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## Keynote address by Hernando de Soto

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Thank you very much for the kind presentation. I did the usual thing: took a plane too late, arrived too early. I thought I had 60 minutes so I'm going to have to compress which is very hard for a Latin American and I will then just give you a few examples of the kind of things we do in different countries, among other things because as you said, one of the issues is that it's so hard to prove the relationship between the law and competing or having equal access to compete.

Well let me start off by telling you something that is at least an ongoing conclusion of mine and my colleagues: about two thirds of the world can't compete in the global economy, and it is because of the lack of the legal means to do so. We don't do desk work, or too much of it for the simple reason that we have been dedicated to looking at concrete projects that make us, whether we're working for one head of State or the other, be in touch with people at critical moments. When you reach a critical moment, nobody lays backs and asks: is this one way or another way. When there is a critical moment, and everyone is suffering, everybody tends to tell the truth. If the conflict in an area has to do with territory, like many parts of the world which is seeing – it's who owns this and who rules that country? Whether it's the Middle East, North Africa, the Maghreb, or areas of Latin America which are in dispute both in property rights terms and both sovereign terms, things come quite clearly if you have somebody that you are going to award territory or property right to. And you say: "I'm going to decide whether you are owning this or leasing this, and you have a right to it" and to do so I need your name and address and who you are, people will tell you the truth, other they will not tell you the truth because everybody fears the State and whoever has power.

That's why we come in with the issue of property, not because we are zealots who believe that property is the key to everything, it's simply the key to a good answer of what's going on. So, I'll concentrate on two cases that I know which were supposedly authorities to try and bring this to life and to show how these issues, on who can compete and who can't compete surround us all the time.

Back in the year 2010-11, as you know, something called the Arab spring began and the notable aspect of it was the self-immolation of a man in Tunisia by the name of Mohammed Bouazizi who had been expropriated and lit up and when he lit up he of course he decided to go all the way of Joan of Arc. You're not going to be discrete about it, you have a statement to make. So, we sent a team of over seven Peruvians for that and we stayed there for three years and we collaborated with the different instances of the government, so all the way from the Muslim Brotherhood to the government that were not Muslim Brotherhood and dig into the situation. What we brought out wasn't very much published in Europe, but we got the covers of 178 Arabic newspaper. The covers. One month straight. It was more or less this: Mohammed Bouazizi was slapped around by some police authority and the French reacted immediately, and I think you have in Paris la Place Bouazizi and the rue Bouazizi in honour of this working man who had been dishonoured and slapped around. We studied it from Peru because we had a project at that time of my organisation in each of about 120 people. We were also part of Lebanon and we were partly in Algeria, so we were able to get at the press and found out that in the two months in which Bouazizi protested and then died, he wasn't the only one to die, and self-immolate himself. He died along with 63 other people simultaneously. We documented it, put it into a book, and film that you can see in PBS in the US. It's called "Unlikely Heroes" and it's the interviews with these people who tried to commit suicide, and weren't able to and were extinguished and who afterwards willingly went into conversations with us which took two years to convince. Here's the part that was interesting: they were all entrepreneurs, they were all trying to compete. All of them.



The problem that they had wasn't that they were being slapped around, but that they had been deprived of the rights that are necessary from our points of view to compete. For example, in the case of Mohamed Bouazizi, his ambition was to – he was a fruit vendor, but he had 3 or 4 posts. 3 posts, excuse me, and he had another one in the market and he was in charge of the books of the market of his city of 30 000 people in Tunisia and he had tried to do a few things that he thought were necessary to be able to compete. The first one is that he wanted to be able to choose to work with people who complemented his knowledge. He was fed up with working with his family, some of whom were artists, that were beautiful people, but did not necessarily complement the kind of diversity of talents that he needed.

And for that of course he had to form a company. And to form a company so you can work outside your family structure is something that about one half of Peruvians cannot do, and many Tunisians cannot do either. The formation of the company was forbidden to him. He wanted to get a truck to go from the orchards into the city. It was a Mitsubishi truck and he wanted to pay for it for which he had to change the certificate about his home into a title so that he could mortgage it. This was withdrawn from him. He wanted to be able to finance himself and therefore issue bills and note to get into debt and be able to get credit. And he was not allowed to form a company, so he could issue bills. He needed limited liability, which is that if he was going to do business he wasn't going to risk everything. He had children to go to school. He wanted to do what Europeans, Americans and top-class people from any one of developing countries and the former Soviet Union do, which is having limited liability, which means that you don't put all the risks in the same plate.

