Before Hernando de Soto's *The Other Path*: The Emergence of Property Rights as a Housing Solution in the Shadow of the Cuban Revolution

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In 1986, Hernando de Soto and his thinktank published El Otro Sendero (The Other Path)*, a ground-breaking book promoting institutional reform and property rights as a linchpin of spreading capitalism and democracy.* The Other Path *was acclaimed by Ronald Reagan and led the United States to support wide-scale property reform in the developing world. This essay, a chapter in a future book on property rights initiatives in Peru supported by the United States in the late twentieth century, offers historical context by examining how, foreshadowing the Reagan era, property rights emerged as a crucial centerpiece of Cold War politics in the 1950s and 60s, after the Cuban Revolution. In 1961, Peru became the first Latin American country to enact a law giving a path to property titles in the squatter communities of its urban peripheries, a decade ahead of other Latin American countries.*

The essay asserts that granting property rights to squatters became a central political solution to a housing crisis stemming from accelerating urbanization in the post World War II period. In the decade 1954-1963, Peruvian policy was shaped by a rare convergence among conservative Peruvian politicians led by Pedro Beltrán, U.S. housing administrators, left-wing sociologists, and anarchist architects and urban planners. These varied officials, practitioners, and scholars avoided U.S.-style slum clearance and public housing and coalesced around a response to the escalating rural migration in the 1950s that involved 1) property rights and 2) "aided self-built housing," that is, a housing policy where urban migrants would build their own homes, however rudimentary and incomplete, ideally with government technical assistance. Aided self-built housing—in effect, informal and

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irregular housing—became the central housing policy of the Peruvian government and the foreign policy of the United States in Latin America. This essay also examines a 1962 Chase Manhattan Bank national conference on "Housing in Latin America," which focused on how the U.S. private sector might deploy millions of JFK's Alliance for Progress funding. The conference participants rejected the idea that mortgage credit was viable in squatter settlements, and suggested that the U.S. private sector focus on supplying cheap building materials for housing that the squatters would build themselves. With the Cold War as a backdrop, conferring formal property rights to squatters, combined with self-building, was a conservative solution to the global housing crisis in contrast to more expensive social welfare programs and building public housing.

Introduction

In a 1987 address to the United Nations, President Ronald Reagan rejected "statist solutions" to economic development and celebrated the free market as "the other path to development and the one true path."[1] Reagan was referencing *The Other Path* (*El Otro Sendero*), a book published the previous year in Lima, Peru by the economist Hernando de Soto and members of his thinktank, the Institute for Liberty and Democracy.[2] Reagan emphasized that the Peruvians' research on ordinary "underground entrepreneurs" who bypassed "crushing taxation and stifling regulation" to enliven and expand the markets of Lima illustrated how to make "the nation itself richer." In the waning days of the Cold War, Reagan centered his speech on how the triumph of capitalism lay "in the hearts of ordinary people," and, still referencing Lima's poor, declared "if they triumph, as I believe they will, we will at last know a world of peace and freedom, opportunity and hope, and, yes, of democracy."[3]

In August 1988, the U.S. Embassy in Lima sent a cable to the State Department which reported that the government of Peru and Hernando de Soto signed an agreement for a program registering and granting property titles to dwellings in informal neighborhoods. The cable states that "many Peruvians lived with 'squatters' rights,'" and that "local banks will not extend credit in the form of a mortgage because [an owner] does not possess title documents."[4] It concludes:

> The agreement . . . is an important sign that the [Government of Peru] has decided to seek ways to incorporate the large, productive informal sector into the formal legal sector of the Peruvian economy. If successful, it should expand the availability of bank credit to many who do not have access to it now.[5]

The cable is one example of how spreading property rights became a pillar of U.S. economic development policy. The following year, in 1989, the economist John Williamson gave a speech describing what he referred to as "the Washington Consensus" highlighting ten U.S. policies that institutions such as the International Monetary Fund, the World Bank, and the U.S. Treasury were promoting throughout Latin America. Most of the

1. President Ronald Reagan, Address to the 42d Session of the United Nations General Assembly, New York (Sept. 21, 1987); https://www.reaganlibrary.gov/archives/speech/address-42d-session-united-nations-general-assembly-new-york-new-york [https://perma.cc/D3UG-TXGF].

2. HERNANDO DE SOTO, ENRIQUE GHERSI & MARIO GHIBELLINI, EL OTRO SENDERO: LA REVOLUCIÓN INFORMAL, Instituto Libertad y Democracia (1986).

3. Reagan, supra note 1.

4. Department of State Incoming Telegram, Embassy Lima 10310, Aug. 8, 1988, U.S. National Archives, College Park, MD, Record Group 286, ID 55317359, Container 1, UD-13W 10.

5. *Id.*

Washington Consensus policies related to top-down reforms such as reducing deficits and deregulating interest rates.[6] Number 10 on the list specifically named Hernando de Soto and his Institute's property rights agenda. The idea was that property titling leading to bank credit would form the connective tissue between global financial markets and local people, leading to on-the-ground investments and development from the bottom up.

Hernando de Soto and his research team gained fame in U.S. political circles after the publication of *The Other Path*. Written at a time when the Maoist terrorist group, *Sendero Luminoso*, the Shining Path, was ravaging the Peruvian countryside and bombing Lima, *The Other Path* offered a property-based roadmap for contesting its appeal to the poor. The book critiqued Peru's government as being mercantilist: directing resources and government contracts to privileged groups and well-connected businesses while red tape and bureaucratic hurdles excluded much of the citizenry from state services such as property titles and business licenses.[7] It detailed the tremendous entrepreneurialism and productivity in the informal economy, focusing on self-built housing by squatters, informal transportation networks, and informal markets and businesses. The book called for widespread institutional streamlining to encourage Peru's underground economy to become legal, and to expand the ranks of the society's stakeholders. As spelled out in the brief U.S. Embassy cable quoted above, transforming insecure illegal squatters into formal property owners would provide a foundation of capital accumulation that could stimulate economic development.

Hernando de Soto and *The Other Path* had a seismic impact: The U.S. under Ronald Reagan began promoting property rights and institutional reforms as part of a broader agenda of spreading democracy and capitalism. Hernando de Soto was a central voice for the same agenda, one with special prominence because, as a Latin American, he spoke as a voice from the developing world. Inspired by de Soto, in 1996, Peru's president Alberto Fujimori, with assistance from the World Bank, initiated the world's most ambitious property rights program: to offer formal property titles to all informal landholders in urban settlements as a way to expand participation in the market and the ability to get credit, and to offer a path out of poverty. Fujimori's administration created a government agency, COFOPRI, which granted 1.2 million titles in low-income urban neighborhoods in its first four years and has granted millions more to date. It is fair to say that no country in the modern era has done more to offer a path for squatters to become landowners than Peru. This Essay is part of a book project which will examine Peru's land titling initiatives through over one

6. John Williamson, *A Short History of the Washington Consensus*, 15 LAW & BUS. REV. AM. 7 (2009).

7. HERNANDO DE SOTO, THE OTHER PATH: THE INVISIBLE REVOLUTION IN THE THIRD WORLD (1989).

hundred interviews with the people involved: Hernando de Soto and his researchers, former government ministers, the beneficiaries of the property titling programs, as well as people and communities who lack formal property titles.

This Essay offers context for the book by asking: Where did the idea emerge that granting property rights to the poor could serve as a central vehicle of development? What was special about Peru in the 1980s such that revolutionary government anti-poverty policies would blend in so well with Ronald Reagan's conservative global vision? Many scholars presume that Hernando de Soto invented the idea of formalizing property rights as a path to economic development in the Reagan Era. In contrast, this Essay shows that property titles were discussed as a tool of development decades earlier. In 1961, Peru became the first Latin American country to enact a law giving a path to property titles in the squatter communities of rural migrants, the *barriadas* (slums, now a pejorative term), a decade ahead of other Latin American countries.[8]

This Essay focuses on an earlier snapshot in time in Peru, 1954-1963, and asserts that granting property rights to squatters emerged as a central political solution to a housing crisis stemming from accelerating urbanization in the post World War II period. Many saw the rapid rise of migration from the countryside to cities after World War II as an existential problem. With the Cold War as a backdrop in the 1950s, conferring formal property rights to squatters was a conservative solution to the global housing crisis in contrast to more expensive social welfare programs and building public housing.

In the decade from 1954-1963, Peruvian policy was shaped by a rare convergence among conservative Peruvian politicians led by Pedro Beltrán, U.S. housing administrators, left-wing sociologists, and anarchist architects and urban planners. These varied officials, practitioners, and scholars avoided U.S.-style slum clearance and public housing and coalesced around a response to the escalating rural migration in the 1950s that involved 1) property rights and 2) "aided self-built housing," that is, a housing policy where urban migrants would build their own homes, however rudimentary and incomplete, ideally with government technical assistance.

