HOUSE OF COMMONS
CHAMBRE DES COMMUNES
CANADA

Standing Committee on Foreign Affairs and International Development

FAAE • NUMBER 012 • 1st SESSION • 41st PARLIAMENT

EVIDENCE

Tuesday, November 22, 2011

Chair

Mr. Dean Allison

Standing Committee on Foreign Affairs and International Development

Tuesday, November 22, 2011

● (0955)

[*English*]

The Chair (Mr. Dean Allison (Niagara West—Glanbrook, CPC)): We are ready to start.

Welcome, Mr. de Soto. It's nice to have you with us this morning.

Mr. Hernando de Soto (President, Institute for Liberty and Democracy): Thank you very much, sir.

I'm glad to be with you.

● (1000)

The Chair: You have an opening statement for us, so you can talk to us and then we'll go around the room here for questions from both sides of the House, from the government and the opposition. Why don't we just have you get started, sir?

Mr. Hernando de Soto: That's fine.

I've looked at the notes that have been sent so far and see that it's a very broad agenda. Even though it's a broad agenda, it is hard for us to see how we fit, given our ongoing concerns. Let me explain to you.

I'm here with two of my colleagues who have accompanied me over the years. One the one hand, there is Dr. Ana Lucia Camaiora, and on the other, there is engineer Manuel Mayorga La Torre.

What we have been concerned about, of course, is poverty in developing countries—in ours and in the over 25 countries in which we've worked—but our focus has always been on what we can do so that the enterprising poor can take advantage of the global economy. What can we do so that when, for example, a Canadian firm or the Canadian government wishes to invest or to make credit or technology available in Peru, Peruvians can rise to the occasion?

That's our focus, rather than what it is that a Canadian firm, for example, or the foreign private sector, can do for us. Let me tell you the reasons for this emphasis, because they are important if we're going to be able to contribute from this side—and we may not.

Essentially we find that foreigners who come here are willing to go by the rules and even have a certain degree of empathy towards, say, the indigenous people in the midst of whom they are forced to work, whether they're in an extractive industry or whether they are creating infrastructure. The problem we see, rather, is on the part of our people, which is that they do not have the legal instruments with which to hook into and take full advantage of, for example, foreign investment.

Let me use another country to set my example. We have, let's say, a group of Awajúns, indigenous people in the Amazon, and an American firm has found—as is now the case—gas or oil or gold. This American firm asks, first of all, for a concession of property rights in the Amazonian region and obtains that concession for, say, 60,000 hectares. Now, the first thing that firm does is of course to make sure that there is a good title that will be protected and honoured by the Peruvian government, whatever election results we have, and it will ask for that to be inscribed in the bilateral investment treaty between Peru and the United States.

By the way, I'm sure there's also a bilateral investment treaty between Peru and Canada, like the one we have between Peru and the European Economic Community, the purpose of which is to give security to investors.

Now, once they do that, the quality of that title or the security behind that title has increased manyfold, because now the property right—or the concession, if you want—is doubly secured, not only by the Peruvian government but also by the American government in this case,and in addition by the fact that the Peruvian government can't do anything without the American government.

Among other things, for example, the Peruvian Parliament cannot go back on that treaty. It cannot go back and discuss it or the terms of it. Already, then, this American firm has gotten not only a property right but a super property right, because it's guaranteed by two governments.

Then the American firm goes to the United States and gets another guarantee with OPIC, the Overseas Private Investment Corporation, which again, to a certain degree, securitizes that title, so to speak, by saying that they will also guarantee it in front of all financial authorities and make sure that this concession of a U.S. company in the Peruvian jungle now is doubly secure. So the title becomes a super-duper title.

Then they go to the World Bank MIGA—the Multilateral Investment Guarantee Agency—the purpose of which is of course to help investment in developing countries or promote investment in developing countries. That then passes a procedure called the multilateral investment guarantee program, so by that time, the Peruvian title is a super-duper-duper title.

Now let's go back to the indigenous people in Peru, this tribe of Awajúns, which is right next to the American investment. They also have territory, but the first problem they have is that it isn't titled. Not only is it not titled, but we haven't made a distinction between sovereignty and title.

In other words, according to our law, supposedly all these people are sovereign, but that means being recorded in a certain way, and we have found out that not more than 5% of the total are actually covered as being sovereign nation. On top of that, they don't have property rights by law. In other words, sovereignty means that you are politically free. Property rights mean that you're economically free, and they don't have that, nor do they have the tools to do that. Even if they wanted, with the American company, to find how they could benefit from corporate social responsibility, how the technology could benefit them, or how they could do a joint venture with the American company, they couldn't.

They can't even go out on the market because, unlike the American company, which has a super-duper-duper title that is so secure that it is much better than the Obama title, because Obama can always come around and say, "Eminent domain: I need to expropriate for the purposes of infrastructure" or "I'm going to put an airport where that is".... The Peruvian title is untouchable, and that Peruvian title will get that foreign company enormous amounts of money, or enormous amounts of money or capital or loans will be raised whether it be in Toronto, London, or New York, and the Indian population will of course not thrive.

