

A Place of Their Own

by Don Cayo, photographs by Julie Oliver
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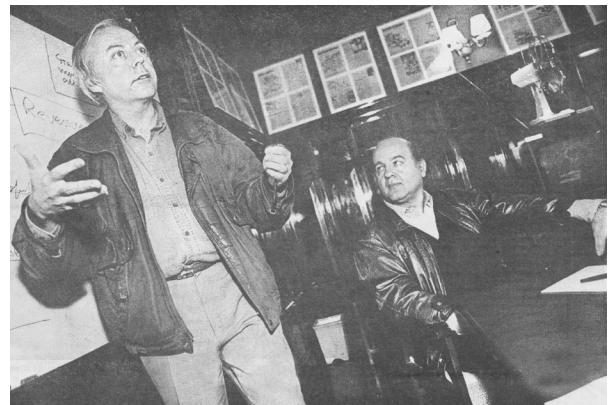
The University of New Brunswick's Dr. John McLaughlin is working with a team to foster democracy in Peru – by helping shantytown squatters get title to their land.

The hair is a little too grey. The face is a little too soft and round – and so, perhaps, is the 47-year-old body. Even with a floppy felt hat, John McLaughlin might not edge out Harrison Ford as a casting director's first choice for Indiana Jones, the comic-book-style hero of exotic movie adventures. But look again at the little-boy grin that lights up his face when he confides that he feels a bit like Indy at times. Hey, maybe he could fill the bill.

Certainly the locale is right. He's comfortably ensconced in the patio restaurant of an elegant hotel in Miraflores, an upscale suburb of Lima, the intriguing and sometimes dangerous capital of mountainous, mysterious Peru. He's dining just a block from where Shining Path guerillas – or, maybe in these days of watered-down terrorist activities, just drug-trade goons – bombed a similar hotel scant weeks ago. Shades of 1992, when someone bombed the institute where he works, and every staff member – this quiet New Brunswicker included – travelled with a bodyguard.

Certainly McLaughlin looks at home here. He, like Indiana Jones, is an academic who travels ceaselessly to odd corners of the world. This is, in fact, the 36th trip to Peru in three years for the University of New Brunswick professor of geodesy and geomatics engineering. And certainly big stuff is at stake. For one thing, he hopes to help settle the tussle between the entrenched rich and the landless masses over ownership of a veritable treasure trove – property worth more than half the combined value of all the assets held by all 22 million people in Peru. And for another, there's the matter of the future of democracy itself, not only here in Peru but also in countless other corners of the not-so-free world. But McLaughlin is an actor in this real-life drama; he didn't write the script. The actual writer is also the director, and he has cast himself in a starring role. He's Hernando de Soto, an economist, of all things, and he's not just leading a revolution in Peru. He's winning it. (McLaughlin and de Soto at the Institute of Liberty and Democracy.)

A stranger might be forgiven for not noticing that a revolution is under way. Sure, there are armed soldiers and police officers and private security guards everywhere you look, even at the gates of some of the nicer private homes. But these days they seem little more than window-dressing, part of the background, generally ignored by the throngs who clog the uptown open-air markets and the exhaust-choked streets.



Three years ago you would have noticed that something was amiss. The Shining Path was never visible, but fear of its mindless violence was everywhere in Peru as terrorists bombed and maimed and killed without warning. "Three years ago there was a total blackout here at night," McLaughlin says as he sips red wine and looks out over the restaurant's low wall at the free flow of traffic on the street. "No one went out. There were tanks at every street corner. We were all on the hit list. Guys with guns would go first into a restaurant where we were going and check it out." But the poorer people didn't have guys with guns

looking out for them. That was life here until September, 1992, when the arrest of Abimael Guzman, the leader of the Shining Path, took the wind from the terrorists’ sails.

The Peruvian government was still in turmoil, however. First, the elected president, Alberto Fujimori, seized power from himself as a handy way of putting a decisive end to the feud with elected members of the legislature. Then he called an election to legitimize his expanded power, an election in which he was, in fact, re-elected. That’s three governments, one of them illegal, in a single year –and the moving van never once came to the presidential palace.

Meanwhile, de Soto’s revolution is not only charging ahead successfully, its consequences are more profound than any of these shenanigans – or any of the other endless bouts of political turmoil that have shaken Peru virtually every decade of its history.