In the spirit of the Cold War, self-building and property rights were celebrated by conservatives as a capitalist conversion experience: a building process whereby energy was directed toward homes for nuclear families in a market economy. Potential revolutionaries would be transformed by property rights and home-building, while avoiding Peronist-style patronage and remaining independent from state welfare. From the political left, a group of Lima-based urban planners, sociologists, and architects also supported self-built housing: as a collective, community-building exercise

8. JULIO CALDERÓN COCKBURN, LA CIUDAD ILEGAL: LIMA EN EL SIGLO XX, 55, 88-89 (2016).

that respected traditional indigenous cultures. The British architect and anarchist John F.C. Turner's curation of the 1963 issue of *Architectural Design* and his book *Housing by People*,[9] exemplify the Peruvian global movement against modernism. Turner and others argued that allowing migrants to form and build their own settlements, rather than renting units in public housing built by the state, gave them agency and reinforced community. This ideological convergence between conservatives and urban planners led self-built housing—in effect, the creation of what people call shanty towns—to be a central housing policy of the Peruvian government and the foreign policy of the United States in Latin America.

This Essay examines the threads underlying the general consensus around property rights and aided self-built housing as a response to urbanization. Part I describes the consequential empirical findings of José Matos Mar, Peru's great sociologist of the urban migrants. Despite his view that squatter settlements were sites of cultural maladjustment and instability, Matos Mar identified economic opportunities and private property rights as urban migrants' key ambitions. Part II describes how, starting in the 1940s, with the Cold War as a driving force, U.S. housing officials began promoting aided self-built housing as the best solution to the developing world's housing crisis. Part III examines how Peru's most prominent conservative politician of the twentieth century, Pedro Beltrán, used his newspaper *La Prensa* to support squatter communities and developed and proposed housing policies centered on aided self-built housing with a path to property titles.

Part IV turns to the 1960s discussions of bringing bank credit to the squatter settlements of Lima, an issue that, decades later, was central to Hernando de Soto's advocacy of property rights in his second best-seller, *The Mystery of Capital*.[10] While planning the Bay of Pigs invasion of Cuba in 1961, President John F. Kennedy announced the Alliance for Progress program, a massive investment of funds in Latin American infrastructure including housing. The pressing question was what policies would prevent Fidel Castro's revolution from spreading throughout the continent. In 1962, Chase Manhattan Bank held a national conference on "Housing in Latin America," which focused on how the U.S. private sector might deploy Alliance for Progress funds to spur economic development in Latin America. The 1962 conference participants rejected the idea that mortgage credit was viable in squatter settlements, and suggested that the U.S. private sector focus on supplying cheap building materials for housing that the squatters would build themselves. The conference discussion

9. JOHN F.C TURNER, HOUSING BY PEOPLE: TOWARDS AUTONOMY IN BUILDING ENVIRONMENTS (1976). *Housing by People* was written in the 1970s, but was an outgrowth of earlier writing in the 1960s. *See also* John C. Turner and William Mangin, *Dwelling Resources in South America,* 33 ARCHITECTURAL DESIGN (Aug. 1963).

10. HERNANDO DE SOTO, THE MYSTERY OF CAPITAL: WHY CAPITALISM TRIUMPHS IN THE WEST AND FAILS EVERYWHERE ELSE (2000).

foreshadows major challenges to the de Soto model of capital-building in informal neighborhoods in later decades. Part V details how architects and anthropologists such as John F.C. Turner theorized Lima's self-built squatter settlements as a global anti-modernist ideal in the 1960s and 70s.

This Essay is based on original documents from the 1950s and 1960s, yet draws heavily from a number of excellent secondary sources. Most central among these sources are the architectural historian Helen Gyger's *Improvised Cities: Architecture, Urbanization & Innovation in Peru* (2019),[11] David Collier's *Squatters and Oligarchs: Authoritarian Rule and Policy Change in Peru* (1976),[12] and Richard Harris's essays on the history of aided self-built housing.[13] Helen Gyger's impressive bibliography provided the comprehensive list of sources on which this Essay is based and it is deeply indebted to her work.[14]

I. The Post-World War II Urbanization Crisis and the Desire for Property Rights

We are now so accustomed to the ubiquity of the world's mega-cities that it might be surprising how alarming global policy makers found the accelerating migration from rural to urban areas during the Cold War. Whereas U.S. attention on urban problems had previously focused on Asia and Africa, Fidel Castro's successful revolution in Cuba in 1956 jolted the world and pivoted attention to Latin America. The urbanization crisis was also a housing crisis: the numbers of rural migrants vastly exceeded the existing stock of housing. Latin American countries participated in drafting the 1948 Universal Declaration of Human Rights. Article 25 guarantees the right to an adequate standard of living, which included housing. Developing countries' limited capital resources to address the problem elevated housing as one of the Cold War's central battlefields. Soviet propaganda from the 1950s touted the fact that "socialism in the Soviet Union has increased the amount of personal property [the people] hold. Nowhere is this more true than in the construction of private homes for owner-occupiers, a sphere in which the Soviet State is giving every assistance to its

11. HELEN GYGER, IMPROVISED CITIES: ARCHITECTURE, URBANIZATION & INNOVATION IN PERU (2019).

12. DAVID COLLIER, SQUATTERS AND OLIGARCHS: AUTHORITARIAN RULE AND POLICY CHANGE IN PERU (1976).

13. Richard Harris, *'A Burp in Church': Jacob L. Crane's Vision of Aided Self-Help Housing*, 11 PLANNING HIST. STUDIES 3, 10 n.65 (1997) [hereinafter Harris, *Jacob L. Crane's Vision*]; Richard Harris, *The Silence of the Experts: "Aided Self-help Housing," 1939-1954*, 22 HABITAT ITNL. 165, 167 (1998) [hereinafter Harris, *Silence of the Experts*].

14. This article is also informed by the historical sections of *The Other Path*; Julio Calderón Cockburn's *La Ciudad Ilegal* (2016); Brodwyn M. Fischer, *A Century in the Present Tense: Crisis, Politics and the Intellectual History of Brazil's Informal Cities*, *in* CITIES FROM SCRATCH: POVERTY AND INFORMALITY IN URBAN LATIN AMERICA (Brodwyn Fischer, Bryan McCann & Javier Auyero eds., 2014), as well as the writings of William Mangin and John F. C. Turner.

people."[15] The Cuban Revolutionaries made housing a central rallying cry and famously distributed confiscated properties among the population. The United States, in a series of New Deal laws in the late 1930s, revolutionized the financial infrastructure around mortgages and credit and heavily promoted and subsidized home ownership. Richard Nixon showcased the number and affordability of U.S. kitchen appliances for housewives in 1959's "Kitchen Debate" with Krushchev as a key symbol of capitalist superiority. Yet the U.S. also faced a housing crisis for the poor, associated in part with the Great Migration from southern rural areas to northern cities, which paralleled Latin American urbanization.

Like other countries, Peru's urbanization crisis was closely associated with its inequality. A 1951 U.S. State Department report on Peru emphasized the "bitter antagonism between the poverty-stricken mass of the population and the conservative propertied groups" who "have generally resisted the demands for social reform and the extension of political democracy," noting that the divide was largely racial, between the poor who are "Indian and mixed blood . . . while the ruling group is largely of European stock."[16] The same report emphasized that the "Peruvian government has not been sponsoring any consistent, national economic development program of its own."[17] It noted that President Manuel Odría's military dictatorship bolstered the power of Lima, mentioning also that "Peru sides unequivocally with the US on the international issue resulting from the aggressions of Communist imperialism."[18]

In the context of the Cold War, Andean migrants were cast as a potential communist threat. In 1928, the French economist Louis Baudin, one of the original members of the Mont Pelerin Society, published the widely-discussed *L'Empire Socialiste des Inka*, which described Inca society as obliterating liberty, private property, and the human spirit.[19] In 1961, Ludwig von Mises, who was the advisor of Peru's politician Pedro Beltrán at the London School of Economics and also a Mont Pelerin member, celebrated the book as "a masterwork" in his Foreword to the English translation.[20] Von Mises had visited Lima in 1950.[21] To von Mises, Baudin's book

15. *See* Harris, *supra* note 13, at 10 n.65 (citing E. Ilyin, *State Aid in USSR Helps Workers to Acquire Their Own Houses*, 11 USSR INFO. BULL. 639 (Oct. 19, 1951)).

16. 2 FOREIGN RELATIONS OF THE U.S., THE UNITED NATIONS, THE WESTERN HEMISPHERE 1592 (1951) (Document 865: Policy Statement prepared in the Deptartment of State, March 22, 1951).

17. *Id.*

18. *Id.*

19. Louis Baudin, *L'Empire Socialiste des Inkas*, V TRAVAUX ET MEMOIRES DE L'INSTITUT D'ETHNOLOGIE (Institute of Paris, 1928); LOUIS BAUDIN, A SOCIALIST EMPIRE: THE INCAS OF PERU (Katherine Woods & Arthur Goddard, transl., 1961).