What I'm trying to say, basically, is that from our side, we focus very much not on what your companies can do for us, because we've actually had contact with certain Canadian companies that would be more than willing to let the indigenous people around them participate in shares and actually do whatever's necessary to operate in peace as long as they are able to carry out their activity.... The problem is that the indigenous people in Peru will never be equals because they cannot exercise their property rights. They have no limited liabilities. Whatever rights they have cannot be transformed into shares. They can't issue bonds. Also, they can't organize in any other way that is not simply political, which means as that of a tribe.

With this, I will end this short statement, but at least hopefully I've kicked the ball onto the field in a manner that will be useful to tell you that as a private think tank and activist organization, or non-governmental organization, if you wish, we think much more can be done for our poor people by getting Canadians and people with technology and know-how in governance who want to give security to actually help us create the same conditions in our country for the natives—by the way, as opposed to the situation in your country, the natives are not the minority but the overwhelming majority—rather than having us focus on foreign firms that won't be able to give our poor people much more than sops along the way.

This is more or less the way we see things. I hope this is useful as a starting point.

The Chair: Thank you very much. That is a great starting point.

Why don't we just go straight to questions? We'll start with the opposition.

Madam Laverdière is the critic for foreign affairs for the official opposition.

Ms. Hélène Laverdière (Laurier—Sainte-Marie, NDP): Thank you very much.

Thank you very much, Señor de Soto, for your very interesting presentation. I think it underlines well the limits of what can be done in the current context, what needs to be fixed, and also the fact that it's still very much an uneven playing field, if I may say so.

I know that your thesis centres around the lack of formal property rights, and we've seen that as a problem all around the world. Haiti is an example that comes to mind. It's a major hindrance to development.

I would like to ask you about the gender aspect of property rights. Around the world, about 99% of property is owned by men. Do you work particularly on this issue of the gender aspect? Have you done any work on that issue?

Thank you.

Mr. Hernando de Soto: Yes, we do work on the gender issue. Originally when we drew up the Peruvian property system, which we began doing in the late 1980s.... We were assigned the task, by the way, by the Garcia government, and then we finished with the Fujimori government. One of the things we noticed was that, in effect, women had not as many property rights as men. Let me see if we have that number.

At that time—in 1988, let's say—do you remember how much property women had?

Mrs. Ana Lucia Camaiora (Legal Director, Institute for Liberty and Democracy): No, but it was less than 30% because it was—

Mr. Hernando de Soto: Got it: it was less than 30%.

So to us—we'd love to find other words for the words "property rights", by the way, so we wouldn't fall into a Robert Reich versus Newt Gingrich kind of argument—property rights were, really simply, the right to control things and the right to control transactions. So we wanted to know why women only had a property right over about 30% of the land. We're talking about real estate.

Given our particular way of studying it, which is simply a question of who controls what—and we have different ways of finding that out—we found that one of the biggest problems was that the rights of women were clear provided that when a couple was formed they got married, and most Peruvians were not married. So we got into finding out what the obstacles to getting married were. We found out that on average—I'm trying to make it simple—a couple could take up to 150 days, working eight hours a day....

From the point of view of poor people, of course, who had never done the cost-benefit analysis we had, this actually meant that it was impossible. By the time they had finished 20 or 30 days or whatever, they just hadn't gotten to their objective. So we sorted that out by including the marriage procedures within property rights reform, as a result of which all of a sudden it was easy to get married, and therefore the rights of women were clearly established according to law.

Today the situation—can you remind me, Lucia?—is that 56% of the total population benefiting from nationwide property by the bill on joint title are women. Women are today the majority property owners in Peru, and 63% of female owners obtain credit worth $1,000 and more. They have more credit than men, and they are able to access more business.

We have just been hired by SEWA, the Self Employed Women's Association in India, to do a similar exercise: in other words, to try to find out why it is that they continually talk about not being able to access the greatest source of capital in their country, which is real estate. As a matter of fact, Dr. Camaiora, who's here with me, is going to head that project, for which there will be an all-women team from the ILD. From our preliminary investigations, we know it's same thing: they really have no rights that they can exercise vis-à-vis not only husbands, but brothers.

We've already identified the first places where those blockages are. Where those blockages occur has to do with very precise things. For example, women—at least the ones we're working with—are very much caught in the agricultural sector. They take care of the cottage industries, as you North Americans did back in the 19th century when somebody stayed behind to do the spinning or weaving. Of course, every time their land is expropriated or they're asked to move because an infrastructure problem comes along, the government compensates them for only the land; it doesn't compensate them for the extra legal industry that is within that cottage.

