

After 10 years of criticism, what is left of de Soto's ideas

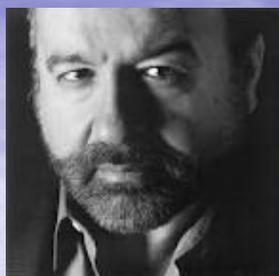
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FIG Working Week Rome 2012
Technical Session TS07B

Caveat

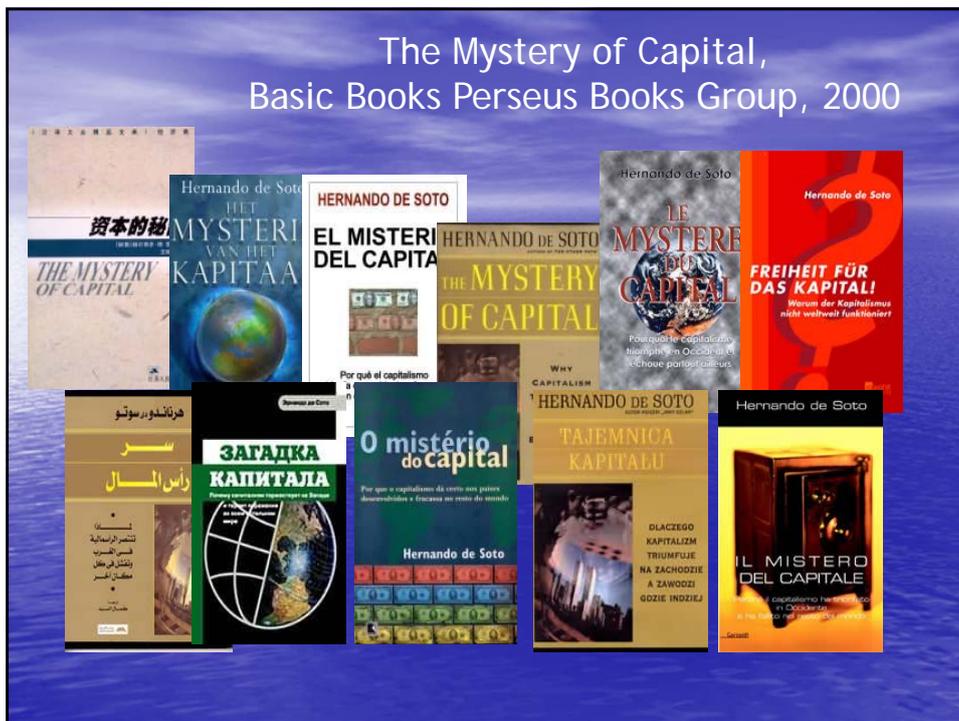
- I am not a de Soto adept or an ardent follower/supporter
- But: through the whole discussion about de Soto, implicitly the aims of our profession are tested: is the way we -as land professionals- think about property rights, registration, surveying, cadastral development, indeed appropriate to contributing to a better world?

What is the way out of poverty?

- 3 million people living < 2.4 \$ a day (WDI 2008)
- ODA funds since '50s 2.3 trillion \$, of which 1 trillion \$ went to Africa.
- Dambisa Moyo: Cut aid! Governments should find money through the financial markets... (Moyo, 2009)
- De Soto: The poor should find money through the financial markets.... (de Soto, 2000)



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- Coase: a very great book
 - Friedman: he has demonstrated in practice that titling untitled assets is an extremely effective way to promote economic development
 - Fukuyama: one of the few new promising approaches to overcome poverty
 - Kirkpatrick: a pioneering book
 - Budd: here we have a brilliant and simple idea
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- Foundation Defense Democracies (2004), Intellectual Conservative (2009), Economic Intelligence (2011), Forbes (2001), Miami Herald (2001): De Soto candidate Nobel Prize.

Sharp criticism

- 'He is a reductionist' (Bourbeau, 2001)
- 'Has anyone else proposed the same argument, it might have been better to ignore it' (Gilbert, 2001)
- 'De Soto's delusion' (Gravois, 2005)
- 'Naïve in the extreme' (Bromley, 2008)
- 'Simple solutions for complex problems' (Bruce, 2012)



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..that he caught the attention is phenomenal by itself....(Otto, 2009)

Also De Soto can be sharp

- Academic blindness...
- Paternalism....
- Covert racism.....
- Ivory tower development thinking....
- Westerners should get rid of the idea that third worlders are a motley assortment of confused tribes waiting to be saved by their former colonizers....

(de Soto, 2002).

What are the ideas of De Soto?