20. Ludwig von Mises, Foreword, LOUIS BAUDIN, A SOCIALIST EMPIRE: THE INCAS OF PERU at x (Katherine Woods transl., 1961).

21. Interview with Ludwig von Mises, *Mises in Peru,* La Prensa *Interview* (Jan. 4, 1950), https://mises.org/mises-wire/mises-peru-la-prensa-interview-1950 [https://perma.cc/ZMC9-TS5D].

revealed in Inka society "the spectre of a human animal deprived of his essentially human quality, the power to choose and to act." The "wards of the Inca were kept like cattle in a pen." The Incas, he wrote, reflected the Soviet system, where freedom is only "the freedom that the shepherd grants to his flock."[22] To Lima's professional class, a vast migration to Lima of the collectivist Inca descendants presented a possible existential threat, even as the migrants became a workforce underpinning all aspects of the society.[23]

In 1959, the United Nations held a landmark conference in Santiago, Chile on the crisis in Urbanization in Latin America, its first on the subject. The General Rapporteur Philip Hauser's conference Foreword expressed the urgency that "many of the more severe problems affecting mankind . . . are by-products of rapid urbanization."[24] Hauser added that "physical, economic, and social problems already acute, are becoming even more inflamed by the increasing rate of urbanization."[25] In 1959, Argentina had a stunning 48.3% of the population living in Buenos Aires, making it the most urbanized Latin American country, with Chile, Uruguay, Cuba and Venezuela also noted as highly urbanized societies.[26] The conference set out a policy and academic agenda to both understand the settlements of migrants proliferating around cities and to support proposals for how to grow cities in a planned, rational way.

At the conference, Peru was not on the short-list of most urbanized countries, but Peruvian scholars brought tremendous intellectual heft to the debate: Peruvians authored three of the eight scholarly essays constituting the conference.[27] The potentially concerning nature of urban migration was the expertise of Lima's leftist sociologist, José Matos Mar, a commanding scholar of the urban poor. Culminating in the landmark work, *Las Barriadas de Lima* (1957), Matos Mar presented results from path-breaking empirical studies of rural migrants from the Andes living in Lima's impoverished neighborhoods. From today's vantage point, Matos Mar's views of the culture of the poor are surprisingly derisive. His study's stated goal was to unpack "the problem" inherent to slums and squatter

22. Von Mises, Foreword, BAUDIN, *supra* note 20, at xi.

23. Enrique Ghersi, one of the authors of *The Other Path*, discussed the importance of *L'Empire Socialiste des Inka* in Lima in the 1980s. Interview with Enrique Ghersi (Apr. 2024) (recording on file with author).

24. Philip M. Hauser, General Rapporteur, Foreword to 1959 U.N. Conference (Sept. 8, 1960); *Urbanization in Latin America, Proceedings of a Seminar Jointly Sponsored by the Bureau of Social Affairs of the United Nations, the Economic Commission for Latin America, and Unesco (in co-operation with the International Labour Organisation and the Organization of American States) on Urbanization Problems in Latin America* (Philip M. Hauser, General Rapporteur, ed., 1961) [hereinafter 1959 U.N. Seminar]. The conference was held from July 6 to 18, 1959, in Santiago, Chile.

25. Philip M. Hauser, Foreword, 1959 U.N. Seminar, *supra* note 24.

26. J. Medina Echavarría & Philip M. Hauser, Rapporteur's Report, *1959 U.N. Seminar*, *supra* note 24, at 27.

27. *See* Table of Contents, 1959 U.N. Seminar, *supra* note 24.

settlements. His essay for the United Nations conference diagnoses the problem as due to the "form of land tenure and the limited technological progress" in the Andean mountain valleys, the people are "backward" and "there are no opportunities for advancement."[28] There are "large estates" to which the expanding population "does not have access," meaning that people are "compelled to leave."[29] The mostly Andean migrants come to the cities and build colonies of dwellings existing "just outside the law."[30] They "are established on tracts of wasteland on the outskirts of towns and gradually develop into typical forms of community, which often follow traditional cultural patterns." He then emphasizes that "The common feature of all of the *barriadas* is their instability. They are unhealthy and are populated by individuals and families who are at the bottom of the urban social scale and have come, in large measure, from the rural areas."[31] Migrants to cities have a "peasant mentality," and "'Indian' cultural patterns" which leads to "mental, social and economic maladjustment" in the city.[32]

Yet, despite Matos Mar's disparaging cultural views (which focused, notably, on unstable family structure and the prevalence of single women, not collectivism), he importantly and insistently rejected the fear that *barriadas* were dens of revolutionary organizing. In contrast, what migrants wanted was work and private property. His empirical study found that 61% of migrants had come to the city for economic opportunities, 23% for social reasons (in which Matos Mar includes improving social status, desire to enter cash economy, and leaving family conflicts), and 7% for educational opportunities.[33] To Matos Mar, "many of the country people set great store by the attainment of a professional standing and spare no efforts to secure for their children an education leading to a professional career."[34] Describing how "Indian" collective values shape the political structure of the *barriadas*, he concludes, however, that: "*barriadas therefore constitute organized communities having as their specific objective home ownership*."[35] In addition, the groups he interviewed sought formal inclusion in the broader political structure, as they "endeavor to secure recognition of these colonies as urban districts."[36] Matos Mar emphasizes that migrants were often stymied by the state in their efforts to gain property rights. He describes "the innumerable difficulties which the *barriadas* have had to overcome in

28. José Matos Mar, *The 'Barriadas' of Lima: An Example of Integration into Urban Life*, 1959 U.N. Seminar, *supra* note 24, at 172.

29. *Id.* at 173. Matos Mar notes that Lima's population was 533,645 in 1940 and 1,360,729 in 1957. *Id.* at 172.

30. *Id.* at 171.

31. *Id.*

32. *Id.* at 174.

33. *Id.* at 182 tbl.2.

34. *Id.* at 174.

35. *Id.* at 177 (emphasis added).

36. *Id.* at 171.

securing the services which they now enjoy, in obtaining recognition of their associations and, above all, in acquiring legal titles of ownership."[37]

In stark contrast to Baudin, whose depiction of Andean culture was seen as deeply threatening by many Limeños, Matos Mar's studies offered a potential path forward. His 1957 book, *Las Barriadas de Lima*, offered legal reform solutions rather than treating migrants as a revolutionary threat. Urban squatters wanted the security of property ownership. They wanted education and economic opportunities, not revolution. To Matos Mar, the important question for Peru was how to achieve urban planning goals with a limited amount of funds. Matos Mar's solution called for property titles and an urban planning model designed on the provision of "aided self-built" housing. As we shall see, by identifying the economic motivations and political goals of urban migrants, Matos Mar's research laid the intellectual groundwork for later policies of property titling and formalization. Matos Mar's scholarship was a key foundation for Peru's groundbreaking law of 1961, which was the first to grant formal property titles in urban squatter settlements. First, this Essay now turns back in time to the development of the aided self-help model by United States housing officials in the 1940s.

II. The U.S. Promotion of Aided Self-Built Housing in the 1940s and 50s

The mid-twentieth century was an era of slum clearance and public housing inspired by modernism and architectural innovations such as Bauhaus and Le Corbusier's towers. In the United States, with regard to the poorest communities, the 1937 U.S. Housing Act directed funds toward publicly-built housing projects, offering the poor subsidized rental units.[38] Local politicians favored modern public housing—which was built on a vast scale all over the world in the post-World War II period—because it stimulated economies through contracts with local construction companies. In the U.S. in the mid-1950s, city governments also often used eminent domain to eliminate poor neighborhoods designated as "blighted" in city centers. In 1954, on the same day as *Brown v. Board of Education*, the U.S. Supreme Court decided *Berman v. Parker*, holding it to be constitutional for the government to use its eminent domain power to bulldoze a blighted neighborhood in Washington.[39] Much like the squatter settlements of Latin America, the D.C. neighborhood had "sub-standard housing . . . including the use of buildings in alleys as dwellings for human habitation."[40]

37. *Id.* at 181.

38. *See, e.g.*, BRIAN J. MCCABE, THERE'S NO PLACE LIKE HOME: WEALTH, COMMUNITY, AND THE POLITICS OF HOMEOWNERSHIP (2016).

39. *Berman v. Parker*, 348 U.S. 26, 26 (1954).

40. *Id.* at 28.