So what's happened in the west, from our point of view, is that as you've become specialized, all of a sudden you have people who know land tenure, but when it comes to industry that's another group, and when it comes to women's rights that's a third group. But in fact, I would say that our level of development, from India to Peru, in the poorer parts, is somewhere around that of the 19th century.

You can't break it up into that many little pieces. Rather, you have to ask yourself whether where those people work depends on land tenure, technology, or secure property rights. How does it tie into credit? Is there an industry? If I expropriate their land or I'm going to relocate them for whatever other reasons, what are the costs going to be? And not only by passing that for one piece of land.... I'm remembering a particular case of a woman in Calcutta, who said that she had a kite industry. The bamboo and the paper from which she made her kites came from the local vicinity and her market was just a mile across the way. She said, “If you relocate me, you'll completely destroy my market position”.

● (1005)

What we do is try to adapt the law to reality and avoid getting trapped in defining property rights as a land matter. We understand that in modern America, in the modern west, but property rights are all about independence and control in the 19th century.... It's really about making families, individuals, and tribes powerful in whatever way refers to the assets and transactions around them. It is not a land issue. This is not something that a mapper can solve.

So yes, we do look at women, but we try to look at them in the context of what they need to become independent.

The Chair: Thank you, Madam Laverdière.

We're now going to move over to the government side and Ms. Brown.

Ms. Lois Brown (Newmarket—Aurora, CPC): Thank you very much, Mr. Chair.

Thank you, Mr. de Soto, for being with us. I have been a fan of yours for quite some time. I have here my copy of your *Mystery of Capital* book. I wish you could autograph it. It's well marked, and there are a lot of places in it where I would like to ask questions.

I'm hoping that I say this well and ask my question succinctly. I was in Ethiopia a month ago. I had the opportunity to visit a farm where Canadian development money is participating in an agricultural project and had a conversation with this Ethiopian farmer, who has certainly bettered his lifestyle for him and his family. He has built a house and actually has electricity and a television, which is quite remarkable for that part of Ethiopia. However, his problem is that he doesn't own the land, so he has no way of going to the bank and accessing capital to grow his dairy business, which he would very much like to see flourish. He can do it only in incremental amounts as he is able to save money—not capital—and reinforce his dairy herd. His dairy herd consists of three cows right now.

In your book, *The Mystery of Capital*, you talk specifically—on page 52, if I may say so—about “integrating dispersed information into one system”, and you say that North America has been able, through statutes, laws and regulations, to put together what is the “invisible” part of what we take for granted in our North American society.

So here is my question. We are looking at how to better help countries utilize development money, and we're specifically looking at how private enterprise is going to be part of that, but where can Canada best influence, then, in helping to create the legislative framework, or the regulation, or...? How do we counsel emerging economies to undertake these necessary steps that we take for granted?

● (1010)

Mr. Hernando de Soto: Thank you very much for your question. It's a very important question and I don't know if we have an answer, because we find it very hard to try to transpose ourselves from here in our ILD third-world conditions into what it must mean to be working on or being concerned about these things in the way you Canadians are sensitive about development, to a degree that most developed countries are not.

First of all, the main issues are of a political order. In other words, I would stop looking at the issues of empowerment and poverty as technical...it's a political order. Let me give you a story. It's an indiscretion on my part, but it will give you an idea.

We were called into Ethiopia in 2006, five years ago. Prime Minister Meles Zenawi called us after having been told by some of our friends in the west that he had to do something about property rights. They had even given him the book.

Meles Zenawi, a former Marxist, said frankly: “I don't understand what you're talking about. We're a different culture. Stop giving me Mr. de Soto's book”. He had a little wooden cabinet and he opened it up to the person who was then the administrator of USAID, a man called Mr. Natsios. He said, “I already have five copies, so why do I need six copies of the book?” It was a very hostile answer. It was the first time we had been asked to go to a country and they basically let us set our own agenda. So we said, “Well, everybody tried, and that's it”.

About six months, later the secretary of Mr. Meles Zenawi wrote to us in Peru and said, “Come on over, I would like to talk to you”. Obviously he was intellectually interested. He said, “Let's talk about it for four hours, from 2 p.m. to 6 p.m., and let's agree on a date”. So we did.

Before my meeting with Mr. Meles Zenawi, which lasted about four hours, I asked Mr. Mayorga to head up a little team of about six people and go to Addis Ababa before I did. When my meeting with Meles Zenawi began a few days later, at 2 p.m. exactly on the dot, he said to me: “You obviously have something to sell. I understand. I'm going to sit and see if you can convince me”. I said, “Before that, let me go through the protocol. According to good old third-world tradition I owe you a present, so here's my present”.