After a tour through a shanty town built on the hillside rising above Lima, a visit to the office of Hernando de Soto’s Institute of Liberty and Democracy was essential. This is the think-tank he founded to plan and direct his revolution. De Soto tells the story of Claudio Villavincencio, a 37-year old shoemaker who considers himself lucky to have built a solitary wall on his property in Pamplona Alto – a property that still contains his stick-framed and pressboard shack. He obtained title to his land and this has empowered this father of three to begin building a home that may take him years to complete – but he will own it and the land it stands on.

De Soto explains that Claudio has his wall, and another 220,000 people like him have their land and are building their houses, because they have title due to the Institute of Liberty and Democracy made up of himself, John McLaughlin, and a cadre of 15 young Peruvian lawyers and three Canadian technicians to assist the squatters to acquire title to their land.

It’s a complex story, rooted in Peruvian history. The nub, says de Soto, lies in the very different colonial legacies of North and South America. “We got the bad side of Europe, and you [in North America] got the better side. You got the side that was already thinking of efficiency, that was starting to listen to people, that was already developing parliamentary systems, that already had property rights. And we got the lousy part of Europe, which at that time were the methods of the Mediterranean countries that colonized us. The result is that we still have the procedures and systems that accumulated all this mess.”

A neat theory, but what does it mean? “This country produces 28,000 regulations a year – that’s 106 per working day,” says de Soto.” He picks up a book with the pages pasted edge to edge and fan-folded so that it can be expanded into a 32-metre-long sheet of paper – each leaf bearing a regulation that is a specific impediment to doing business in Peru. “When you don’t have a real democracy, those in power can dash off laws. Peru – or any Latin American country, for that matter – can actually say ‘Off with their heads’ and have a law passed in two hours. You couldn’t do that in your country. You have due process. We don’t.”

The upshot, he says, is that it can take decades and the equivalent of more than a year’s income for a homeowner to obtain title to his tiny patch of ground. It takes 300 working days – we know it’s 300 days because we actually set up a shop on the outskirts of town” – to get the myriad permits required to open a legal, tiny business. Not to mention quite a few bribes. “And our guys are university graduates,” he says dryly. “Can you imagine what happens if you’re an indigenous person who has just moved in from the Andes? You just give up.”

Peruvians have given up by the millions. But they haven’t stopped living, haven’t stopped earning money. They’ve just stopped telling the government who they are and what they’re up to. The result is that vast sectors of the Peruvian economy – housing and retailing and transportation and manufacturing and more – are largely illegal. And, much worse in de Soto’s view, they are inefficient.

Claudio’s House, like virtually every dwelling in Pamplona Alto and all the other shantytowns of Lima, was built on land he did not own. That’s why it’s such a crude shack. He had no hope of a mortgage, no confidence to build quickly and well, for fear he might be driven from the land.

More than three million of Lima’s citizens live in places like this. Virtually all of them are people who moved in, or the children of people who moved in, from the Peruvian countryside. They took over land on the outskirts, dry desert hills that were essentially valueless until the new arrivals improved their lots with buildings and basic services. No government in recent decades has seriously tried to oust any but a handful – only a few groups of vulnerable new squatters, and perhaps a few of those who planted themselves on private land or land coveted by the government for some other special purpose. Some of the long succession of governing regimes have even been willing to legalize the squatters’ status. But so inefficient – so hidebound and regulation-bound – is the bureaucracy that it could take 20 years and thousands of dollars to complete the paperwork. Nobody here has that kind of time or money.

Meanwhile, these ‘homeowners’ can’t borrow. They can’t buy or sell. They don’t dare even rent a property out – if someone else is living there and the true owner can’t prove title, who knows if he’ll ever be paid the rent. Or if he’ll ever get the place back from the tenants. Millions of businesses are likewise illegal, or ‘informal,; as de Soto calls them, coining a word that has caught on as a way to describe a whole sector of the economy and has influenced the whole language of political debate throughout Latin America.

When Claudio says he’s a shoemaker, he’s not talking about a cobbler who tacks together split soles or re-stitches torn seams. He’s talking about making new shoes – shiny patent leather ones for men – from scratch in the dingy front room of his hut. He and others like him sell what they make to a larger ‘manufacturer’ who will stamp them with a brand name and distribute them to retailers. That’s how a huge amount of manufacturing is done here. But it’s inefficient. Until he became legal, Claudio couldn’t dream of enlarging his operation. He couldn’t hang out a shingle or create his own brand name; he couldn’t invest in machinery or hire staff; he couldn’t even get a telephone or a fax hooked up at his address which, according to the bureaucrats’ official records, didn’t even exist.