It is not widely known that the United States Public Housing Administration began promoting a starkly different solution to the mid-twentieth century housing crisis for the Caribbean and Latin America: aided self-built housing.[41] The first known government program to help families build their own homes was initiated by Sweden in 1904, followed by others throughout Europe and the Soviet Union in the 1920s, and most notably in the Swedish capital of Stockholm in 1926.[42] "Aided self-help" was a term coined by Jacob L. Crane, Assistant Director of the U.S. Public Housing Administration, for an experimental housing project in Ponce, Puerto Rico in 1939. In Ponce, the U.S. supplied housing sites, communal utilities, and design and technical assistance as residents built their own homes.[43] The plan was for the homes to start out in a modest form, with traditional or cheap building materials, with the residents improving the building materials and expanding the structures over time. Housing administrators thereafter championed Ponce, Puerto Rico as a hugely successful model for low-cost government-supported housing. In the 1940s and 1950s, Jacob Crane promoted the global spread of aided self-built housing from his position in the U.S. Housing and Home Finance Agency, starting with the Caribbean islands of Jamaica and Barbados, followed by Colombia.[44]

The Cold War created a housing race. According to the urban historian Richard Harris, Jacob Crane promoted a distinctly American "trial and error" approach by "both government and private enterprise" in contrast to what Crane observed in a trip to the Soviet Union, that is, the "vast imponderables" of "comprehensive national planning."[45] By 1946, however, Crane raised the alarm in a UN Report that the Soviet government was getting ahead on self-built housing "encouraging families to build their own homes, [and] extending credit for the purpose."[46]

In 1948, Crane published "Huts and Houses in the Tropics," the "first manifesto" of aided self-help housing, which he distributed internationally to governments and housing officials.[47] With migrants moving to expanding city peripheries and with governments short on funds, the immediate appeal of self-help housing was its low cost. Offering plots of land, of course, is far cheaper than offering fully-built housing. Crane's "Huts and

41. *See* Harris, *Jacob L. Crane's Vision*, *supra* note 13, at 6-7.

42. Harris, *Silence of the Experts*, *supra* note 13, at 167.

43. Crane drew from Patrick Geddes, a Scottish sociologist and planner, who wrote *Town Planning towards City Development: A Report to the Durbar of Indore* (1918) with a section on the virtues of a project in India offering plots of land and professional advice to families who would build their own homes. Harris, *Jacob L. Crane's Vision*, *supra* note 13, at 6; GYGER, *supra* note 11, at 25-26.

44. Harris, *Silence of the Experts*, *supra* note 13, at 169; *see also* GYGER, *supra* note 11, 25-37 (describing early history of self-help housing). The UN began promoting aided self-built housing in the late 1940s. GYGER, *supra* note 11, at 27.

45. Harris, *Jacob L. Crane's Vision*, *supra* note 13, at 6.

46. *Id.* at 8 (citing J. Crane, *We Want Homes*, FREE WORLD 11, 2 (1946)).

47. *Id.* at 8-9 (citing J.L. Crane, *Huts and Houses in the Tropics*, 3 UNASYLVA III 32 (1949)).

Houses in the Tropics" laid out a formula whereby the government would map out sites with spaces for utilities, streets, and common areas. According to this vision, "aided self-help" or "aided self-built" housing went hand in hand with what is referred to as "sites and services" planning. When, in contrast, groups of settlers "invaded" a plot of land without any prior government involvement, it was extremely costly, if not impossible, to add streets and utilities later. On the one hand, governments had an incentive to map out building sites and spaces for utilities in advance of migrant settlement. On the other hand, governments were reluctant to spend money in ways that created incentives for more immigration to cities. Despite Jacob Crane and the U.S. Housing Authority's guidance on aided self-built housing, governments themselves needed to make funding decisions about whether they would supply engineers, building materials, utilities, or financing. "Aided self-built housing" in practice was often "self-built housing" with no government aid, leading to shanty towns that slowly improved over time if the residents invested their own resources.

1940s: U.S. "manifesto" of aided self-built housing for the global South

Huts and Houses in the Tropics

By JACOB L. CRANE

Aided-self-help houses of stone and timber.

Aided-self-help of prefabricated wood construction.

From the policymakers' perspective, the culture-transforming potential of self-building was deeply appealing. As early as the 1930s, Werner Hegemann, a contrarian German city planner and expatriate/exile to the United States (after he published a condemnation of Hitler and the Nazi Party), publicly celebrated the "pioneer" virtues inspired by Stockholm's self-building program in his criticisms of modernism.[48] Warren Vinton, Chief Economist of the U.S. Public Housing Administration championed the Ponce, Puerto Rico program as "spectacular" and "ingenious" for encouraging "self-reliance."[49] Crane promoted aided self-help housing as a tool of the Cold War, emphasizing that his programs created "wholesome *desires that can be fulfilled*."[50] In a letter to the State Department in 1951,

48. Harris, *Silence of the Experts*, *supra* note 13, at 170.

49. *Id.* (citing Address delivered by Mr. Warren J. Vinton at the Inauguration of the Ponce de Leon Project in Ponce, Puerto Rico on Dec. 31, 1939. U.S. Public Housing Administration [Vinton: Box 4]).

50. Harris, *Jacob L. Crane's Vision*, *supra* note 13, at 9.

he emphasized that enlisting community organizations in aided self-help housing would bring "the right kind of progress widely enough and fast enough to overcome the frustration that breeds revolutions, wars, and dictatorships. . . . It seems to be the only feasible way to bring Evolution fast enough . . . to remove the temptation of Revolution."[51] Conservatives saw self-building as generating in urban migrants the spirit of pioneers and entrepreneurs, transforming the frustrations of poverty into capitalist ambition. By the early 1960s, USAID had initiated self-help housing programs in seventeen countries, twelve of which were in Latin America.[52]

This Essay, in understanding the early origins of the Peruvian property rights solution to economic development, has described, first, the importance of José Matos Mar's studies of the *barriadas* finding that communities of migrants to Lima sought property rights and political recognition; and, second, the U.S. Housing Authorities' promotion of aided self-built housing in the Caribbean and Latin America. The Essay now turns to a third essential, and perhaps surprising, political development: support for migrant settlements as opposition politics by the conservative Peruvian statesman Pedro Beltrán. As we shall see, in a relatively obscure moment in Beltrán's illustrious career, he supervised a major housing initiative that advocated for aided self-built housing and property rights for urban migrants.

III. A Peruvian New Deal for Housing?: Pedro Beltrán and the First Property Titling Law for the Squatter Settlements

In 1961, Peru's Congress enacted a pioneering law giving inhabitants of the squatter settlements a pathway to property titles.[53] To understand the law's origins, we might start in the 1950s when the luminary Pedro Beltrán used his conservative newspaper, *La Prensa*, to champion the independence of squatter settlements and to promote their property interests. Beltrán's immediate ambition was to expose excessive government spending on housing initiatives by those in power. Celebrating squatter land invasions and settlements, however, laid the foundation for government titling initiatives.

Pedro Beltrán was one of the most important Peruvian political figures in the twentieth century. He obtained a degree from the London School of Economics under Ludwig von Mises in 1918. He was an early

51. *Id.* at 10 (citing J.L. Crane, Letter to P.R. Porter, U.S. Department of State, March 14, 1951).

52. Richard Harris, *Silence of the Experts*, *supra* note 13, at 178 (citing 1962 USAID Report). Sharif Kahatt details the many instances of U.S. officials advising Lima in the post WWII period. SHARIF S. KAHATT, UTOPÍAS CONSTRUIDAS 150-59 (2015).

53. Ley No. 13517, Declarado de necesidad y utilidad públicas e interes nacional la remodelación, saneamiento legalización de los Barrios Marginales ó Barriadas, existentes en las áreas urbanas y sub-urbanas del territorio nacional (Feb. 1961); CALDERÓN COCKBURN, *supra* note 8, at 55, 88-89.

member of the Mt. Pelerin Society, and he developed relationships with Friedrich Hayek and Milton Friedman.[54] Beltrán served as Ambassador to the United States from 1944-45, where he represented Peru at the Bretton Woods conference. He held the positions of Peru's Prime Minister and Finance Minister, from 1959-1961. He received an honorary Doctor of Laws from Yale University in 1960.[55]

On December 24, 1954, five thousand people took part in an occupation of government land outside Lima, creating the settlement community of *Ciudad de Dios*.[56] The government had set aside the land but not authorized or funded its use. Settlers had formed "La Asociación Mutualista La Providencia de Obreros en General," and arrived at night to plot out the town on Christmas Eve when they knew government officials would be on holiday. The invasion was heavily celebrated in Beltrán's *La Prensa* newspaper. Indeed, the political scientist David Collier's 1976 study concludes that Beltrán was likely involved in encouraging the *Ciudad de Dios* invasion, intending for it to be a centerpiece of his opposition politics.[57]

Over several weeks in 1954-55, Beltrán used the Ciudad de Dios story to oppose President Manuel Odría.[58] In 1948, General Manuel Odría had seized the Presidency of Peru in a military coup. Odría was a right wing populist who flaunted expensive government programs. He founded two housing agencies which showcased new modern housing projects for low income families. According to Collier, Odría's public housing was on a

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54. GYGER, *supra* note 11, at 50.