I handed him over a package. He said, “Must I open it now?” I said, “Yes, protocol indicates that you open the present first”. I learned that because my parents were diplomats in Canada, which is where I learned my English at the age of five. I knew that you had to come in with a present first. He opened the package and saw a bunch of old yellowed paper. He asked what it was. I said that my people had travelled eight blocks around the government palace in Addis Ababa to find out if people had titles to their homes and that in spite of him being a Marxist, they all have titles to their homes. That's the present, I told him. I said that those titles hadn't been signed by him, but signed in part by his opposition and in part by local leaders, but certainly by people who didn't like him because he wasn't giving them the titles they needed and wanted.

The first thing one has to do in developing countries is indicate that titles are already in place. We haven't gone to any place in the world—whether it be Egypt, Libya, Tunisia, Syria, Afghanistan, Thailand, Mongolia, or India—where we haven't found that everything is already titled. It is, of course, titled in very primitive ways, like the way it is in the Amazon, and it's not very well updated, but everybody knows where everybody is according to some kind of local law. The problem, of course, is that you're talking about thousands of local laws, so when you don't have standards, sometimes titles mean very little.

● (1015)

But all of this is to tell you that on that side of the world divide, the first problem is political—and by the way, we're hired now.

This man trained as a Marxist just couldn't believe that it couldn't be communal. The fact is that there are many things that are communal, but there are many things that are individual or family-oriented as well. Both realities exist. What you have to do is simply find out and ask, and not many people do. In many of our cases in the developing countries, it's because the place is dominated by anthropologists who have worked for Discovery Channel, and they just like to think that we like to huddle around the fireplace and there's no individuality involved. But the practice is that the world is mixed.

On the other side, our problem is that when a head of state of a developing country calls a head of state of a developed country to ask for help in giving property rights to people, what the developed country does is bring out all sorts of devices, the purpose of which is to measure land and geographical information systems. I think that in Canada you also call it geomatics, the purpose of which is essentially to measure the land, but it doesn't solve the issue of who actually has a right to the land.

When you try to get close to that issue, you get into what we call the property rights wars, which means that the developed countries split into two: the left, which believes that property rights are an instrument of the right to exploit—which in some cases it is, obviously—and on the other hand, the right, which believes that property rights are crucial to development. The real question, as in the case of Meles Zenawi, should be this: what do people really want? Because you're not going to make them do what they don't want at all.

There is an ideological problem there. We find that in many agencies of development throughout the world there is a refusal to...a wish to understand that many of the poor people in the world have seen globalization, one edge of it, somewhere or other, whether it's the machete in their hands or the outboard motor on their canoe. They've seen what the west is like. They have actually moved very much towards doing something about being not necessarily communal about their property, but they can't find the correspondent in the west who will want to help, because they also have a romantic view of what our people are.

I know I'm rambling on and on, but I really think that all the technology that's necessary to map, to register, is there. What is missing is all those things that you did in the west when you broke down the feudal and tribal systems and went from being organized like Obélix and Astérix, or began going from a feudal organization in Britain to becoming one where patrimony, feudality, and tribalism were actually replaced by systems of property rights, where people could decide how they held their lands and their assets regardless of the government's preferences.

We were talking about Ethiopia. Until it is clear at the level of government that people should be left to decide, as they probably are in Canada, whether they're going to be a hippy commune, a kolkhoz, a sovkhoz, a cooperative, a limited liability company.... That's a personal choice. What you have to do is make all of that available in terms that local people can understand. That would be the first thing. Then you can get ownership going, because for all the rest, we have the maps, we have the technology, and we have the software.

The issue is still that property rights, or the words “property rights”, are very conflictive, and I'm not sure I got this across. It's a very conflictive term that tears people apart, both in developing and developed countries. Sometimes we think that what we would have to do is actually find a new word for this, something that isn't so explosive, something that doesn't get everybody so emotional,. That's why we like to talk about “control”, but for the moment, we unfortunately don't have that in English.

● (1020)

We would be able to do something like that in Latin America, but you see, in Latin America, we have the Royal Academy of the Spanish language, so eventually we could amass votes and change the vocabulary, but you can't do that in English.

The Chair: Thank you very much.

Mr. Eyking, for seven minutes, please.

Hon. Mark Eyking (Sydney—Victoria, Lib.): Thank you very much for being with us today.

The Economist magazine recently talked about the rule of law and property rights and how, as you alluded to, that made countries like those in the G-20 and like-minded countries prosper over the last couple of centuries. Of course, it also mentioned that countries that do not have rule of law and property rights are being held back; that kind of holds back people from being ambitious and maybe prospering.

I was in Poland after Poland came out of the communism stage. One of the biggest challenges was, of course, having a million Polish farmers and finding out whether they really owned their property when Poland came out of that situation. Things had to be set up. They took a lot of examples from Canada, from our Bill of Rights and our Charter of Rights and things like that.

I guess that probably two-thirds of the world's population is still without proper property rights of some sort. You alluded to some of the Arab countries being a bit of a fertile ground for helping them out. With the Internet and television, I guess they're seeing what we do in the other parts of the world. My question is, are we moving forward very much in these countries around the world? If we were doing a report card for the last 20 years, are we so-called “freeing up” these countries to have better property rights and rules of law?