Of course, he paid no property or income taxes, either. But he had to support the informal association that took care of municipal-type problems in Pamplona Alto. And taxes, he came to believe, were cheap in comparison to the price, given the high costs and weighty burdens of remaining one of Peru’s army of ‘informals.’

De Soto described the problem and documented it in great detail in his 1989 book, *El otro sendero*. That title, published in English as *The Other Path*, is a direct challenge to *Sendero Luminoso*, the Shining Path, which was trying to revolutionize Peru by violent means. The book won worldwide acclaim. And then de Soto did something unthinkable for the head of a think-tank in almost any land: he set about putting his own theories into practice. That effort became a ‘pilot project’ – a grossly understated description of what has actually been done. It has provided land title for 220,000 squatters, Claudio among them, and legalized 408,000 underground businesses.

So that’s how Claudio Villavincencio, the humble shoemaker, found the confidence to build his wall so quickly and so well. That’s how he came to be one of the first generation of poor Peruvians who dares to hope he’ll be found credit-worthy and will be able to borrow money to finish the job.

And that is how John McLaughlin came to be making all those trips to Peru.

“We work with John McLaughlin and the other Canadians,” de Soto says, “because we found they are the best in fields related to issues such as property or geographical information systems.” And John McLaughlin works with de Soto because he likes the rush that comes with the job. After spending much of his career giving often-ignored advice about what other people ought to do, he’s relieved to be actually doing something himself. “And,” he says, “I realized that what de Soto is doing here is really going to make a difference.”

McLaughlin was first an engineer, then earned a Ph.D. in economics. He cut his professional teeth on land ownership and registry issues as a student at UNB in the 1970s, a time when the fledgling Land Registration and Information Service was reforming the Dickensian practices of land registration in the Maritimes. He used that education and experience to launch not only a teaching career at UNB, but also to do extensive work as a consultant on land issues in Africa, Asia, the Caribbean, and Central and South America – places that made even the old Dickensian system recently scrapped in New Brunswick look good. It was easy, he says – who could fail to find something better to recommend in places where the system was mired in stupid inefficiencies?

“But I was getting fed up with being a roving consultant. I’d go in and advise what I thought was needed to improve the situation. Then I’d leave and the special interest groups would go in and muddy it all up. In Peru, and in much of Latin America, notaries are a powerful group of specially trained lawyers who have to approve virtually every transaction from marriage licences to land sales. They constitute a very powerful lobby. And it would take them years – and easily cost a year’s salary – to get a title registered.”

De Soto wanted simply to make such things more efficient. And he wanted McLaughlin to bring some expertise to the process – to break it down into step-by-step procedures that could be followed by anyone, and then to document it all. In other words, de Soto wrote the book on the philosophy behind directing a revolution in Latin America, but recruited McLaughlin to write the manual on how to pull it off.

If Hernando de Soto were to start a business – say he wanted to grow and export coffee – no sweat. Mind you, there is a law on the Peruvian books – one of the 106 passed one routine workday in the not-so-distant past – that says you can’t do it. You can’t export coffee from Peru unless you can prove you’ve been exporting it for each of the last five years. A classic Catch-22, the kind that riddles Peruvian law books. A group of peasants – currently growers of the illegal coca plant from which cocaine is made – ran smack into that law when, with Institute of Liberty and Democracy (ILD) assistance, they looked into changing to the legal and more lucrative coffee crop themselves.

But for de Soto himself? No problem. He’d just have the law changed – or, more likely, have a new one passed to give him a tailor-made exception to the law that keeps every other newcomer out of a market monopolized by a few rich landowners. It might cost him a bit in bribes, but that’s business. That’s how it’s done in Peru – at least, that’s how it’s done when you’re of the elite class, like Hernando de Soto.

De Soto comes from a family rich in influence, although it might not be considered wealthy by the biggest income-earners of the Peruvian elite, who indisputably are. Poor people, however, would have no doubt that the de Sotos have always done all right. And all would agree that he grew up privileged – no one says that more emphatically than himself. His father was a sometimes-ambassador and sometimes-advisor to the government, depending on who was in power. And de Soto himself was chief of staff to President Fujimori before they fell out over the matter of the president’s coup. So getting some picky little law passed or changed to help him in his personal business would be no big deal.

