Peru were like the minutemen of the American colonies. They were not a private army. They were just ordinary, poor citizens fighting to protect themselves and their possessions.³³ And the members of the Shining Path were the Red Coats.³⁴

This insight helped me relate the real story occurring on the ground in Peru to the people in power in the United States. After working in Washington, D.C. with the U.S. government and meeting with President George H.W. Bush, his cabinet, and high-level congressional officials, we formed a group of trusted individuals to circulate around Peru, meeting with the different indigenous groups.³⁵ Although many U.S. government officials wanted to approach this as a drug-enforcement issue, because of their concerns over cocaine production, I persuaded the right officials to treat it not as an issue about illegal drugs but as an issue of property rights.³⁶

I enlisted the help of the United Nations, whose secretary-general at the time, Javier Perez de Cuellar, was Peruvian.³⁷ He understood what we had uncovered in our research—that this was not about the drug trade but instead about recognizing property rights. Because we did not view this as primarily about stopping illegal drugs, we were able to enter into a treaty that, at its core, changed the classifications for the rural farmers in Peru.³⁸ Instead of calling them criminals, we accepted their roles as minutemen, and we classified them as such.³⁹ In response to this treaty, Abimael Guzman, the leader of the Shining Path, announced to his followers that I was an agent of Yankee imperialism and the CIA.⁴⁰

33. DE SOTO, *supra* note 8, at 15.

34. *Id.*

35. *Id.* at 14.

36. *Id.* (noting the U.S. concerns of coca production and drug trafficking).

37. *Id.*

38. *Id.* (describing the “Drug Enforcement and Anti-Subversive Agreement” that acknowledged the new classification of coca farmers).

39. *See id.* at 15.

40. *Id.*

In order to show that our policies would work in converting the rural farmers to the government's side in the fight against the Shining Path, we had to arm them. But that raised the problem of how to arm people whose addresses you do not have—for if the government was going to give them real weapons, the government would expect cooperation.⁴¹ In order to provide the farmers with the right incentive to support the Peruvian government, and to oppose the Shining Path, it became clear that we had to offer them more protection than the Shining Path.⁴²

During our research, we learned that the Shining Path was applying important, fundamental property concepts in its activities. It offered the farmers many different sticks in the bundle we call property rights.⁴³ It offered safety; it offered protection from a series of social consequences; and it offered security to the farmers for their possessions and their families.⁴⁴ In order to win the loyalty of these farmers, the government had to offer them more sticks from the bundle of property rights.⁴⁵ Ultimately, providing the Peruvian minutemen with governmental protection of their property and a formal system of land titling enabled the government to win the loyalty of the farmers against the Shining Path.⁴⁶

As a result, the war in Peru was not won by military might; it was won by property rights. The presence of the people in the countryside became widespread and permanent, while the Shining Path simply dwindled down to nothing.⁴⁷ In the end, Guzman actually had to leave the countryside and go to the city, where he was captured by police.⁴⁸ At his capture, he was unarmed and had no bodyguards, because his movement had been defeated two years earlier.⁴⁹ By

41. *See id.* (indicating that Legislative Decree 741 legitimized the informal peasant army “under the strict supervision of the Armed Forces”).

42. *Id.* at 16 (noting the farmers’ access to formal property rights and credit), 21 (recognizing the need to “open and build doors that allow[] millions of Peruvians to move from informality into the economic mainstream”).

43. De Soto, *supra* note 10 (noting how the Shining Path protected farmers’ rights).

44. *Id.*

45. *Id.* (recognizing the need to sever insurgent groups’ control over localities).

46. DE SOTO, *supra* note 8, at 15 (photograph of property committees establishing land titles), 26 (indicating the establishment of mechanisms to allow Peruvian majorities “to move from the informal to the formal sector”).

47. *Id.* at 16 (describing the Shining Path as they were “expelled from the countryside”).

48. De Soto, *supra* note 10.

49. *Id.*

forming property committees across Peru and using much of the land-titling process that the Shining Path had implemented, we were able to standardize and systematize property rights and win the war.⁵⁰

The same principles are at work in the Middle East. My organization has been called in by seven heads of state in the Middle East, and in each nation, our studies have revealed that the vast majority of property is held without formal title. In Egypt, for example, just eight percent of land is held in formal title, leaving ninety-two percent of landholders with possessionary title only.⁵¹ Yet in many of those nations, groups like the Muslim Brotherhood are providing citizens with their own land titles, just like the Shining Path did with the rural farmers in Peru.⁵² We have copies of these documents and have provided them to the governments for whom we are consulting.

So the way to counteract much of the violence that is occurring in the Middle East is through property—creating formal, recognized systems of land ownership which are protected by the government. This gives people better title than groups such as the Muslim Brotherhood can provide, which in turn will win the people’s loyalty. We are using technology, such as blockchain, a secure digital and easily updatable database, to do this efficiently; we are also sensitive to other legal protections, such as limited liability organizations that encourage the development of property. But the central way to promote stability and encourage prosperity is for governments to recognize and protect formal title to property, either in an individual or in a group united by cultural heritage or common interests. It is a message that applies as much in Egypt and Peru as it does in the United States.⁵³

50. See DE SOTO, *supra* note 8, at 15.

51. De Soto, *supra* note 2 (noting that ninety-two percent of land holdings in Egypt are unrecorded).

52. Cf. *The Call for Economic Liberty in the Arab World Before the H. Comm. on Foreign Aff.*, 113th Cong. 40, 45 (2013) (statement of Hernando de Soto, President, Institute for Liberty & Democracy) (acknowledging the Muslim Brotherhood’s role).

53. De Soto, *supra* note 2 (noting that the United States is “missing a chance” to learn from the Arab Spring).