My other question is, should we be doing more country to country, maybe, similar to what we did in Poland? Or should we put more pressure on the UNs of the world to go in there with a bit of a starter kit and help some of these countries and that kind of thing?

Mr. Hernando de Soto: Thank you so much for asking me.

Since you've asked for my druthers, I would say to put the pressure on, because until it is defined as to who owns what, you're always going to have wars. If you think about wars in developing countries, whether they be national wars or tribal wars, or violence in the streets of Rio where it is not clear who's doing what or where, whether it be drugs or prostitution...until you can identify somebody with reference to land, which is the only thing that doesn't move in the world—unless you're Dutch—you're always going to have problems. The idea is to put on more pressure.

But I'd like to take up something you mentioned about the Arab world, because it's another part of a study that we did as Peruvians, and we would have loved to have had a Canadian partner to look into it. With the Arab springtime, or what you could call the Arab revolutions, we were fascinated when this started. It was dramatic, but we were fascinated. You will all remember that. I'm sure you would all agree that if you had a look at your calendars we would in unison say that this began on December 17, 2010. You remember that on the seventeenth of December of 2010, in the small town of Sidi Bouzid in Tunisia, a street and vegetable vendor called Tarek Mohamed Bouazizi doused his body with lighter fluid, flicked the light, and lit himself up.

Now, this has been done before when people were unhappy in Middle Eastern and North African countries, but in regard to this case on the seventeenth, within the next two months a lot of people started lighting up all over the country, and people rushed into the streets. In all these Arab countries, each of which has a particular culture—you can't compare Egypt to Tunisia, and certainly not Tunisia to the Tuaregs of Libya, as they're all different realities—they all lit up and the Arab Spring started. We haven't seen a thing like that probably since the collapse of communism, but this isn't about the collapse of communism: this is about people getting into the streets and saying they're very angry.

We sent a team, which I was part of, to Tunisia to look at this. One of the things that struck us was this: with one man lighting up, a man of 26 years who was being expropriated on the streets of Sidi Bouzid by the police, why did the whole Arab nation rise? What is it that he had in common given this enormous diversity...?

Another thing we noted is that 39 other Arabs who were also street vendors lit up in just about every Arab country. As that lighting up happened, before two or three months were over all Arab people were on the streets in one way or another, and three heads of state had fallen.

Who was this guy and what did he light up precisely? We've been studying these people country by country. Here's the interesting stuff. When you ask who Mohamed Bouazizi was, whose mother and father we've talked to—I mean, it's a full-fledged study and it will be coming out in a book, and we have preliminary studies—it turns out that he was classified as unemployed. He was part of l'Association des chômeurs de Tunis. Of course when you talk to some of them, you find out they're anything but unemployed; they're fully employed, but outside the law, so they don't figure in the statistics.

Also, Tunisian statistics are pretty lax, to the point that if you have worked two hours within two weeks you are no longer unemployed. But the bottom line is that if you are unemployed, you die because you starve; none of them die and they're not starving because they're in the informal economy.

What we found out was that when Mohamed committed suicide, like all the other people who have committed suicide and everybody else that followed throughout the Middle East and North Africa, it was through expropriation, that is to say, the non-respect of their property rights, even though these were customary and informal.

● (1025)

It was a group of policemen who actually went...and in the case of Mohamed, we did the calculation all the way to the end on how many crates of apples, pears, bananas, and vegetables he lost. The big part was of course his electronic scale. If he wasn't able to weigh his produce, he had no way to standardize and get into the market. Worst of all, the right for him to have a stall—that would be his property right for work—was taken away, and any red tape he had initiated to title his house for use as collateral in order to get credit to buy a pickup truck that would get him closer to the agricultural market was cancelled.

When you add it all up in terms of his life and his obligations, he had been bankrupted. He had been expropriated. He was ruined. In terms of the real numbers, it was equivalent to Donald Trump losing two towers in New York.

So if you figure out that he never earned a salary, that he lived on profits, and that all his capital and property rights had been withdrawn, it becomes more understandable why he would commit suicide. Donald Trump would have done so as well, because his whole life is based on a very delicate set of rights. So that it is actually understood that this is ongoing in the Middle East, we are now going place to place in the Middle East to explain what it means not to be able to protect the things you own or not to be able to use them to create capital or credit.

Let me go back a little, because that question was very important. Why didn't Mohamed Bouazizi not simply go when he was expropriated, when he was abused, when he was kicked around? Instead of going to the governor, why didn't he go to some type of tribal organization, some type of community, to talk things out, to ask for redress, because this was inhuman?