Few of those laws and regulations – the 28,000 a year that have piled up year after year after year – are of the broad, sweeping, “Thou shalt not kill” type. Most, like the one de Soto could lobby for and get if he were so inclined, are very narrow and specific. They’re designed to grant someone a special privilege, but by virtue of their nature and number they exclude – sometimes accidentally and sometimes on purpose – hosts of other people. The result, de Soto argues with vigour, is that Peru does not have a market economy, no matter what conventional wisdom says. It has instead, he says, a mercantile economy – the kind of over-regulated, protective-of-privilege, guild-and-monopoly-directed marketplace that North Americans’ ancestors fled from centuries ago.

“The issues we’re dealing with here are similar to those of the Boston Tea Party. Do you have a right to come and offer in the market? Or are you a thief simply because you’re not paying your taxes, because you’re angry that

you don’t have representation?”

His solution was to use his privileged position – not the one as a high born Peruvian, but the one as an esteemed economist who became President Fujimori’s right hand – to have some new laws passed. Not narrow, exclusionary laws like so many already on the books. He pushed for and won broad new laws that, in effect, wipe away the chilling effect of mountains of accumulated red tape by superseding it and making it void. “We changed the ones that were in the way,” he says. “And we change them in such a way that they could not easily be changed back again.”

Then President Fujimori declared an amnesty for any illegal businesses that wanted to become legal. About 200,000 did. And 200,000 more new enterprises sprang up – “Probably more enterprises created here than in all of Russia since the fall of Brezhnev.” The Peruvian government this year will collect about \$1.5 billion in taxes – fully half the value of all Peruvian exports – from those newly formalized businesses.

It cost \$11.00 and change to legalize and register each squatter’s title in the pilot project, McLaughlin says. But the work was done by ILD staff. No matter how good his system, no matter how thoroughly he outlines each step in the how-to manual he’s writing, there’s no nope of attaining that kind of efficiency if the program is turned over to turgid bureaucrats who have spent their careers hiding under snarls of zillions of metres of Peruvian red tape.

The more than 600,000 properties and businesses formalized under the pilot project represents about 5 per cent of the work McLaughlin sees waiting to be done in Peru. And the institute hopes to export its methodology to other countries. “The idea began to form that, if we really wanted to make a difference, we had to become a business. A land registry system should be run like a utility. Why? Corruption is so endemic in the public sector that you can’t just set up a system. You have to run it and run it right.”

So McLaughlin, already a fellow of the Institute of Liberty and Democracy, became one of three principals in Path to Prosperity, a not-for-profit company set up to do just that. “We’ve started getting a lot of calls from presidents,” he says with obvious relish. “And I’m not talking about presidents of companies.” The most keenly interested is President Gonzalo Sanchez of Bolivia but so are a couple of Central American heads of state who, for reasons of sensitive internal politics, McLaughlin won’t name. But he hopes that some or all of them will sign on as early as next month. And there’s also interest from several other countries in South and Central America, in Africa and in Asia – all continents with widespread land inequities.

Canada is supplying vital expertise to the ILD project. McLaughlin recruited a couple of people he knew from UNB – David Coleman (B.Sc.E. 1976; M.Sc.E. 1988) and David Palmer (M.Sc.E. 1984), a South African who obtained his masters degree in Fredericton, to work on the technical aspects of the project. He also recruited two private consultants from British Columbia – David Forest and James Cranston.

Ironically though, Canada isn’t supplying any cash for the project that its nationals are helping to run. The ILD depends for its lifeblood on international financing from Holland, Germany, Switzerland, the United States, and Japan. “In Canadian government circles, some of the junior ranks know and respect de Soto’s work,” Mcaughlin says. “But at higher levels they seem to dismiss it as right-wing claptrap.” That stings. McLaughlin approached this project from the political left – he used to actively support the NDP in New Brunswick – and now he just thinks the old left-right labels don’t matter any more. “The old models just aren’t working. The old distinctions no longer serve a useful purpose.” Useful or not, however, labels still get in the way.

In the early 1980s, the ILD was the darling of the Democrats in the rich and influential United States. De Soto rolls his eyes as he talks about his first meeting with a senior official in Ronald Reagan’s Republican administration, a woman who listened attentively to his pitch. “Then she said, ‘Let me see, Mr. de Soto, if I understand. You’re asking us to help you fund your work, which consists of helping thieves and pirates become legal? Is this correct?’ “That

was the conservative reaction. But along the way some people around Reagan decided that what we were doing was good, to the point where Reagan mentioned us in the General Assembly [of the United Nations]. He said the real revolution in the Third World was taking place with ILD.” He rolls his eyes again. “Unfortunately, the moment Reagan said it, every liberal decided they weren’t going to look at us. It has taken a full eight years in the U.S. until we once again have liberal supporters ... who understand that, to us, the issue of markets or not markets is not ideological. It’s what works.”