55. Yale President Griswold's speech conferring the honorary degree states:

> Your career has been as varied as it has been distinguished. As a newspaper publisher you have stood valiantly for individual freedom, democratic government, and financial stability. In international affairs your talents served the conferences at Bretton Woods, at Chapultepec in Mexico City, at the establishment of the United Nations at San Francisco, and as your country's Ambassador in Washington. In government you have been equally versatile, serving as President of the Peruvian Central Reserve Bank, presiding over agrarian and housing reform, and now bearing the heavy burdens of Prime Minister and Minister of Finance. In appreciation of your service to your fellow Americans in both continents, Yale University confers upon you the degree of Doctor of Laws.

President Alfred Griswold to Don Pedro Gerardo Beltrán, Yale University Commencement Speech (June 13, 1960) (on file with author and Yale University).

56. Matos Mar, 1959 U.N. Seminar, *supra* note 24, at 177 ("[O]n a single night in December 1954, 5,000 people set up a colony on a tract of land on the edge of the Rimac valley.") For detailed description of *La Prensa*'s coverage of the Ciudad de Dios invasion see GYGER, *supra* note 11, 71-77.

57. COLLIER, SQUATTERS AND OLIGARCHS, *supra* note 12, at 70.

58. *La Prensa* journalist Pedro F. Cortázar announced in a story on December 28 that "in Lima, a new clandestine city has emerged, with about 3,000 rudimentary homes made of mats and sticks, and with more than 8,000 inhabitants. This picturesque city that was erected in a single night, Christmas night, has been baptized by its founders with the name 'City of God' because "it was born on the same night that the Lord was born." Pedro F. Cortázar, *La Prensa* 1 (Dec. 28, 1954); F. Cortázar, *Otro Pueblo Clandestino a 16 km. de Lima: 8 Mil Invaden Tierras en Atocongo Y Contruyen 3 Mil Chozas de Paja* [*Another Clandestine Town 16 Kilometers from Lima: 8 Thousand Invade Lands and Build 3 Thousand Wooden Huts*], LA PRENSA (Peru), Dec. 28, 1954, at 1 (transl. Natasha Reifenberg); GYGER, *supra* note 11, 72.

scale that "brought a boom to the construction industry and a sharp rise in working-class employment."[59] President Odría also showed great tolerance for migrants from rural areas. Over 200,000 people migrated to squatter settlements in Lima under his administration, a number almost doubling new settlements over the previous forty-eight years.[60] Odría engaged the U.S. to advise on economic and housing policy.[61]

Cultivated patronage and dependency defined President Odría's relationship with the squatter settlements, much like relationships fostered by his contemporary, Juan Perón of Argentina.[62] Odría directly conferred benefits on the settlements, and their inhabitants expressed their support of Odría in return. New settlements were named in honor of Odría and his wife, who modeled charitable initiatives on those of Eva Perón. Members of the settlement named 27th of October, the date of Odría's coup, for example, regularly marched around the central Plaza of Lima to celebrate the coup's anniversary as well as Odría's and his wife's birthdays.[63] It appears that Odría never granted property titles to settlement residents.[64]

In stark contrast to Odría's patronage relationships, Beltrán used *La Prensa* to stake out a contrarian position: that the *Ciudad de Dios* migrants wanted to build their own settlements without government aid for housing, but with government-sponsored security of tenure. A December 31 article in *La Prensa* interviewed Alejandro López Agreda, the President of the Mutualist Association who, representing 10,000 *Ciudad de Dios* settlers, stated that they "'did not want to create any problems for the Government,' quite the contrary, they wish to help [the Government] solve the distressing housing problem." *La Prensa* featured Agreda's statement that "[y]ou can't expect the State to do everything . . . We don't want to be another burden on the Government, and all we ask is that those lands be granted to us. If it is not possible for them to be delivered as free

59. COLLIER, SQUATTERS AND OLIGARCHS, *supra* note 12, at 58. According to Collier, "[B]ecause settlements offer so many advantages to the urban poor—free land, rent-free housing, and opportunities for self-help in home construction and community development—the massive growth of settlements . . . may have been a factor in limiting the political impact of rapid urban growth." *Id.* at 33.

60. *Id.* at 49 tbl. 3.

61. In 1949, he commissioned Julius Klein of Columbia University to lead a U.S. mission to Peru that made recommendations on "monetary policy, foreign trade and balance of payment problems, tax structure, budget, customs, and the government administration" as well as economic development possibilities (known as the Klein Mission). Dept. of State Policy Statement March 21, 1951, https://history.state.gov/historicaldocuments/frus1951v02/d865S [HTTPS://PERMA.CC/Z8R8-U9QB]. Under General Odría, Jacob Crane persuaded the Peruvian Ministry of Foreign Affairs to request official U.S. housing advisors on self-built housing. Subsequently, Crane deployed U.S. officials to Lima to start advising on aided self-built housing in 1951 and 1952. 1962 USAID Report cited in Richard Harris, *Silence of the Experts*, at 179-80. For more U.S. initiatives in Peru, see GYGER, *supra* note 11, at 203-05.

62. According to Collier, Odría's politics "used settlements as a base of political support" and "attempt[ed] to establish a dependant, paternalistic, relationship between the president and the poor." COLLIER, SQUATTERS AND OLIGARCHS, *supra* note 12, at 59-60.

63. *Id.* at 59-60.

64. *Id.* at 60.

concessions, we offer to pay for them whatever the State sees fit," if there were a state-sponsored loan program.[65] Through *La Prensa*'s coverage, and in Beltrán's own opposition platform, he advanced ideas foreshadowing those advocated by Hernando de Soto over twenty years later: 1) that settlers are entrepreneurial and motivated, and are not asking for government funds; and 2) homeownership and property rights will lead to autonomy and independence and will align squatters culturally with the broader economic development goals of the state. Beltrán later campaigned on the platform that all Peruvians should own a home, a "*casa propia*," and the concept of the "*casa barata que crece*," the inexpensive house that grows.[66] At the same time, it should be emphasized that, in contrast to Hernando de Soto, Beltrán's vision failed to anticipate rural migrants playing a greater role in Peru's democracy.[67]

In 1956, Manuel Prado replaced General Odría in a democratic election, and became Peru's President for a second time (he had been President in 1939-1945). Prado faced an economic recession, turmoil in rural areas, increasing calls for land reform, and more coordinated invasions of Lima's peripheries by migrants from the Andes. Prado quickly appointed Pedro Beltrán to direct a housing commission. The Comisión para la Reforma Agraria y la Vivienda [Beltrán's Commission] had a sweeping mandate to "solve all existing problems in agrarian reform and housing" to "rais[e] the standards of living of the Peruvian population,"[68] José Matos Mar worked with the commissioners and submitted a report summarizing his conclusions on the *barriadas*.[69]

A. The Beltrán Commission's Report on Housing in Peru

In 1958, Beltrán's Commission issued a landmark report, "Informe sobre la Vivienda en el Perú." The precursor to USAID, the ICA, immediately translated the document into English, the "Report on Housing in Peru." The Commission report was a co-authored work, with heavy input

65. Pedro F. Cortázar, *Declara el Presidente de los 10 Mil Invasores: Pobladores de la "Ciudad de Dios" Piden Donación o Venta de Tierras* [*The President of the 10 Thousand Invaders Declares: Settlers of the "City of God" Ask for Donation or Sale of the Lands*], LA PRENSA (Peru), Dec. 31, 1954, at 1 (transl. Natasha Reifenberg). According to Gyger, Beltrán began a campaign for mortgage-finance reform in *La Prensa* earlier in 1954 and the Ciudad de Dios residents statement that they did not have access to credit also fit into Beltrán's narrative for financial reform on the U.S. model. GYGER, *supra* note 11, at 73-74, 207.

66. COLLIER, SQUATTERS AND OLIGARCHS, *supra* note 12, at 77; GYGER, *supra* note 11, at 33.

67. As will be described in other sections of the book, Hernando de Soto's thinktank, the Institute for Liberty and Democracy described its sweeping legal reform proposals as strongly democracy-promoting by opening access to government benefits and services to those inhabiting the informal economy.

68. REPORT ON HOUSING IN PERU: COMISIÓN PARA LA REFORMA AGRARIA Y LA VIVIENDA v (1958) (trans. Mexico, International Cooperation Administration, 1959).

69. GYGER, *supra* note 11, at 62. Gyger also notes that Adolfo Córdova executed a study on Peruvian housing for CRAV titled *La vivienda en el Perú* (1960). *Id.* at 62, 162.

from three delegates from the United States. In the sections where the Report addresses Peru's professional class, it lays out a plan for what we might call Peru's housing New Deal. It adopts aspects of the U.S. National Housing Act of 1934, including government mortgage insurance, which it states vastly expanded housing credit markets and "revolutionized the housing construction industry in the United States."[70] Beltrán had been Ambassador to the United States from 1944-45 and had almost certainly seen the tremendous growth in capital and housing stemming from New Deal programs.