The reply is that the west and capitalism have I think pretty much over time, uninvited by Arab governments, actually gone in and destroyed the traditional organizations that allowed people to conciliate in developing countries. In other words, to think about it in Anglo-Saxon terms, probably Tunisia is somewhere close to the times of Oliver Twist. The old stuff has been wiped aside, and what is there now is a new reality, and it's missing the institutions.

I remember a book by Karl Polanyi, written in the 1940s, explaining how British colonialism destroyed institutions in India. Right or wrong, they were destroyed. They are not there anymore, so people are lighting up and doing wars. People are trying to get organized. They don't even know what to call themselves. They call themselves unemployed when in fact they are fully employed; what happens is they are illegally employed, without any protection of their property rights.

To help these people, you have to understand that it's not a technological problem. These people are where you were when you were having wars in North America about who owned what. Were you going to allow Indian tribes to have them or not have them? Was it legitimate that George Washington bought a lot of property from the tribes when it was illegal to do so? Was that why he went to war?

It's a political definition. You have to bring in the kind of people who can help Arabs or anybody in whatever part of the world you want to help them in. Even Mr. Meles Zenawi understands that they are basically in the 19th century. It's not a technological problem. It's a question not unlike that of Poland finding out what stage of history they are in.

The difference, of course, between Poland and the Arabs, and with this I will end...I'm sorry, but it's a cultural trait to do this sort of spiralling indigenization, which I do to take time about it, but I've seen no shortcuts. In the case of Poland, these are places where they had private property before. These are people who have been living next to their western neighbours. They know what it's about. These are people who were jealous of their western neighbours all throughout the Cold War. These are people who have been victimized by the Russians.

● (1030)

In this other part of the world, we're all reading books about how you see that we have customs that we don't want to destroy and we're different from you. I think a lot of this has to do with making the issue rise to a political level—to the “commanding heights”, as Lenin would have said—and understanding that this is a major revolution. If you pick up the statistics we have in Libya, where we've been working for years, and in Egypt and so on, 90% of the people do have property rights, albeit illegally.

In other words, we've gone past that stage of having the rights. The question is how we get them on the books. It really doesn't matter if you do it the French way, through the *registre foncier*, using Roman law, or if you use Anglo-Saxon law, which has different forms of deeds. That is all secondary. The important thing is whether you are going to help them get those rights.

I believe, by the way, that you can be immensely important, because everybody looks to developed countries. Everybody looks to Canada. You're supposedly the happiest country in the world, the country where most people are satisfied. In some cases we may know more than you do, but what you say is much more important than what we say. It's a political message, which is one of the reasons that I thought it was a good idea to be here this morning.

● (1035)

The Chair: Thank you.

We have almost 10 minutes left, so we have time for one more question each, one from the government and one from the NDP.

Mr. Dechert, I'll turn it over to you for five minutes.

Mr. Bob Dechert (Mississauga—Erindale, CPC): Thank you, Mr. Chair.

Thank you, Señor de Soto, for your appearance here this morning and for the very important information you've been able to provide to our committee.

You've talked about the importance of property rights. I think that is significant and it is something that we haven't focused on before in our study.

I think you were also touching on commercial dispute resolution systems. In my previous life, I was an international commercial lawyer. I often saw the difficulties in bringing foreign investment to developing countries because of the lack of legal systems that would allow commercial disputes to be resolved in a commercially reasonable and viable way.

Two years ago, I travelled with a Canadian parliamentary committee to Afghanistan and was told by local people there that one of the things the Afghan people liked about the Taliban system was that they had a commercial dispute system. Although there wasn't a democratically elected government, there was a local imam they could go to. If there were a property dispute between two farmers, they could rely on the imam to give them a reasonable and fair resolution to the dispute, and he wasn't corrupt. Later, under an elected government, they had a rather corrupt legal system, and the local people couldn't trust the decisions the system made with respect to commercial disputes between two farmers.

Could you give us your views on how western countries, such as Canada, could assist countries in developing legal systems that would support enterprises? Do you think that's important, and if so, how would we go about doing it?

Mr. Hernando de Soto: I think what you've said is really crucial because in our case we don't even talk about property rights: we talk about property and business rights. That's the way we've packaged it together to be understood. In other words, wherever we go and we're hired—we're a not-for-profit organization—we think it doesn't make any sense to let people have fungible assets if what they're going to face is a system that can't sort out exchanges and unfair exchanges and can't help women defend their rights. So we put the whole thing together.

We also knew that this was crucial because the way we were born in Peru is that we were able to get our reforms through at the time that we were fighting the Shining Path, a terrorist system that prevailed in Peru in the 1980s, and we drew up the strategy, the civilian strategy, that ultimately helped us beat them, which was that we found out that the Shining Path did not simply educate people in Marxism; Marxism is 56 volumes, a lot of them very hard to understand even if you're well educated, and half of them have never been translated from German to Spanish—or even English. So what was it that they did to preserve the loyalty of people? Well, we found out that what they did, essentially, was protect the property rights, especially in the coca farms from which cocaine is derived, and secondly, settle committal disputes...in other words, put in commercial law.