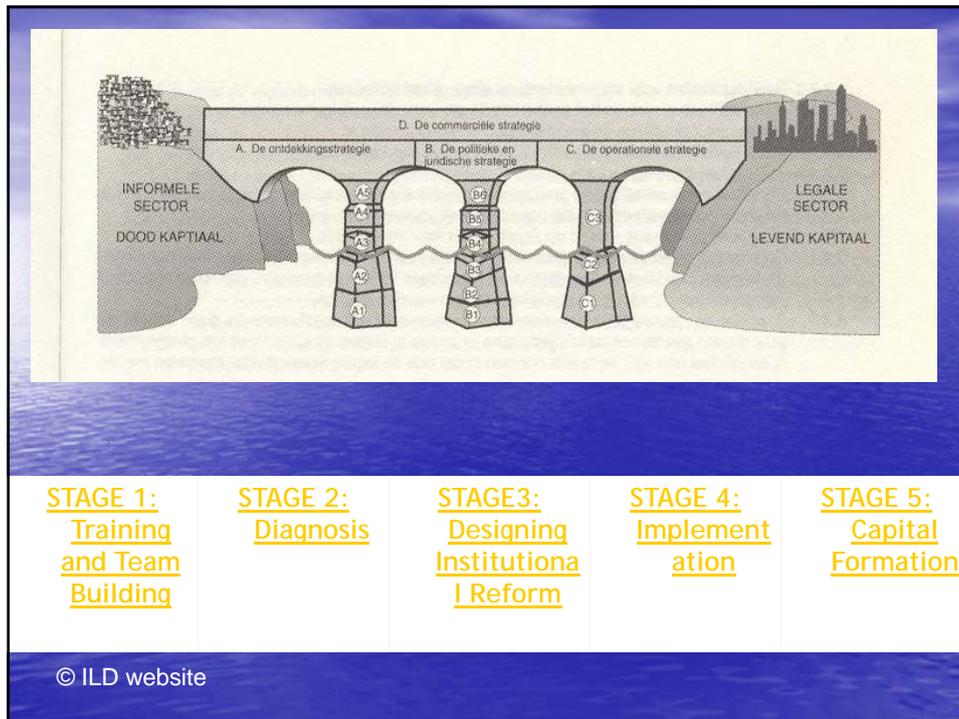
- Not: 'give the poor a title deed and they will escape from poverty...', as many say.
- Countries are not able to produce capital, although the citizens are very entrepreneurial
- Why? They miss the paper world of describing possessions allowing them to live a life parallel to their physical existence
- Property rights are the tip of the iceberg: the biggest part is the institutional infrastructure to convert possessions and labour into capital

- Land tenure security is not a goal, but safe market exchange of descriptions in stead of physical objects
- Property rights are not the description of a possession's physical features, rather of its economic and social characteristics.
- The poor have to live in informality, while the elites in the formal system are protected to let their assets grow
- When countries are not able to integrate the informal sector into the formal economy, they will remain muddling through.

What to do?

- Create a property system that gives judgement to how the people in the informal sector deal with possessions
- Codify informal rules
- When law do not comply with informal arrangements people will not comply
- Be aware of the guards of the formal sector: lawyers and technocrats (land surveyors?)
- If not: 'bad' laws remain, 'bad' titling continues





Reviews, comments, critiques

- De Soto neglects experiences so far which demonstrate that titling does not work
- De Soto neglects the role of customary law/tenure as existing legal institutions
- De Soto neglects skew distribution of land in certain countries
- De Soto neglects that formalizing is not simply codification: that legalizes thievery, dispossession and colonial land grabbing

- De Soto neglects that many governments don't have political will and/or are dysfunctional
- De Soto neglects that the 'poor' are not a homogeneous group so that single solutions will not work
- De Soto does not provide evidence for his statements
- De Soto's own projects in Peru don't show evidence that the chain title-credit-income works

No positive comments apart from the VIP's?

- Useful work to alerting the world to the energies of the informal sector (Madrack, 2001)
- Spectacular job of advocacy (Royston, 2004)
- Unprecedented attention to squatters (Gravois, 2005)
- Causal link between property rights and economic productivity back on agenda (Nyamu, 2006)
- Land formalization gained tremendous currency (Bruce, 2012)
- Remarkable support from philosophers working on the theory of the Construction of Social Reality (Searle, Meidinger, Smith...)

How to go on? Some observations

- Moyo: 'the West is patronizing Africa..'
- Bromley: 'advocacy for formal titles is ideational hegemony....'
- But: de Soto is not from the West, he comes from a developing country!
- Much evidence that titling does not work, but: was there enough political will?, was the reform not too narrowly focused?, did the reform align with what happened on the ground?

- WDI and MDG´s: is there progress? Worrisome (see MDG progress reports)
- Informal sectors remain substantial high: OECD 18%, Latin America 41%, Aisa 26%, Africa 42% of the GDP (see Schneider)
- Dominance of customary tenure manifest (Joireman 2007, Bruce 1998)
- Titling of rural areas <2% (Alden Wiley, 2012)
- Treatment of women under customary traditions still very bad (Joireman, 2008)
- Slums remain growing (Habitat, 2003 etc)







A matter of belief?

- When nothing works, what then?
- A matter of basic human rights:
- that the poor are known by their governments
 - that the poor can be citizens as anybody else ('their formal brothers')
 - that their possessions are protected against governments and powerful elites

- that they have an address
- that they can earn money in a recognised business environment
- that there are jobs
- that when they need money they also can rely on non-family resources
- that they can enjoy a government that is accountable to them

My conclusion

- Much of that I see back in the ideas of de Soto and even in those of Dambisa Moyo
- Background: The African Land Question (Moyo, 2008), HLPE report about land grabbing (HLPE/FAO 2011) and the lamentable role of women under customary law (Joireman, 2008)

- Further marginalization of the poor is unacceptable
- Their livelihood cannot remain in the informal sector
- Government are there to provide the poor opportunities to escape from poverty through enhancing their livelihood using their land assets, labour and savings as a vehicle
- Formal sector is not 'free market' (Washington Consensus 'out'), but regulatory governance needed to avoid the rich getting richer and the poor poorer.

- Not 'titling at all cost'
- Institutions in society to be beneficial for the poor.
- Without political will: no way out.
- Governance: government + citizens + private sector
- The problem of de Soto's ideas: too quick a replacement; why not adopting a more gradual approach (Habitat Continuum of rights, Bruce & Migot Adholla 1994, WB 2003, FAO VG 2012, Otto 2012, Lemmen LADM/STDM, speaker 2003/2012)

I stop!

- With this in mind, I believe an adequate development policy including a land policy is within reach.
- But: when governments do not show political will, and don't follow good governance principles, land formalization (whatever form) is without meaning and likely will harm the poor.