In contrast, for the squatter settlements, the Report advances as central policy solutions 1) aided self-help housing and 2) property rights. Just like in the United States, the financially riskiest and non-white neighborhoods were "red-lined" and denied mortgage insurance. Beltrán's "Letter of Transmittal," made it clear that he and the Commission did not want inordinate resources of the state to be spent on low-income housing. Without "neglecting other programs of equal interest to the country," the Commission was guided by the "the basic necessity of offering to low-income families the possibility of owning decent, healthy dwellings."[71] Beltrán emphasizes that the country faced an extreme shortage of capital. To Beltrán, "The insufficient formation of capital, typical of an underdeveloped country, is without doubt the great obstacle to the availability of housing credit."[72] He therefore proposed that "[w]ith regard to the squatters' settlements," the commission "reiterates its conviction that this is a problem to be tackled mainly by means of technical assistance and financial cooperation,"[73] in other words aided self-built housing. Aid should

> permit the dwellers in the squatters' settlements to acquire their own homes through their own efforts and with their own means, which is what they desire. There is no question of handouts in benefit of social groups who have not requested them and whose abilities and labor potential are capable of solving their housing problem.[74]

Beltrán notes the high price of land in Lima and encourages the government to offer squatters "uncultivated State-owned land" or cheap land far from the city center.

Beltrán's vision, much like that of Hernando de Soto in the 1980s, was that property rights would bring freedom from the state. One underpinning of Beltrán's view we might call the anti-Peronist position. As mentioned, General Odría cultivated patronage and dependency relationships with the squatter settlements. José Matos Mar's study of the *barriadas* emphasized

70. REPORT ON HOUSING IN PERU, *supra* note 68, at 59.
71. *Id.* at vii-viii.
72. *Id.* at viii.
73. *Id.*
74. *Id.*

the lack of property titles as the root of the obsequiousness the squatters showed politicians:

> The residents are aware of the precarious situation and the instability that are their lot because of the fact that they are 'invaders' of land which does not belong to them and for which they pay no rent. This tends to create an atmosphere of constant anxiety through fear of being dispossessed, and they are therefore subject to all sorts of pressure from politicians and are always striving to obtain favours from the authorities, a fact of which the latter have frequently taken advantage.[75]

To Matos Mar, property titles confer autonomy and break the cycle of political patronage. Exactly along these lines, the Preliminary Report of Beltrán's Commission states: "[p]roperty of all types, including homes and land, serves the purpose of securing for the man and his family economic autonomy . . . and independence with respect to the power of the State."[76]

The implication of this "autonomy" and "independence" is that the state would not spend excessive money on squatter settlements, even to provide basic sanitation. Notably, the final report states that "[i]n many cases it will be impossible, at least at reasonable cost, to furnish sanitary services for these dwellings and to carry out the public works which are requisite . . . ."[77] In the preliminary draft of the report, Beltrán emphasized the ultimate responsibility for home-building lay with the settlers. To Beltrán, too much government aid would lead to a situation where "[s]ocial welfare services will expand to such a degree that they will constitute an intolerable burden, and the people will not try to achieve well-being through their own efforts, but will wait for it as a gift granted out of the paternalism of the State."[78] With regard to the squatter settlements, the Report asked little of the Peruvian state other than grants of land and technical assistance.

A second underpinning of Beltrán's report is one that echoes widespread Cold War thinking about the cultural virtues of self-building. Self-built housing would rely on the abundant labor of rural migrants and would develop an urban population that was culturally aligned with Lima's market economy. The Report notes that a benefit of the "technical assistance" model is that "material benefits are truly important only when accompanied by a certain human improvement and when they substantially stimulate personal initiative and effort."[79] Yet, interestingly, the Report also

75. Matos Mar, 1959 U.N. Seminar, *supra* note 24, at 181.

76. *Preliminary Report of the Commission* (Aug. 1956), REPORT ON HOUSING IN PERU, *supra* note 70, at 205-06.

77. CRAV, *id.* at 5.

78. *Id.*

79. *Id.* at 37.

emphasizes the value of traditional collective work in the Andean communities as a source of human capital. The Commission noted that:

> The Indian communities, marginal neighborhoods and many of our villages have organized and constructed encouraging projects through their own efforts and applied in the form of collective work. This community tradition, which history proves has existed since ancient times, can be utilized to make up at least in part for the lack of capital and the scant savings capacity of a very large proportion of the inhabitants of the Republic . . . .[80]

In keeping with José Matos Mar's studies, the project of collective homebuilding channeled traditional cultural practices into resources for city planning.

Another key feature of the Report's goal of expanding credit opportunities—foreshadowing Hernando de Soto's work linking property and credit—was reforming Peru's property registration requirements. The report notes that "Credit on land is irrevocably linked to a good system of property titles. Failing that, credit takes on characteristics of insecurity, delayed payment, and high cost."[81] The report said that, in this respect, Peru's system was "unsatisfactory" because "titles do not afford definitive protection of property rights since they are subject at any time to judicial attack." Moreover, "the majority of rural and urban lots lack titles and are acquired through simple tradition or imperfect legal instruments."[82] Rather than reforming the titling system (as would happen in the 1990s), the Report recommends simply shortening the process of title registration under the existing system.

In Beltrán's view, property titles are offered as the principal incentive for squatters to comply with building standards detailed in the Report. The Commission's purported objective, likely influenced by the model of Ponce, Puerto Rico, was to upgrade existing squatter settlements to meet modern engineering standards followed by a complete ban on further chaotic invasions. The Report requires that squatters sign "assistance contracts," outlining the conditions on which government assistance attached, noting that "the compulsory nature of the contract is an indispensable requisite for granting property titles."[83] Under the plan, a provisional certificate would be granted while a home was under construction, and the

80. *Id.*
81. *Id.* at 95.
82. *Id.*
83. *Id.* at 40.

settlers would "acquire ownership of the land when the conditions set forth in the contract have been fulfilled."[84]

B. A Landmark Law: A Path to Property Titles

Soon after leading the Housing Commission, Beltrán served as both Prime Minister and Minister of Finance of Peru from 1959-1961. In 1961, the government of Peru enacted the ground-breaking Law 13517, for the "Remodeling, Regularization, and Legalization of the Barrios Marginales or Barriadas" which gave a path to formal title for urban squatters, along

Ley No. 13517, February 1961

LEY Nº 13517

Declarado de necesidad y utilidad públicas e interés nacional la remodelación, saneamiento legalización de los Barrios Marginales ó BARRIADAS, existentes en las áreas urbanas y sub-urbanas del territorio nacional.

EL PRESIDENTE DE LA REPUBLICA.

MANUEL PRADO.

PEDRO BELTRAN

JORGE GRIEVE

RODRIGO FRANCO GUERRA

the lines of the Commission Report.[85] Under Law 13517, all barriadas formed prior to September 1960 would be offered titles once the domiciles met government standards. Invasions creating squatter settlements after 1961 would not be recognized. New migrants to urban areas would have to acquire land through government channels. The plan was to bring an end to chaotic invasions by rural migrants and to improve the squatter settlements existing as of 1960.[86] Law 13517 created a template that still governs Peru. Laws are enacted that give a path to title for existing squatters, while declaring that future squatting is illegal. The past sixty years of such laws—as of this Essay, the most recent was Law 31506 enacted in 2020, which legalized squatting occurring through the end of 2015—has led to ongoing land invasions throughout the country.

84. *Id.*

85. Ley No. 13517, Declarado de necesidad y utilidad públicas e interes nacional la remodelación, saneamiento legalización de los Barrios Marginales ó Barriadas, existentes en las áreas urbanas y sub-urbanas del territorio nacional (Feb. 1961).

86. According to Helen Gyger, "Law 13517 reflected a confidence that once they were recalibrated in line with this revised regulatory framework, planning professionals could again deliver rational and effective solutions to manage urban growth." GYGER, *supra* note 11, at 142.

The Beltrán Commission's Report on Housing was received as a conservative blueprint for development in Latin America. Ultimately, it reflected the close-to-libertarian view that distributing government land to rural migrants would create greater independence of the citizenry and reduce the pressure on the state for costly expenditures that came at the expense of other economic development measures. Toward this end, Beltrán also supported land distribution in rural areas and colonization efforts of the Amazon, to reduce the accelerating migration to Lima. Ultimately, his conservative vision for housing was repudiated. Beltrán campaigned to be President of Peru in 1961 and failed badly as Peru turned sharply left. In that election, the major political parties left behind the conservative vision of the squatter settlements and adopted what David Collier describes as a "democratic reform" approach: a housing policy focused on the state offering property titles that came *with* infrastructure and the provision of utilities, however costly that would prove to be.[87] The conservative, limited-government approach to the squatter settlements would largely be put on hold until the 1980s when Hernando de Soto's published its seminal work on Peru's informal economy, *The Other Path*.