In 1990, one of the first things that actually occurred with the government of Fujimori, which is now very discredited...but you know, like all discredited governments, there's a sunny side and there's a dark side. The sunny side was that we went in and titled them and gave them the rules. In a matter of about one year, we actually brought down Peru's total contribution to the production of the coca leaf from somewhere around 70% to 26%. The reason was that the farmers were kept in this tight ring simply because, like the Taliban in Afghanistan, from what you tell me, and probably like terrorist movements all over the place, they gave a service, and that service had to do with how the farmers carried out day-to-day business and how they settled property or territorial disputes. It's that simple.

So we went in and we brought a mechanism into place, which is what we do in whatever country we're called into. We've actually been to Canada a few times, because we thought it was an ideal place to find a joint venture partner. Among other things, I don't know of any other country that is versed both in Roman law and in the Anglo common law. We work in both kinds of countries, and in the end, it really doesn't matter which you use, provided you use them well.

So you can do an awful lot about it, but there's a way to look at it, we have found, and it may be useful to you. If one simply talks about, in our case, property rights or business rights, they'll ask, “Do you like Newt Gingrich or do you like Obama?” It's that kind of thing. In other words, that's the way you're going to be placed. You have to get out of that, because once you're in that you're in a game that's not going to go anywhere, at least not in developing countries. The idea is to stick it into an issue.

In the case of Afghanistan, we've been called in various times. We've had missions come over here. We're just Peru and we don't have the money to do it, but they've come in because we know how to title in conditions of war, and we know that the war has a lot to do with who is solving day-to-day problems. That's not going to be broken as long as the property records and the rules that refer to how you settle property disputes or any transaction disputes remain in the hands of the warlords, because if the Taliban doesn't do it, the warlords will. If the warlords don't do it, the Taliban will.

In the end, the rule of law means that you are going to replace various little fragments of systems that could be called anarchic with one law. That's the rule of law: when there is one system and there's one standard for the whole nation. It's just like when you brought in electricity—I think it was in the United States—it was very hard to do anything until one person who I think was called Marconi, came around and said we're going to create.... There were about 300 voltages and 32 plugs in the United States, and he said there would be one voltage system, one plug, and one nation.

● (1040)

Once you put all of that together, you put the Taliban out of business, you put the rebels out of business, you put the oligarchs out of business, and you put the government back into business, which is where it should be. Because it's sovereign, it should decide how property rights will be awarded.

The Chair: Thank you very much.

Mr. Hernando de Soto: But you see, again, it's a huge leap. It means understanding that over the last 150 years, westerners did a huge leap forward with the Industrial Revolution and the rule of law. You have to repeat that now, in the 21st century.

It's not a technical issue; it's a political issue.

The Chair: Thank you.

We'll finish up with Madam Groguhé, for five minutes.

[*Translation*]

Mrs. Sadia Groguhé (Saint-Lambert, NDP): Thank you, Mr. Chairman.

Mr. de Soto, thank you for all of that information.

Two things that seem relevant and essential stood out for me. You talked about political and financial freedom. You also talked about super guarantees for these businesses that are going to settle in these developing countries, and hyper-guarantees.

How can we ensure that these aboriginal peoples have these hyper-guarantees? How can we ensure that they have this political freedom, this financial freedom, in the context of the development of entrepreneurship? Concretely speaking, what action could a country such as ours take?

Mr. Hernando de Soto: As we speak, we are trying to determine how to deal with these problems in Peru. Indeed, we are grappling with some serious conflicts in our Amazon. The Peruvian Amazon makes up half of the country. Indeed, the Amazon begins with Peru. The crisis in the western world that caused a sharp drop in securities on the stock market, though it did not necessarily affect you here in Canada, certainly had an impact on our American neighbours and Europe, and as a result a large proportion of investments was redirected toward us. That is what is happening.

Recently, there were some conflicts between indigenous Amazonians and certain mining investors, both local and foreign ones. There were fatalities on either side. This was a national crisis. The issue was to see how we could help the aboriginal people and give them some guarantees. As I already said, the first issue is that all of those who traditionally defend the aboriginal peoples, and who have a lot of merit because they have given their lives to help them, believe that they want their territory to be protected, but in the form of collective property.

However, when the indigenous people came to negotiate with the government, they very clearly wrote that even if they constitute a political community, they feel different from the rest of the country regarding the control of their financial activities. They are very poor, but they do not believe that the community should control their natural resources in some collective fashion. They are individual or family owners. This is spelled out in their documents. We have just published a brief summary of these findings. It includes documents in which they say this in connection with their own organizations. We are not putting words in their mouth: they are the ones who are making these statements. Be that as it may, a large part of the Peruvian political class traditionally believes that they are dealing with Asterix and Obelix. But they have evolved and we have to find a way of integrating them.