That limited liability is a condition of the law, as you know, Mr Judge. If you don't get the law to tell you you have limited liability, it doesn't exist. It's not a godly creation, it's a human creation. He couldn't get limited liability. He had to make half-perpetual succession. Perpetual succession isn't something we think about. It was one of the big victories of the French revolution in the 19th Century. It was everybody's great victory. The fact that you can have a company that continues after you die. I mean that is something even the Catholic church hasn't managed: which is that you form a company. For example, we have a company called Wong who distributes in Peru. I don't know if they're still alive. I just know the name "Wong" goes on forever. If they die, here they are. They exist. If you're in the situation of Mr Bouazizi and you're not able to create a company that has perpetual succession. But rather like 90% of Peruvians – I like to keep all my enemies concentrated in one place, so I will focus a lot on Peru you can't have perpetual succession, you have a unipersonal company. Which means that if you die, it dies with you. So, every time you want to do a deal with most Peruvians, you better give him a check-up. Because if he's about to die, you might have a contract that will collapse tomorrow. Now if you happen to have a nice French company with limited liability and perpetual succession, you make a deal and whoever inherits has got to continue with you.

So, when Bouazizi couldn't use that, when he couldn't use his reputation to be able to get credit, well he couldn't get an investment, because a unipersonal company in Tunisia doesn't allow you to issue shares, which is the only way you can get somebody to be able to do something with you. Think about it this way: you've got a piece of land, say, and you've got a factory in it, or you've got a shop, and someone comes in and you can say "you can have half of it". For example, I represented Carlos Slim here and I said "It's a beautiful office you have here at the OECD. We would like to buy it, it's a good deal for everybody, what do we cut in half? Do I get the kitchen? Do I get the restrooms? Do I get the conference rooms? How do we sort it out? The beautiful thing about having property is you just do this [rips a sheet of paper]. And the place stays all together, but it's split up in terms of shares and control. Bouazizi had none of that. If you do this then you can issue this as shares, and get finance or get somebody else's property.

So, the result of all of that is that millions of people rose up in North Africa and the Maghreb, and the Middle East and everybody talked about it: this is an Islamic thing. I still have to be convinced of that. This is essentially a problem of entrepreneurs that cannot compete versus entrepreneurs that cannot compete. If you ask an anthropologist about it he'll say to you it's a Casbah, it's an old institution, this, that and the other but the fact is unequal rights to compete.

Let me now give you a Peruvian example since we're getting close to the time. Peru, my country. We're a mining country and a Petroleum country. The way we work is like most of the world. It's not like to Americans, who have the right, when you own something, you can own it all the way to the bottom, half way to China and half way up in the sky. It's all yours. But not in our countries. In our country, it's the commonwealth of the nation and the government that keeps the sub-soil. Once you get the sub-

soil, I'm going to use an example at random, like say, Newmont Mining that owns a Conga mine in Peru. He gets awarded the sub-soil then talks to the community, a community of indigenous people who like Bouazizi don't have a right to organise an enterprise.

So, you ask yourself if there's a problem of governance. You betcha! You have chief sitting bull sitting in front of Billy the Kid. You have a real constitution problem because there are things tribes can do and can't do. So, what the American company does, but it could be a British, French or Chinese company is say "ok I've got the sub-soil, so if I bought an egg, I've got the yolk. But you're on top of the shell, how to get to the yolk?" And the other people say "well there's something called 'licencia social' in Peru which is the licence to be able to buy me off at the top, to buy my land and perforate and get to the gold". Literally gold, because we have some of the world's biggest gold deposit, including Cajamarca which is where the Spaniards came in and the gold that they wanted. Now, to do that we have to comply with an agreement between us and the US, us and the Western world which is called a bilateral investment trade. Some of them are put right next to the free trade agreement, others are independent and they say "we shall respect Peru's laws, and, thank goodness the customs". Somebody got smart there and gave you space to move in and then the company says to the indigenous community now "we've got an agreement that's going to sort this out between the Peruvian State, American laws. How do I go about buying from you, the community? And then the reply is "you know, this is an old institution set up at the time of the Spaniards" like in many parts of Africa and Asia and according to that, we the community authorities have to sell it to you. Fine, I want to buy. Well we problem is that in reality we have that authority but in a second level of reality, we don't, because you see we split it up among ourselves and if you look at a map that we've drawn, all those communities split up into pieces of private property. But the private property hasn't been recorded. So, what are we going to do? Well the beautiful thing about a bilateral treaty is that we have flexibility and so what we're going to do pay you some money as a community authority for rubber-stamping it and then we're to take one by one the rest of the assets according to map and then we have to put that in Security Exchange Commission, SCC language with Peruvian lawyers and American lawyers so that everybody understands that when we go to Wall Street, or Toronto or the London market or wherever it is, to raise money, we have an asset to back up the financing and so that is done. Now all of that is packaged together, it passes through an organisation in the US called OPIC, Overseas Private Investment Corporation, and then it is sold at the SCC and money is raised.