The Canadian government’s development arm, however, is run by liberal thinkers, he says, and they haven’t budged one iota from their negative view of the ILD. “They see it as I’m either a liberal or I’m a neo-conservative. I’m either a kind of Clintonite or a Newt Gingrich type. Liberals are more social engineering types, and therefore like little works of quality to be done with very great precision and help very specific groups of people. The conservatives don’t necessarily care too much about poor people – they don’t have many poor people voting for them – but they believe in market systems. I happen to think we are on the side of the poor people, the side of the angels. We’ve proved our mettle – we’ve been bombed because of it, people have died here because of it. But we think the biggest harm done to the poor has come from the fact they haven’t had an opportunity in the market. ... And the fact that we use ‘market’ in our lingo immediately makes certain people react. They have a knee-jerk reaction and say, ‘Aha. He must be a neo-conservative’.”

Free markets or regulated ones, it’s all the same to de Soto. Minimalist government or interventionist government, he makes no argument either way. The key, he says, is to give people access to the market, whatever kind of market it is to be, and then let them make decisions about how loosely or tightly controlled it ought to be. They need a real economy, he says, before they can decide which activities the government should control and which it should not.

And that brings up the other little matter on the ILD agenda – the matter of saving democracy in far-flung corners of the not-so-free world. “It isn’t enough to just change these laws,” de Soto says. “We have to find a system that produces good and decent laws and keeps things on track. That’s called democracy.”

The ILD’s power to influence change in Peru comes largely from its massive popularity with the people. Blue-jeaned young lawyers – “rebel lawyers,” they like to call themselves, with heavy emphasis on the first word – fan out through urban slums and rural villages, selling the institute’s message with considerable success. As with everything his institute does, de Soto has its popularity carefully measured and recorded through a series of polls. “We’ve never had a popularity rating less than 76 per cent on anything we’ve done,” he says, as he rifles through the piles of papers on his cluttered tabletop to find the charts and graphs to back up what he’s saying. And those numbers resonate with President Fujimori, a consummate pragmatist.

Nevertheless, he’s not entirely satisfied with the institute’s progress on the democracy issue – the matter of institutionalizing ways to ensure a fair measure of due process and to have elected members actually represent and really be accountable to the people who elect them. “We haven’t had all the success we’d like to on this,” he says. “All our proposals to change the Peruvian lawmaking system are actually already in the constitution. And they have a popularity rating that exceeds 80 percent. But they haven’t been implemented yet.”

It would take three, maybe four, years for ILD crews to formalize the 12 million or so informal properties and businesses that remain in Peru – if the money and the political will is there to make it a priority. If it is not? De Soto shrugs his shoulders and raises his hands. “Who can say?”

He worries that some of the good feelings people have about the first fruits of prosperity in Peru will not necessarily be linked in the public mind with ILD-induced reforms. Some of the credit will go – quite rightly, he says – to President Fujimori, who dominates the political landscape, and some might be diffused in other directions. People might simply say things are better because the Shining Path has been subdued, or as things improve they may

forget how bad things were a few short years ago.

Though it’s hard to predict what will be done in the future, de Soto believes his project is nearing the critical mass where it cannot be undone. McLaughlin agrees, although the number of people who have a real stake in the land ownership reforms is not yet quite as great as he’d like. But each property title provided, each business formalized, adds to the pool of people who would react with outrage if any government tried to take their gains away. And as people prosper, he says, they’ll drag others up with them.

“A million people with credit?” he says, his voice filled with wonder. “They can do something with the land. They can feel like citizens. This place has tremendous potential.” And with the support of modern technology, which will let people leapfrog from the 19th century to the 21st, there’ll be no stopping the economy once it has been kick-started, he says.

“Korea in 1950 had half the per-capita income of Uganda; now it has 12 times more,” he says. “Uganda got much more foreign aid, but Korea had land reforms and institutionalized title for the masses. Once you get people titled, there’s no turning back.”



“When this thing reaches a sufficient degree of success,” McLaughlin says, “I will turn my energy elsewhere.” Where? Impossible to say for sure, but “I honestly believe that the team I work with at UNB are the best in the world. A lot of other people believe it, too. ... And I love living in Fredericton,” he adds, “as long as the airport is close at hand.”

The view from atop Pamplona Alto — home to 150,000 squatters [1995 estimate] on the outskirts of Lima. The house is the pressed-board structure in the rear, typical accommodation for more than 3 million families in Peru.