With that in mind, we have imported—and this may not be the best way of putting it—aboriginal people from Canada and the United States. Manny Jules is one of them; he is Chief of the Kamloops Indian Band in British Columbia, and there were others. The idea was that they could talk with our indigenous people and compare the Canadian reality with the Peruvian one. The point was to see whether, by comparing their different situations and geographical areas, some truths would emerge. As the philosophers say, truth can emerge out of friction.

The Chief of the Kamloops Indian Band and the Canadians we "imported" told us that a distinction needs to be made—and this is why we maintain close contact with your aboriginal people—between sovereignty and property. They told us that one of your former prime ministers, Mr. Trudeau, wanted to set some conditions, and assimilation was one of them. They did not want to be assimilated; they did, however, want property. Assimilation is something else altogether. That is a very important distinction, and it has guided our recommendations, be it for Peru or any other country.

● (1045)

Here are those recommendations. The first political decision must be whether you want to govern yourselves as a separate nation, like Puerto Rico or Alaska. Do you want a separate political regime, because you feel different? It is a question.

That question having been settled, the next matter is to know whether you want the same type of property rights as we have in the western world, in Poland or in France, or if you want something different.

In any case, the important words of Manny Jules, from Canada, when he was among us—in English, since he did not speak French—were the following:

● (1050)

[*English*]

"Whatever you decide you want to do, you Peruvian indigenous people, make sure that you're not treated as a museum piece. Let everybody understand that you have your own opinion, that you're in the 21st century, and that you'll decide by yourself".

[*Translation*]

My feeling is that the first problem is a political one. It reveals a vast difference between sovereignty on the one hand and the economy on the other.

Finally, there is a problem that is common to Canadians and Peruvians. Even if our indigenous people opt for sovereignty, we don't have a single aboriginal nation in Peru, we have 5,000 of them. How can a country function if it contains 5,000 other countries, with an average population of some 200 inhabitants? It seems you have the same situation in Canada. That is why I was saying that this is extremely complex, whether you are in Arabia or elsewhere. However, it is not mysterious, since these are problems that you have resolved for the most part with your citizens in the past. The big mistake is to think that some nice gentleman who invents a

[*English*]

software for a geographical information system,

[*Translation*]

or a cartographer who will be making maps of the area will be able to solve these property rights issues. We are dealing with a political problem.

[*English*]

The Chair: Mr. de Soto, thank you very much. We know that you're busy. We thank you for taking time today. By all means, if you're ever in our part of the world, we'd love to have you come back here in person.

We understand how extremely busy you are, so we're grateful for the hour you were able to spend with us this morning. Thank you very much.

Mr. Hernando de Soto: I would simply say that I'd like to not play hard to get. Actually, to go to any of the contracts we go to, whether we're in China or whether we're going to the Middle East, we have to go up north toward Canada, to New York, and turn right or left. It's just about another hour to go to Ottawa. We're not that busy. We love going to Canada. A lot of us learned our English in Canada. A lot of us distributed milk in horse-drawn carriages in Canada in our youth. We'd love to come back if you invite us.

The Chair: Thank you very much. We'll keep that in mind and see if we can work something out.

Ms. Lois Brown: Mr. Chair, may I make a motion that we have them back?

The Chair: We'll discuss it with the committee, but I think....

Ms. Hélène Laverdière: I second that.

Voices: Oh, oh!

The Chair: What we'll do is talk to the clerk and see if we can arrange for you to come back to committee during one of your trips over the next couple of months and tie that into what you're doing. That would be fantastic. We could spend a couple of hours together.

Thank you.

Mr. Hernando de Soto: Very good, sir.

Thank you for your interest. We're flattered.

The Chair: Thank you. Have a great day.

With that, the meeting is adjourned.

Published under the authority of the Speaker of the House of Commons

SPEAKER'S PERMISSION

Additional copies may be obtained from: Publishing and Depository Services
Public Works and Government Services Canada
Ottawa, Ontario K1A 0S5
Telephone: 613-941-5995 or 1-800-635-7943
Fax: 613-954-5779 or 1-800-565-7757
publications@tpsgc-pwgsc.gc.ca
http://publications.gc.ca

Also available on the Parliament of Canada Web Site at the following address: http://www.parl.gc.ca

Publié en conformité de l'autorité du Président de la Chambre des communes

PERMISSION DU PRÉSIDENT

On peut obtenir des copies supplémentaires en écrivant à : Les Éditions et Services de dépôt
Travaux publics et Services gouvernementaux Canada
Ottawa (Ontario) K1A 0S5
Téléphone : 613-941-5995 ou 1-800-635-7943
Télécopieur : 613-954-5779 ou 1-800-565-7757
publications@tpsgc-pwgsc.gc.ca
http://publications.gc.ca

Aussi disponible sur le site Web du Parlement du Canada à l'adresse suivante : http://www.parl.gc.ca