John F. Kennedy and Pedro Beltrán (and Peru Ambassador Berckemeyer)

March 29, 1961

IV. Aided Self-Built Housing and the Limited Role for the Private Sector: 1962 Chase Manhattan Bank Conference

It may be recalled that Hernando de Soto's vision for economic development of informal neighborhoods involved granting formal property rights to squatters in the belief that property titles would lead to greater access to bank credit.[88] It is not well known that, in 1962, David Rockefeller convened a conference at Chase Manhattan Bank on "Housing in Latin

87. COLLIER, SQUATTERS AND OLIGARCHS, *supra* note 12, at 84.

88. Hernando de Soto's *Mystery of Capital* (2000) presents his theory of property rights as the linchpin for bank credit.

America" that focused on the question of whether United States banks could extend credit in Latin American squatter settlements. The context was that on March 13, 1961, one month before the CIA-backed Bay of Pigs invasion of Cuba, President John F. Kennedy announced the Alliance for Progress initiative, a $20 billion commitment of grants and loans to "transform the 1960's into a historic decade of democratic progress" in Latin America.[89] The conference consisted of over 150 U.S. business leaders, prominent Latin American leaders, and government officials from various agencies related to Latin American housing to: "discuss ways by which U.S. experience and resources, both public and private, could be mobilized to help provide adequate housing in Latin America."[90] The conference Report offers a window into how the U.S. private sector analyzed Latin American housing at a time when Alliance for Progress funding made investments a potentially lucrative enterprise. The urbanization and housing crisis of Latin American cities was the central issue at hand.

The Cold War political stakes of housing were the conference's central concern. The Introduction to the Chase Report states that "the urban slum dwellers—uprooted from their traditional community ties, often jobless and hungry—are a threat to the stability of democratic governments."[91] Panelist Jose Figueres, former President of Costa Rica declared that "It is in the slums of the cities where the battle of democracy will be fought . . . ."[92] Mr. Galo Plaza, former President of Ecuador noted that "Most of the explosive problems throughout Latin America start precisely in the slums that surround the large modern cities."[93] The Chase Report's section on "the Scope of the Housing Problem in Latin America" describes that a "ring of shacks built by migrants has appeared around most large cities in Latin America. . . . built of packing crates, cardboard, sheet metal or any other available material, with no water or sanitary facilities. In some cities, it is estimated that the shack-dwellers make up one-fifth to one-third of the entire urban population. Yet, the inflow of people from the farms . . . is a continuing one."[94]

The conference attendees rallied around aided self-help housing as the best policy for the poor. Teodoro Moscoso, the Coordinator of Alliance for Progress, told the group that "Housing programs—particularly

89. President John F. Kennedy, Address to Congress (Mar. 13, 1961), https://www.jfklibrary.org/archives/other-resources/john-f-kennedy-speeches/latin-american-diplomats-washington-dc-19610313 [https://perma.cc/BLD9-Q4SL]. Kennedy announced a request to Congress for $500 million grant to "combat illiteracy, improve the productivity and use of their land, wipe out disease, attack archaic tax and land tenure structures, provide educational opportunities, and offer a broad range of projects designed to make the benefits of increasing abundance available to all."

90. CHASE MANHATTAN BANK, HOUSING IN LATIN AMERICA (July 1962), https://babel.hathitrust.org/cgi/pt?id=mdp.39015012247469&seq=1 [https://perma.cc/BU5Q-EGLY] (Purposes of the Symposium); GYGER, *supra* note 11, at 199-203.

91. *Id.* (Introduction).

92. *Id.*

93. *Id.*

94. *Id.* (The Scope of the Housing Problem in Latin America).

those based on aided owner-construction—are at the heart of our assistance efforts under the Alliance for Progress" and noted the importance of "social progress" toward democratic and market-oriented values.[95] The cover photo of the conference report featured a photograph of a man in *Ciudad de Dios*, Lima appearing to build his own home. Professor Leonard J. Currie, of Virginia Polytechnic Institute who had worked extensively in Bogotá told the Conference that "Aided self-help is not easy to organize and administer, . . . The benefits in building *people*—developing leadership, skills, pride, personal confidence—through such projects is of greater long-term benefit than the building of houses."[96] The Report voiced the need to build one million homes a year, with an investment of three to four billion dollars.

Yet, during the conference it became increasingly clear that a central role for the United States private sector in financing the improvement of squatter settlements was not feasible. Crucially, the deficit in utilities and social services were identified as the settlements' most essential problem and there were not profits to be had for the private sector in supplying these services. The conference attendees called for Latin American governments to invest in this infrastructure. Professor Currie told the Conference to look back to the "land and utilities" model that the U.S. first promoted in Puerto Rico, noting that:

> The priority needs for these people, in terms of physical facilities, are: water supply, sewage disposal, access streets, electricity, play areas, schools, community centers for meetings and adult training, churches and clinics or dispensaries. . . . You will note I have put no priority on the house itself—the basic shelter—which is the item on which most of the Latin American governments have spent all of their scarce and precious appropriations for "housing."[97]

Currie's comment was then seconded by T. Graydon Upton who had served as executive vice president of the Inter-American Development Bank, who stated "in many areas the emphasis must be on community facilities, water, and planning of living space, rather than on shelter per se."[98] And others at the conference concurred: Infrastructure investments on this scale were better performed by local governments.

The Report concludes that the "potential role of private enterprise is limited." Currie explained:

> The profit incentive must always be present for business to operate, and there is very limited prospect for profits in ministering to the housing needs

95. *Id.* (Self-Help Housing).
96. *Id.*
97. *Id.* (Community Planning in Cities).
98. *Id.*

> of the low economic groups in the underdeveloped areas of the world. The work that I describe—the most urgent problem—must be undertaken by governments, international agencies, and eleemosynary institutions.[99]

The conference did highlight how a potential lucrative area of development was in sourcing building materials and supplying power. The Report called on private enterprise to "play a major part in meeting an expanded demand for building materials and possibly prefabrication of housing components . . . ."[100] (Pre-fabrication ultimately was decided against due to the cultural-inculcation benefits of self-building.) Under the heading "The Role of U.S. Business" the report concludes that "The biggest immediate opportunity for private U.S. participants in home construction in Latin America is in local production of building supplies, rather than in housing construction itself."[101]

As a conference organized by Chase Bank, there was, of course, much discussion of expanding capital and banking in Latin America. Yet, the consensus relating to the squatter settlements was that self-built housing with no mortgage-finance would be the path forward. Mortgages of any sort required a minimum amount of stable monthly income. As the Peruvian scholar Luis Dorich had concluded at the 1959 U.N. Conference, in Peru "Mortgages are so complicated to obtain and carry such high interest rates that they are resorted to only in the case of very expensive or luxury buildings . . . ."[102] The conference as a whole concluded that what was needed was an expansion of facilities for the poor to increase their *savings*, and to find ways to channel that savings into aided self-built housing.[103] The former President of Ecuador, Galo Plaza remarked:

> People have said that those in the slum areas are desperate and can't wait. . . . But if they participate in some sort of scheme by which they can use their savings, no matter how meager, . . . it will give them a sense of responsibility. . . . "Hope" is the important element here. The minute that hope is introduced into the picture, any extreme notion of something exploding before anything can be done disappears.[104]

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99. *Id.* (Self-Help Housing).

100. *Id.*

101. *Id.* (The Role of U.S. Business).

102. Luis Dorich T., *Urbanization and Physical Planning in Peru*, 1959 U.N. Seminar, *supra* note 24, at 280-81.

103. HOUSING IN LATIN AMERICA, *supra* note 90 (Mobilizing Savings). There was a highly successful model of a "People's Savings and Loan Association" run by Father Daniel McClellan that had 2,590 members and increasing capitalization. Helen Gyger has an excellent discussion of McClellan's savings and loans programs in *Improvised Cities*, at GYGER, *supra* note 11, at 203-08.

104. HOUSING IN LATIN AMERICA, *supra* note 90 (Mobilizing Savings).

Using Alliance for Progress Funds, the Inter-American Development Bank and USAID, could try to promote local savings and loans associations.

In contrast, conference attendees agreed the opportunities to offer credit to a growing middle class, rather than in the squatter settlements, was more likely to generate profits for investors. Professor Currie pointed out that "Private enterprise can and should play a predominant role, however, in supplying housing for a vast lower-middle class market, once financing mechanisms are developed."[105] At the Chase Manhattan Bank conference in 1962, the U.S. financiers and policymakers agreed that *government*-supplied infrastructure was the most pressing need in the squatter settlements. In other words, when the "private sector," represented here in the Chase Manhattan Bank conference, looked at investing in squatter settlements, the experts emphasized that *government* resources were needed most. The 1962 conference also casts a shadow on the idea that the migrants would easily gain bank credit if they acquired formal property titles. In parallel with the United States in the New Deal era which "redlined" poor neighborhoods while offering mortgage insurance to the middle class, the Chase conference rejected the concept of offering mortgages in the squatter settlements and called for measures expanding mortgages for Peru's new, rising professional class.