What are the consequences of that? The consequences are the following: first of all, when the Peruvian indigenous people start seeing that the mine is making money and that the first income is not as good as the second income, they say "I want to sell again". That's because the titles weren't made in Peru. As a matter of fact, if you want to find where the titles to most Peruvian assets are, they're not in Peru. They're in the Security's Exchange Commission of New York, they're in the OPIC archives, they're in the Compagnie Française de Commerce Extérieur, they're in the World Bank when you flood to be able to make a dyke to produce and sell electricity. They won't be where you expected you want to have them, so it is a real problem legally to settle anything and that's why the situation deteriorates into violence. That's one consequence.

The next consequence of course is that most of our projects are withering away. Our previous President, he's now in jail like the one before that, and the one before that, and the next one, went and faced off the authorities of the community and said "look folks, this is the prestige of Peru that's involved: Conga va". Which means Conga will happen because of presidential authority. The response of the Conga leaders was "Conga no va". Which means Conga will not go and it still hasn't gone.

What does that tell you? If I had 30 more minutes I would have given examples in more parts of the world. It tells you that most of the world that I live in, which is not only by the way Latin America and developing countries, it's also former Soviet countries, parts of the US, but we'll need more than 20 minutes to show that, it's not clear who's running the place and what the rules are. It's going to be pretty hard for people to come in and compete on equal terms. Something else happens that really interesting which is that the properties of Peru have gone into Wall Street to justify a loan. Thank goodness and it's a good thing. I'm not against that all. I'm a libertarian by the way, as far away as Marx and Lenin as possible, so don't even think of me getting there. Then what happens is that at the Fed in the United States, Janet Yellen, doesn't look at something as small as 6 billionUSD, 10 billionUSD. She produces money by seeing money, seeing transactions taking place. She's got to make sure that these transactions have enough liquidity. How are you going to finance them? Too much liquidity: inflation. Too little liquidity: deflation. She makes sure that in the statistics are Peruvian properties that are substantiating or rather giving credence to the money that has to be issued in the



US, without even distinguishing one factor from the other. She issues liquidity or capital against those Peruvian titles that are not titled in Peru, but in the US. What does that mean? It's quite simple: they're capitalising our own property. This is something Peru could have done itself. If Peru titled its own land, it could use that land not only to finance local activity but to make a strong local currency. That idea hasn't even crossed the minds of our Central Reserve Bank, because the word "competition" is used with the word "property".

It's very important to understand that property rules are actually the rules that allow you to make competition work. Just to tell you the following thing: all over the world, because it's something that has happened since the Bretton Woods agreement, people have agreed that everybody has a right to something. It's article 17 of the UN. We can all do business. We can all compete. But if you leave the issue of who controls what and how, you're never going to get to it. What indigenous people in my country have, not only indigenous people, just simply different people in Russia have, is the right to hold things. That is to say "you go into Navajo or Apache territory in the US, into the townships of South Africa like about 75% of the world, and they own it. But they can't move it" Basic Marx. Marx said, "when something becomes a commodity then it also becomes really magic and whoever controls the commodity controls the surplus value".

Things don't have a value because they're there. Things have value because you mix them, because you combine them. There isn't one thing in this room that isn't the result of combination. Go home. Find one thing done by one person. We make everything as a result of co-operation. And co-operation means combination, and combination means that things have got to cross sovereign rights to be able to make a pencil, or a pair of eyeglasses. There's a beautiful essay by a man called Leonard Read that is the biography of a pencil. The pencil explains which part of him comes from Germany, France, Sri Lanka. He is made of 17 nations. Prosperity is due to 17 nations, and in the world, only one third of us, the westernised elite, no matter what colour we are - I'm part of the westernised elite of Peru - are the ones who can mix things. The rest of us cannot and until that happens, I don't see how competition is going to happen. Thank you.