The Chase Manhattan Bank conference reveals a pattern that persisted for decades: the threat of social disruption by communism in slums and informal settlements served as a "muse," providing the political purpose and motivation for economic development programs. But in implementing those programs, particularly in reference to expanding credit markets involving the international financial community, the emphasis shifted away from shanty towns to housing for middle class professionals. Even with billions of dollars in U.S. funds at the ready, the private sector washed its hands of the economic development of the squatter communities. Infrastructure investments—water, power, schools—were the essential next step, and government, not the private sector, was the entity to implement this spending. The lucrative private sector opportunities were in the market for building supplies, and in the potential of extending credit to the growing population of middle-class professionals.

V. Beyond the Cold War: The Embrace of Self-Built Housing as an Ideal Form

An understanding of Lima's squatter settlements of the mid-twentieth century would not be complete without discussing the contributions of John F.C. Turner, a British architectural luminary who spent his career working with housing agencies in Lima, and who presented the self-built

105. *Id.* (Self-Help Housing).

barriadas of Lima as an architectural ideal. Turner's *Housing By People: Towards Autonomy in Building Environments* is a classic work celebrating self-built housing.[106] *Housing By People* describes the utterly misguided nature of low-income modernist housing in the global South which creates "mismatches" between people's socio-economic situation and their housing. *Housing by People* gives the example of a painter who might live in a shack made from scrap materials but have access to jobs and community and a far healthier life than a similarly situated person sacrificing food, community, and work to make rental payments in a modern housing block far from the city.[107] A shack might be "a highly supportive environment," and a house "an excessively oppressive environment" depending on the monthly cost and the proximity to work and community.[108] In language that parallels F.A. Hayek's *The Use of Knowledge in Society* (albeit from a leftist perspective), Turner states the problem as a systemic information gap: the "failure of categorical housing projects and programmes is due mainly to the tensions created by imposing generalized specifications on different people and places."[109] The solution is to allow bottom-up processes to flourish. In 1963, the magazine *Architectural Design* featured Lima's informal settlements on its cover and devoted the issue to essays by Turner and colleagues, reflecting the global power of Turner's vision.

It may be recalled that José Matos Mar emphasized the "instability" and backwardness of culture in the squatter settlements. Similarly, at the Chase Manhattan Conference, the maladjustment of rural migrants in cities was presumed. Yet starting in the 1950s, architects and anthropologists working in the squatter settlements began to promote a different view. A classic piece is Turner's collaborator, the anthropologist William Mangin's 1967 article "Latin American Squatter Settlements: A Problem and a Solution." Mangin details how squatter settlements which had been cast as a "problem" by the global community, were on closer examination the best "solution" to the urbanization problem.[110] Taking issue with the negative views expressed by José Matos Mar and others, Mangin emphasized how much squatter settlements contribute to the urban environment due to their great "intangible social capital invested in the creation of a community."[111] Turner and Mangin, like Matos Mar, celebrated the ingenuity of squatters to create homes that might lack individual facilities, but which solved many of their day-to-day problems. Foreshadowing *The Other Path*,

106. JOHN F.C TURNER, HOUSING BY PEOPLE: TOWARDS AUTONOMY IN BUILDING ENVIRONMENTS (1976).

107. *Id.* at 53-58.

108. *Id.* at 52.

109. *Id.* at 162. F.A. Hayek, *The Use of Knowledge in Society*, 35 AM. ECON. REV. 519 (1945).

110. William Mangin, *Latin American Squatter Settlements: A Problem and a Solution*, 2 LATIN AM. RSCH. REV. 65 (1967).

111. *Id.* at 77.

Mangin emphasizes the entrepreneurialism, the prevalence of small businesses, and the community in the squatter settlements. To Mangin,

> The dominant ideology of most of the active barriada people appeared to be very similar to the beliefs of the operator of a small business in 19th century England or the United States. These can be summed up in the familiar and accepted maxims: Work hard, save your money, trust only family members (and them not too much), outwit the state, vote conservatively if possible, but always in your own economic self-interest, educate your children for their future and as old age insurance for yourself.[112]

Mangin also emphasizes the powerful role that property titles could play. To Mangin, "Land titles play a major role in investment in housing, and in places where a title or some assurance of permanence is thought to exist constructions are more elaborate than in those without titles."[113] As detailed by Helen Gyger, eventually, John C. Turner and others shifted perspectives and realized that the Peruvian government would not offer the resources for the "aided self-built housing model." They started calling for a more realistic approach: loans and grants to settlers to build their own domiciles, regardless of engineering standards. In essence, in a shift, the government formally recognized what had been true all along: a policy of "aided self-built housing," where the government provided engineering advice and resources, became "self-built housing" with little government aid. Under President Alberto Fujimori, Peru's titling agency, COFOPRI, went a step further in setting up the agency to grant property titles without assistance for building. For a problem that had arisen as a housing crisis, COFOPRI reflected the formula *that granting property titles alone was the government's principal responsibility* to those moving to cities.

Conclusion

It is beyond the scope of this essay to describe the subsequent history. In 1968, Belaúnde's tenure was cut short by a military coup of General Juan Velasco Alvarado. Peru implemented a nation-wide program of government nationalizations and rural agrarian reform, which seized rural haciendas across the country and distributed the land to worker collectives. Peru's agrarian reform was intended to forestall urban migration by improving conditions in rural areas, but unwittingly accelerated migration to Lima from the Andes. Beltrán's *La Prensa* newspaper was expropriated by the government in 1974. In 1980, *La Prensa* was returned to private ownership and re-emerged as a conservative voice with a new generation of young journalists when Fernando Belaúnde reclaimed the Presidency after a democratic election. Hernando de Soto recruited young *La Prensa*

112. *Id.* at 84-85.
113. *Id.* at 75.

journalists such as Enrique Ghersi and Mario Ghibellini to his new thinktank, the Institute for Liberty and Democracy, where they began the work that became *The Other Path*.

This Essay has emphasized that a convergence of ideas in the 1950s and 1960s led to the embrace of property rights and self-built housing as a solution to Peru's accelerating migration to cities. In the shadow of the Cold War, sociologists like José Matos Mar offered evidence that migrants were in search of economic opportunities and property rights, not revolution. Jacob Crane and U.S. Housing officials promoted aided self-built housing as a low-cost way to address Latin America's housing crisis. Pedro Beltrán adopted land distribution and self-built housing in a conservative platform in opposition to President Odriá's government-built housing and patronage relationships. Beltrán's housing commission, CRAV, advanced Law 13517, which gave the first pathway to land titles in the squatter settlements.[114] In the 1960s and 70s, John F.C. Turner and his colleagues celebrated informal settlements as a philosophical and architectural ideal. Due to low government funding, over time the goal of "aided self-built housing" transformed to a policy of self-built housing with little or no aid and societal acceptance of chaotic squatting. It may be recalled that Pedro Beltrán's CRAV report unapologetically stated that "in many cases it will be impossible, at least at a reasonable cost, to furnish sanitary services for these dwellings and to carry out the public works which are requisite."[115]

Today, when looking at the chaotic, unfinished, un-engineered squatter housing in developing nations, it is not readily apparent that this form of building was the subject of deep theorizing and policymaking. In *The Other Path*, informal squatters are separate from the state: they "subjugate" the mercantilist state, creating opportunities and markets that the state's bureaucracy would otherwise shut out. In the face of informality, the state "retreats."[116] However, rather than informal housing occurring "outside the state," the history reveals that self-built housing and shanty towns were embraced, however reluctantly, as a policy solution by a broad coalition of Peruvian politicians, architects, and sociologists, and housing advisors from the United States.

Hernando de Soto's *The Other Path* briefly describes the era of the 1950s and 1960s, that of José Matos Mar, Pedro Beltrán, and John F.C. Turner, in terms its fundamental failings.[117] Discussing Law 13517, *The Other Path* notes that its processes meant those in the informal economy waited decades to obtain true legal titles.[118] Without well-functioning institutions verifying ownership, informal squatters were essentially in a "legal

114. CALDERÓN COCKBURN, *supra* note 8, at 55, 88-89.
115. REPORT ON HOUSING IN PERU, *supra* note 70, at 5.
116. DE SOTO, THE OTHER PATH, *supra* note 7, at 55, 57.
117. *Id.* at 33-57.
118. *Id.* at 43.

apartheid."[119] It concludes that "The history of informal settlements is the history of informals' struggle to own private land."[120] Yet, *The Other Path* follows this conclusion with the statement that "In the process, the state steadily retreated."[121] However, the claim that the state "retreats" with formalization overlooks the impact of the democracy-expanding objective of *The Other Path*'s prescriptions.

As the squatter settlements became formally incorporated into the polity, they gained mechanisms to request basic services such as utilities, infrastructure, public services from the state. It was inevitable to the democracy-expanding process of formalization called for in *The Other Path* that previously marginalized people would gain a voice in the political system, and that they would call attention to the great deficit in social services in the neighborhoods where they lived. As will be described in later book chapters, rather than diminishing the role of the state, the formalization of informal settlements in Peru created a positive feedback loop of increased private property, democracy, and demands for social services.

119. *Id.* at 56.
120. *Id.* at 55.
121. *Id.*